

1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**  
2 **CRIMINAL SIDE**  
3

4 **SCA. NO: 27 of 2023**  
5 (linked to SC 793 of 2023)  
6

7 **MARTIN WAYNE BERNEKING**

8 **-v-**

9 **REX**

10 **Appearances:** **Ms. Amelia Fosuhene of Brady Law for the Appellant**  
11  
12 **Mr. Orrett Brown, Crown Counsel, Office of the**  
13 **Director of Public Prosecutions, for the Respondent**  
14  
15 **Before:** **The Hon. Justice Marva McDonald-Bishop (Actg.)**  
16  
17 **Appeal Heard:** **17<sup>th</sup> November and 7<sup>th</sup> December 2023**  
18  
19 **Judgment Delivered:** **7<sup>th</sup> December 2023**  
20 **Written Reasons Released:** **25<sup>th</sup> January 2024**

21 **HEADNOTE**

22 *Summary Court appeal – jurisdiction of the Grand Court – appellant sentenced in the Summary*  
23 *Court following guilty pleas to firearm offences – request for convictions not to be recorded –*  
24 *refusal of the request for the convictions not to be recorded – whether the Grand Court has the*  
25 *jurisdiction to hear an appeal against refusal of a request not to record convictions following*  
26 *guilty pleas – **Criminal Procedure Code (2021 Revision), sections 165(1) and 167***  
27

28 **JUDGMENT**

29 1. Mr. Martin Wayne Berneking ('the appellant') is aggrieved by the decision of Magistrate  
30 Kirsty Gunn ('the learned Magistrate'), made in the Summary Court on 31<sup>st</sup> May 2023,  
31 refusing his request that his convictions for possession of an unlicensed firearm and  
32 unlicensed ammunition not be recorded.

- 1
- 2 2. On 29<sup>th</sup> May 2023, the appellant pleaded guilty in the Summary Court to charges brought  
3 against him for having in his possession at the Owen Roberts International Airport, Grand  
4 Cayman, Cayman Islands, a .45 calibre Springfield Armory XD 5 firearm and seven  
5 rounds of ammunition contrary to section 15(1) and 15(5) of the *Firearms Act*.  
6
- 7 3. On 31<sup>st</sup> May 2023, the learned Magistrate sentenced the appellant to a fine of \$5,000.00  
8 or 6 months' imprisonment for possession of the unlicensed firearm and \$1,000.00 or 2  
9 months' imprisonment for possession of unlicensed ammunition. Additionally, he was  
10 ordered to pay the costs of the prosecution in the sum of \$500.00 or 30 days'  
11 imprisonment in default of payment. The total sum of \$6,500.00 was payable on the date  
12 of sentence.  
13
- 14 4. The learned Magistrate imposed the non-custodial sentences on the basis that there were  
15 exceptional circumstances relating to the offending and the offender that warranted a  
16 departure from the minimum sentences for the offences prescribed by section 39(1) of  
17 the Firearms Act. However, despite vigorous submissions by Ms. Fosuhene, counsel for  
18 the appellant, grounding the request that the convictions not be recorded, the learned  
19 Magistrate opined that the high threshold for the conviction not to be recorded had not  
20 been reached. She then imposed the sentences and costs order without explicitly stating  
21 that the convictions were to be recorded. It is accepted, however, that the convictions  
22 would have been recordable by operation of law independently of any order made by the  
23 court to that effect.  
24
- 25 5. Consequently, the appellant has approached this court for the learned Magistrate's refusal  
26 of his request for the convictions not to be recorded to be disturbed, and an order be made  
27 that his convictions not be recorded.  
28
- 29 6. To provide the necessary factual background to the appeal, for convenience and  
30 expediency, I adopt the summary of the facts of the case as concisely set out by the

1 learned Magistrate in her written Reasons for Ruling, and about which there is no dispute  
2 between the parties. The salient facts are as follows<sup>1</sup>:

