



# The Court of Appeal for Bermuda

Ref. A/50

Friday, 26<sup>th</sup> August 2016

CIRCULAR NO: 19 of 2016

TO ALL COUNSEL

COURT OF APPEAL CALENDAR: 31<sup>st</sup> October – 25<sup>th</sup> November 2016 SESSION

I enclose herewith a Draft Cause List for the forthcoming session. The Honorable President, Sir Scott Baker, has directed that Appellants and Respondents should be prepared to proceed with their appeals on very short notice at any time during the appeal period, and not only on the listed date. This also applies to any appeal on the “Reserve List” as other appeals may collapse. Kindly note Item 8 as it refers to reducing needless duplication of authorities.

**REMINDER: The last Friday in the November Session (25<sup>th</sup> November) will be reserved for directions on Criminal appeals and any outstanding Civil appeals. Mark your calendars now.**

1. The Draft Cause List constitutes a ‘*Notice of Hearing*’ of the upcoming dates to all involved in the appeals.
2. The session will begin on **Monday, 31<sup>st</sup> October 2016** and will probably end on or about **Friday, 25<sup>th</sup> November 2016**. The President of the Court of Appeal has directed me to say that if there are changes to the list, they will be made for the convenience of the Court and not at the convenience of Counsel.
3. Appellants (including anyone acting “In Person”) are reminded that they are to observe the *Rules of the Court of Appeal* as well as what is set out in this Circular, when submitting further applications or documentation.
4. **CIVIL APPEALS:** Counsels are reminded to provide their Submissions and Authorities in accordance with the dates ordered by the Registrar at the Settling of the Record hearing. As the Court of Appeal Judges are travelling from overseas, it is necessary to have all Submissions received in a timely manner. This allows all appeals to proceed expeditiously. Counsels are reminded of **Circular No. 1 of 2007**, wherein only Core Bundles are to be submitted for “big” Civil Appeals.
5. **CRIMINAL APPEALS:** Ensure that you have filed your Legal Aid Certificate with us. Submission dates were provided by the Court to counsel at the Review/Directions Hearing in the March 2016 Session. Please adhere to these Directions.
6. **IF A DATE HAS NOT BEEN GIVEN TO FILE SUBMISSIONS BY EITHER THE COURT OR THE REGISTRAR: Appellants’** Submissions and Authorities must be submitted to the Registry on or before **Wednesday, 12<sup>th</sup> October 2016**; the **Respondents’** Submissions and Authorities are to be submitted by close of business on **Friday, 21<sup>st</sup> October 2016**. This supersedes any and all prior Circulars. The fact that there are negotiations ongoing between the parties is not a good reason for refraining from submitting the Submissions.
7. Kindly notify the Court of Appeal Officer when you are ready to file your submissions. This will ensure acknowledgement of their receipt, appropriate filing and direction thereafter.
8. The Justices have requested that the Authorities provided in the bundles only contain the head note and the relevant pages/passages that are being cited. More than that will be extraneous. *With consideration now being given to the UK Practice Direction 52C Section 29, counsel are advised to consult with each other and exchange authorities. These authorities (no more than 10 each) shall be combined in one binder, preferably the Appellant’s, for the Court to have at their disposal during the hearing. This will reduce duplicated authorities.*

9. If there are to be any changes to the filed Submissions, the onus is on the Appellant/Respondent to update their filed documents **at the convenience** of the Court Officer.
10. If an adjournment of an appeal must be sought, the Appellant must notify the Registrar and the Respondent of this intension **prior to filing the documents**. In no less than **four days** prior to the start of the session and after the first Draft Calendar has been issued, the Appellant must file a Notice of Motion with Affidavit in Support to request the adjournment of the appeal and appear before the Court when duly summoned. This does not guarantee that the request will be granted.

11. Once an appeal is listed, please rectify your calendars of any conflicting cases in any and all of the Courts below.

12. Finally, because of the schedule and the pressure of work that will be on the Court of Appeal Judges while they are here, Appellant(s) are asked to notify the Registrar of the Court and the Respondent(s) as soon as possible if they intend to abandon an appeal. The Notice of Abandonment should be filed shortly after said notification.