- 3
- 4           "1.     *The [appellant] is a mature man of 63 years of age. He is*  
5                 *a retired police officer and is now employed as a pilot.*  
6                 *The [appellant] is a firearms license holder in the US and*  
7                 *has possessed firearms since he was 18 years old.*
- 8
- 9           2.     *He has owned the handgun and ammunition we are*  
10                *concerned with for some time. The [appellant] flew in the*  
11                *Cayman Islands on 27<sup>th</sup> May 2023 on a private aircraft.*  
12                *He was scheduled to depart the Islands that same day on*  
13                *an American Airlines Flight to Miami. As the [appellant]*  
14                *attempted to pass the security checkpoint, his carry-on*  
15                *luggage was x-rayed, and the firearms were discovered.*  
16                *The [appellant] was detained and a short while later*  
17                *arrested by CBC officers. The firearm was kept in a*  
18                *concealed carry holster. The ammunition was loaded in*  
19                *the firearm. The [appellant's] immediate reaction was*  
20                *shock and to apologise for his oversight. The [appellant]*  
21                *asserted he had thought he had removed his firearm*  
22                *before boarding the flight to the Cayman Islands.*
- 23
- 24           3.     *The [appellant] co-operated fully with the authorities.*  
25                *The [appellant] admitted that the firearms belonged to*  
26                *him and that he had brought them into the Islands in his*  
27                *carry on. However, he asserted that he had done so*  
28                *unwittingly as he had not been aware that the firearms*  
29                *were in his luggage.*
- 30
- 31           4.     *The [appellant] pleaded guilty at the first reasonable*  
32                *opportunity and is clearly remorseful. The [appellant] is*

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<sup>1</sup> Reasons for Ruling, paras. 1- 4

1 *a man of exemplary character and has no previous*  
2 *convictions."*  
3

4 7. In her comprehensive written submissions, Ms. Fosuhene provided more details  
5 regarding the circumstances of the commission of the offence and the appellant. Those  
6 facts have been duly noted but will not be rehearsed for present purposes as it is  
7 unnecessary to do so.  
8

9 8. In his notice of appeal, the appellant, through his counsel, sets out his complaint in a  
10 single ground of appeal in these terms:  
11

12 *"The judge found exceptional circumstance but did not allow for*  
13 *disposal of no conviction recorded based only on offence and not*  
14 *on my very unique circumstances."*  
15

16 9. In her written submissions, Ms. Fosuhene purported to set out two differently worded  
17 grounds of appeal. However, they have been treated as a refinement of the single ground  
18 of appeal filed rather than as different grounds belatedly advanced. In his refined grounds  
19 of appeal, the appellant complains that:  
20

21 (1) the learned Magistrate failed to properly take into  
22 consideration the relevant factors when considering  
23 whether or not to record a conviction against a defendant;  
24 and  
25

26 (2) the learned Magistrate incorrectly considered that passing  
27 a sentence where no conviction was recorded, in these  
28 particular circumstances, would be a derogation from the  
29 principles of passing a deterrent sentence.  
30

31 10. On any wording of the ground of appeal advanced by the appellant, it is clear that the  
32 appeal is indisputably about the learned Magistrate's refusal of the appellant's request for  
33 the convictions not to be recorded and not about the sentences imposed by her. This

1 observation invokes, for consideration, section 167 of the *Criminal Procedure Code*  
2 (2021 Revision) ("the CPC") that makes specific provisions governing appeals from the  
3 Summary Court to the Grand Court.  
4

- 5 11. Section 167 of the CPC limits the right to appeal from the Summary Court to the Grand  
6 Court in cases where an accused person has pleaded guilty to a criminal charge. The  
7 section reads:

8  
9 *"No appeal shall be allowed in a case in which the accused person*  
10 *has pleaded guilty and has been convicted by a Summary Court on*  
11 *such plea, except as to the extent and legality of the sentence."*

- 12  
13 12. Having brought the foregoing statutory provision to the attention of counsel for both  
14 sides and invited their submissions, Crown Counsel Mr. Brown submitted that this  
15 section is determinative of the appeal because the appellant has not appealed the  
16 sentence. Ms. Fosuhene, however, disagrees. She contended that "the whole sentence is  
17 manifestly excessive in light of the appellant's unique circumstances". According to her,  
18 the appellant's grievance is that the learned Magistrate failed to properly consider the  
19 impact of the recording of the convictions on his life. The appellant's personal  
20 circumstances, she contended, are so unique that it warranted the learned Magistrate  
21 taking an exceptional course of not recording the convictions.  
22