Copy: Attorney General’s Chambers  
Department of Corrections  
Director of Public Prosecutions  
Legal Aid  
Bermuda Bar Association  
Senior Magistrate



Registrar of the Court



# In The Court of Appeal for Bermuda

## DRAFT CAUSE LIST- NOVEMBER 2016

**N.B.** DATES HAVE NOT YET BEEN ASSIGNED – THE LISTING PRESENTED IS ONLY A LIST – NOT AN INDICATION OF ANY ORDER IN WHICH THE APPEALS MAY BE HEARD BETWEEN OCTOBER 31 AND NOVEMBER 25, 2016!!  
**PLEASE KEEP YOUR CALENDARS FLEXIBLE!!!**

### **CIVIL**

Emmerson Donald v Minister of Works & Engineering et al  
(*NOA against the decision of Hellman, J on 20 October 2015*) (2)  
WQ (R Horseman) - Appellant  
Williams (J Cooper) - Respondent

Civil Appeal No. 5 of 2016

The Minister of Home Affairs et al v Michael & Christine Barbosa  
(*NOA against the decision of Hellman, J on 4 March 2016*) (1)  
AGC (P Perinchief) - Appellant  
WQ (P Sanderson) – Respondents

Civil Appeal No. 3 of 2016

In the Matter of Kingate Ltd.  
(*NOA against the decision of Hellman, J on 25 September 2015*) (7)  
SC (A Beltrami QC/A Poits) – Kingate Funds  
MDM (A Boyle QC/K Tomari) – Trusts Defendants  
Harneys (T Lowe QC/ S Hurrion/L Zuili) – FIM Defendants  
Liberty Law (S Froomkin QC/V Memari) - KML

Civil Appeals Nos. 17, 19, 20, & 21 of 2015

**Tavares –v- Tavares**

(*NOA from the decision of Wade-Miller, J on 11 December 2015*) (.5)  
WQ(P Sanderson) - Appellant  
Respondent in Person

Civil Appeal No. 1 of 2016

**BIU, BPSU, and BUT -v- The Minister of Home Affairs**

(*NOA against the decision of Kawaley, CJ on 15 January 2016*) (1)  
TD (D Duncan) - Appellant  
AGC (G Howard) - Respondent

Civil Appeal No. 2 of 2016

### **CRIMINAL**

**Jahkeo Leshore & Darrion Simons v R**

(*Conviction – Premeditated Murder – Simmons, J*)

WQ (R Horseman) – 1<sup>st</sup> Appellant  
SB&Co (S Smith-Bean) – 2<sup>nd</sup> Appellant  
DPP - Respondent

Criminal Appeals Nos. 15 & 16 of 2014

**Wolda Gardner v R v Wolda Gardner**

(*Conviction/Sentence – Premeditated Murder, et al – Simmons, J*)

WQ (R Horseman) – for Gardner  
DPP – for the Crown

Criminal Appeals Nos. 6 of 2015 & 6 of 2016

**Devon Hwey & Dujon Reid-Anderson v R v D. Hwey & D. Reid-Anderson**

(*Conviction – Wounding w/Intent, Bladed Article – Greaves, J*)

C Craig Attridge - Appellant  
DPP - Respondent

Criminal Appeals Nos. 21 & 23 of 2015 & 2 of 2016

**Caesar Graham v R**

(*NOM for Leave to the Privy Council*)

Appellant in Person  
DPP – for the Respondent

Criminal Appeal No. 4 of 2016

**Kijon Baker v R**

(*Conviction/Sentence – Aggravated Burglary et al – Greaves, J*)

Christopher’s (E Christopher) – Appellant  
DPP - Respondent

Criminal Appeal No. 16 of 2015

**R v Kamal Worrell**

(*Cost Application*)

DPP - Appellant

Apex (A Hodgson) - Respondent

Criminal Appeal No. 19 of 2015

**Ernest McQueen v R**

(*Conviction – Sexual Exploitation et al – Hellman, J*)

Christopher’s (E Christopher) - Appellant  
DPP - Respondent

Criminal Appeal No. 18 of 2015

**R v Daymon Simmons**

(*Conviction – Sexual Exploitation et al – Hellman, J*)

DPP - Appellant

MG (M Daniels) - Respondent

Criminal Appeal No. 5 of 2016

### **RESERVED LIST**

**Thompson v Thompson**

(*NOA from the decision of Hellman, J on 5 November 2015*)

MG (R DeSilva) – Appellant

MDM (G Marshall) - Respondent

Civil Appeal No. 25 of 2015

**R v Garth Bell**

(*Sentence – Unlawful Wounding – Simmons, J*)

DPP - Appellant

Christopher’s (S Mulligan) - Respondent

Criminal Appeal No. 8 of 2016

**Devore Brangman v R**

(*Sentence – Theft – Greaves, J*)

Compass (C Richardson) - Appellant  
DPP - Respondent

Criminal Appeal No. 7 of 2016

### **REVIEW/ DIRECTIONS**

**Christoph Duerr & Le-Veck Roberts v R**

(*Conviction/Sentence – Premeditated Murder, et al – Greaves, J*)

MS (L Mussenden) – 1<sup>st</sup> Appellant

Compass Law Chambers (C Richardson) – 2<sup>nd</sup> Appellant  
DPP - Respondent

Criminal Appeals Nos. 3 & 4 of 2015