- 23 13. Furthermore, Ms. Fosuhene submitted that the case will not set any precedent concerning  
24 firearm offences and would not be considered a benchmark with regard to not recording  
25 convictions because the likelihood of the same circumstances recurring "is literally nil".  
26 Indeed, the case is so unique, she said, that the learned Magistrate was not required to  
27 consider the issue of deterrence because ultimately, once it was accepted, as she did, that  
28 the appellant's possession of the firearm within the jurisdiction was a genuine mistake,  
29 then the making of a mistake is something that cannot be deterred. The non-recording of  
30 the convictions would be an acknowledgement that a genuine mistake was made and that  
31 the appellant is unlikely to repeat such a mistake or come before the court ever again.  
32

- 33 14. Ms. Fosuhene further submitted that the appellant could appeal against conviction, and  
34 the entire appeal against the sentence is that, in the circumstances of this case, it is

1 manifestly excessive. Therefore, as the appellant's contention is that the sentence is  
2 manifestly excessive based on the recording of the conviction, it is ultimately for this  
3 court to properly consider the appeal under section 167 of the CPC.  
4

5 15. The appellant placed reliance on *Guardiola v R*<sup>2</sup> in support of the argument that the  
6 recording of the convictions rendered the sentence manifestly excessive and on *Anthony*  
7 *Berry v The Queen*<sup>3</sup> for the proposition that the court can entertain an appeal against a  
8 decision not to record a conviction as an appeal against the extent of the sentence, which  
9 would be permissible under section 167 of the CPC.  
10

11 16. Having considered the grounds of appeal, the submissions of counsel and the authorities  
12 the appellant seeks to rely on, against the background of section 167 of the CPC, I find  
13 that the appellant does not stand on good ground in his appeal for the reasons outlined  
14 below.  
15

16 17. Regardless of Ms. Fosuhene's forceful arguments concerning what she said to be the  
17 excessiveness of the sentence, this is not an appeal about the length or legality of the  
18 sentence. It is about the refusal of the learned Magistrate not to record the convictions.  
19 Therefore, there is no *bona fide* appeal regarding the sentences imposed. Even though Ms  
20 Fosuhene stated that the appellant could have appealed the convictions, he never did, and,  
21 in any event, he pleaded guilty, thereby engaging section 167 of the CPC. The section  
22 precludes an appeal against conviction upon a guilty plea, especially in a case of this  
23 nature, where there is no contention that the guilty pleas were not properly or validly  
24 entered by the appellant. Therefore, the appellant stands on his guilty pleas up to the  
25 hearing of the appeal; there is no appeal against conviction.  
26

27 18. Ms. Fosuhene places strong reliance on the case of *Anthony Berry*, but it does not assist  
28 the appellant. The facts of the case, as extracted from the written judgment of the Court  
29 of Appeal of the Cayman Islands ("the CICA"), are as follows. Mr. Berry, who was about  
30 18 years old, pleaded guilty in the Summary Court to the offence of consumption of ganja  
31 committed in 2010. He was sentenced to a fine of \$600.00 or 60 days' imprisonment in

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<sup>2</sup> 1994 CILR Note 20

<sup>3</sup> CICA (Crim) No 28/2011

1 default of payment. Mr. Berry appealed to the Grand Court on the grounds that (i) the fine  
2 was excessive for a first conviction; (ii) he had pleaded guilty in the belief that a sentence  
3 of probation would have been imposed on him; and (iii) he had been accepted to attend  
4 school overseas but "the fine is recorded as a conviction". The Magistrate had considered  
5 whether or not she should have recorded the convictions and did not find any basis not to  
6 do so.

7  
8 19. In appealing to the Grand Court, Mr. Berry stated in his notice of appeal that it was an  
9 appeal against sentence. The Grand Court dismissed the appeal. The Chief Justice, who  
10 heard the appeal, explained in dismissing the appeal that Mr. Berry "sought to reverse the  
11 Magistrate's decision by which she allowed his conviction for consumption of ganja to be  
12 recorded against him". The learned Chief Justice pointed out that there appeared to be no  
13 error of principle in the way that the Magistrate had dealt with the matter. The Chief  
14 Justice concluded that the recording of the conviction did not render the sentence  
15 manifestly hard or excessive, and he had no basis for interfering with it. The decisions of  
16 the Magistrate and Grand Court were not interfered with on appeal.

17  
18 20. Ms. Fosuhene relied on this authority to advance the argument that the instant appeal  
19 should be entertained and considered on the merits because, notwithstanding section 167  
20 of the CPC, both the Grand Court and the CICA entertained Mr. Berry's appeal that  
21 included the ground relating to the recording of the conviction. She said the Grand Court  
22 and the CICA's consideration of Mr. Berry's appeal supports her view that this court  
23 should consider the appeal on the merits because it is an appeal against sentence, and so,  
24 the limitation under section 167 would not apply.

25  
26 21. Counsel's submissions that this court should consider the appeal because of the precedent  
27 she said has been set in *Anthony Berry* are not accepted for reasons I will briefly state.  
28 Firstly, Mr. Berry's notice of appeal expressly indicated that he was appealing the  
29 sentence. This is unlike the instant case in which the appellant failed to state in his notice  
30 of appeal what he is appealing. So, there is no definitive indication in his notice of appeal  
31 that he is appealing sentence. Secondly, Mr. Berry, following up on his specific  
32 indication in his notice of appeal that he was appealing his sentence, proceeded to include  
33 a ground challenging the sentence. He contended that the fine imposed on him was

1 excessive and that he should have been put on probation instead. There was, therefore, a  
2 direct challenge by Mr. Berry to the sentence imposed on him. In this case, there is no  
3 such challenge. The notice and grounds of appeal do not mention the sentences imposed  
4 or the order for costs as the subject matter of the appeal. Indisputably, the appeal is only  
5 about the recording of the convictions. Accordingly, there is nothing arising from the  
6 grounds of appeal or arguments advanced in support of them that earnestly challenges  
7 the extent or legality of the sentences for the court to permit the appeal to be heard in  
8 accordance with section 167 of the CPC.

9  
10 22. Finally, nothing indicates that section 167 of the CPC was brought to the attention of the  
11 Grand Court and the CICA in *Anthony Berry*. Therefore, this court cannot ignore the  
12 unambiguous provisions of the CPC simply because in a previous case, involving the  
13 same issue regarding a Magistrate's refusal not to allow a conviction to be recorded, the  
14 Grand Court and the CICA had considered the merits of the appeal. I am confident that  
15 had the Chief Justice and the CICA considered section 167 of the CPC in *Anthony Berry*,  
16 they would have categorically concluded, in the light of the limitation imposed by the  
17 section, that there was no proper appeal against the sentence from the Magistrate's  
18 decision to allow the conviction of Mr. Berry to be recorded. I am fortified in this  
19 viewpoint by the reasoning of the CICA at paras. 16 and 17 of its judgment, relied on by  
20 Mr. Brown to strengthen his argument that there was no appeal against sentence to be  
21 permitted by the court as contemplated by section 167 of the CPC.

22  
23 23. Mr. Brown drew the court's attention to para. 17 of the judgment of the CICA in *Anthony*  
24 *Berry*, where the court expressed doubt regarding whether the appeal challenging the  
25 recording of the conviction was an appeal against sentence. The learned President, Sir  
26 John Chadwick, with whom the other members of the court agreed, noted at para. 16 of  
27 the judgment that Mr. Berry was, among other things, inviting the court to direct that no  
28 conviction be entered in response to the charge on which he was brought before the  
29 Summary Court. Concerning this invitation to the court, the learned President opined:

30  
31 *"17. There is a procedural difficulty which Mr Berry would need*  
32 *to surmount before the Court could accede to that invitation. In*  
33 *the first place, it is not at all clear that this can truly be said to*

1                    *be an appeal against sentence. The complaint is not so much as*  
2                    *to the sentence that was passed but as to the fact that any sentence*  
3                    *was passed at all... So the real challenge is to the exercise of the*  
4                    *Magistrate's discretion when deciding that this was not a case in*  
5                    *which a conviction should not be recorded. As I have said, a*  
6                    *challenge to that decision does not fit easily within the*  
7                    *description of an appeal against sentence."* (Emphasis added)  
8

9                    24.        Then, at para. 18, his Lordship continued:

10  
11                    *"But assuming this appeal can be presented as an appeal against*  
12                    *sentence, the question for the Court is whether the Magistrate or*  
13                    *the Chief Justice can be said to have erred in reaching the*  
14                    *conclusions which they did, respectively, reach when the matter*  
15                    *was before them. The answer to that question is plainly 'No'.*  
16                    *Neither the Magistrate nor the Chief Justice can be said to have*  
17                    *erred on the material before them."* (Emphasis added)  
18

19                    25.        Having regard to the unambiguous wording of section 167 of the CPC, I am prepared to  
20                    go further than the CICA and state definitively that the appeal brought by the appellant  
21                    cannot be presented as an appeal against sentence for the exercise of the court's  
22                    jurisdiction to allow it. The appeal is simply a challenge to the exercise of the learned  
23                    Magistrate's discretion refusing to direct that the convictions not be recorded. Therefore,  
24                    by no stretch of the language of section 167 of the CPC, the general law or logic can the  
25                    learned Magistrate's refusal to direct that the convictions not be recorded be regarded as a  
26                    matter touching the extent or legality of the sentence for the appeal to be permissible under  
27                    section 167 of the CPC.  
28

29                    26.        In the circumstances, the limitation imposed by section 167 of the CPC applies to this  
30                    appeal, so it cannot be allowed. Therefore, the court has no jurisdiction to entertain this  
31                    appeal, so I must dismiss it for want of jurisdiction.  
32

33                    27.        Accordingly, the applicability of section 167 of the CPC is dispositive of the appeal.

- 1
- 2 28. I will also add that I would have dismissed the appeal for want of jurisdiction on another  
3 basis, which is that there is no ‘judgment, sentence or order’ of the Summary Court from  
4 which this appeal is brought. This observation engages section 165(1) of the CPC, which,  
5 in short, confers the right of appeal on an accused if he is dissatisfied with any judgment,  
6 sentence or order in any criminal cause or matter.  
7
- 8 29. Mr. Brown submitted that although the learned Magistrate did not expressly refuse the  
9 request for the convictions not to be recorded, the fact that they were allowed to be  
10 recorded could be said to implicitly satisfy the requirements of an order. I find this  
11 submission a bit challenging to accept.  
12
- 13 30. The learned Magistrate's final orders and sentence dispositive of the proceedings against  
14 the appellant are to be found in para. 17 of the Reasons for Ruling. There, the sentences  
15 and orders concerning costs were expressly set out. There was nothing about the recording  
16 or non-recording of the convictions. It is in her reasoning that the learned Magistrate  
17 concluded that nothing in the circumstances of the case met the very high threshold  
18 justifying not recording the conviction. Beyond that, she said nothing further on the issue.  
19 Thus, there was no follow-up positive order that the conviction must be recorded, and  
20 none has said that the appellant's request for the convictions not to be recorded was  
21 refused. For the convictions not to be recorded, the court would have had to make an order  
22 to that effect. Therefore, once such an order was not made, and the offences in question  
23 are recordable offences (which they are), the recording of the convictions would flow as  
24 a matter of course by virtue of some statutory authority and not by the court's order.  
25
- 26 31. The CPC does not define what is meant by ‘judgment, sentence or order’. However, even  
27 in the absence of a statutory definition of the concepts, it is unchallengeable that there is  
28 no ‘judgment, sentence or order’ giving expression to any direction of the court regarding  
29 the recording or non-recording of the convictions.  
30
- 31 32. There is no difficulty with the meaning of the word ‘sentence’. The concepts of  
32 ‘judgment’ and ‘order’ are usually the subject of judicial discourse. Therefore, if authority  
33 for what is meant by an appealable ‘judgment’ or ‘order’ is needed, it is to be found in the

1 English Court of Appeal pronouncements in *Lake v Lake*<sup>4</sup>. The concepts were explained  
2 in that case within the context of a statutory provision granting the right of appeal in civil  
3 proceedings, which were governed by similarly worded statutory provisions as section  
4 165 of the CPC. In that case, Sir Raymond Evershed, MR., shed light on what 'judgment'  
5 or 'order' meant within that context. At page 541, he opined:  
6

7 *"A party's right of appeal (which is, of course, a statutory right) is*  
8 *now regulated by the terms of RSC, Ord 58, r. 1. That states that*  
9 *the appellant may, pursuant to section 27(1) of the Supreme Court*  
10 *of Judicature (Consolidation) Act, 1925... appeal from the 'whole*  
11 *of any judgment or order'... Nothing from the cases brought to our*  
12 *attention by counsel for the wife persuades me that by the words*  
13 *'judgment or order' in the rule or in the sub-section is meant*  
14 *anything other than the formal judgment or order which is drawn*  
15 *up and disposes of the proceedings, and which, in appropriate*  
16 *cases, the successful party is entitled to enforce or execute. In*  
17 *other words, I think that there is no warrant for the view that*  
18 *there has by statute been conferred any right on an unsuccessful*  
19 *party... to appeal from some finding or statement – I suppose it*  
20 *would include some expression of view about the law- which you*  
21 *may find in the reasons given by the judge for the conclusion at*  
22 *which he eventually arrives disposing of the proceeding."*

23 (Emphasis added)  
24

25 33. In the same case, Hodson LJ, in concurring with the views of Sir Raymond Evershed MR.,  
26 similarly noted, at page 543, that the statutory requirement conferring the right of appeal  
27 deals only with the formal order and not the reasons for the decision.  
28

29 34. Similarly, in Singapore, the term 'judgment', as used in the Criminal Procedure Code of  
30 that jurisdiction, was explained in the case of *Public Prosecutor v Ng Guan Hup*<sup>5</sup> in

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<sup>4</sup> [1955] 2 All ER 538

<sup>5</sup> [2009] SGHC 170

1 which *Lim Teck Leng Roland v PP*<sup>6</sup> was discussed. In *Lim Teck Leng Roland*, the court  
2 considered the word 'judgment' in the context of section 217 of the Criminal Procedure  
3 Code of Singapore, which, admittedly, is different from section 165(1) of the CPC. The  
4 relevant similarity, for our purposes, is the use of the word 'judgment' in the context of  
5 criminal proceedings without there being a definition of the term. Concerning that, Yong  
6 Pong How CJ observed:

7  
8 *"The word judgment is not defined in the Criminal Procedure*  
9 *Code. The Halsbury's Laws of England Hailsham Ed, Vol IX paras*  
10 *260 – 265 explains it as a final order in a trial terminating in*  
11 *the conviction or acquittal of the accused...".* (Emphasis added)  
12

13 35. To the extent that the court, in *Lim Teck Leng Roland*, in coming to its conclusion, relied  
14 on *Halsbury's Laws of England*, it seems useful to regard it as a highly persuasive  
15 authority for present purposes. Therefore, if that explanation of the word 'judgment' as  
16 taken from *Halsbury's Laws of England* (as cited above) is accepted (I see no reason why  
17 it should not be) then there was no 'judgment', in this case, relative to the recording of the  
18 convictions.  
19

20 36. However, in *Ng Guan Hup*, in issue was the meaning of 'judgment' as used in section  
21 184 of the Criminal Procedure Code of Singapore. The judge, in that case, after  
22 considering the explanation of the term in *Halsbury's Laws of England*, as stated above,  
23 concluded that the term 'judgment' is capable of bearing two meanings. The first is up to  
24 the point that the court convicts the accused person, and the second is up to the point that  
25 the court pronounces the sentence.  
26

27 37. What is clear from the authorities cited above is that whichever definition of the term  
28 'judgment' is applied to the appeal in this case, it cannot reasonably be said on any of them  
29 that the refusal of the learned Magistrate to make an order that the convictions not be  
30 recorded as desired by the appellant forms part of the 'judgment' or 'order' of the court.  
31 That decision had nothing to do with the sentences imposed, particularly their length and  
32 legality, as required by section 167 of the CPC.

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<sup>6</sup> [2001] 4 SCR 51

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38. In the premises, the learned Magistrate's refusal of the appellant's request for his convictions not to be recorded did not form part of any judgment, sentence or order within the meaning contemplated by sections 165(1) of the CPC. Accordingly, no right of appeal lies to the Grand Court from the learned Magistrate's refusal to direct that the convictions are not to be recorded. Based on my construction of section 165(1) of the CPC, I would also not allow the appeal to be heard for want of jurisdiction for this additional reason.

39. Given my decision that this court has no jurisdiction to allow the appeal to be heard on two bases - sections 167 and 165(1) of the CPC, which must be read together in the circumstances of this appeal that emanated from guilty pleas in the Summary Court, I conclude that there is no need to examine the merits of the appeal as that would be purely an academic exercise with no attendant value.

40. The appeal is dismissed for want of jurisdiction.

**Dated this the 25<sup>th</sup> day of January 2024**

**The Hon. Justice Marva McDonald-Bishop (Actg.)  
Judge of the Grand Court**