

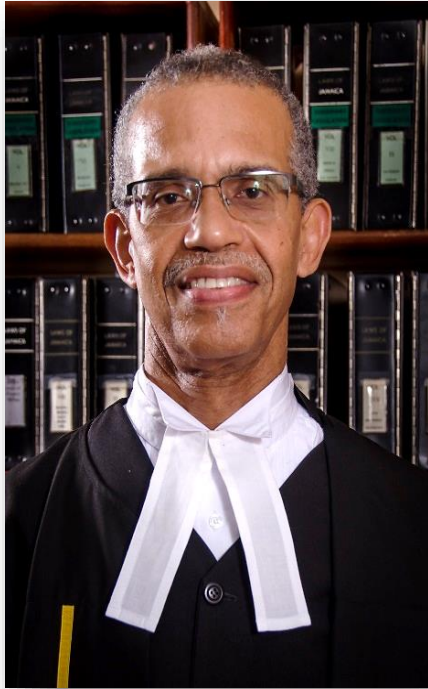


Court of Appeal Jamaica Annual Report 2020

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President's Message



The Hon Mr Justice Patrick Brooks, P

It is my honour and privilege to present the Annual Report for the Court of Appeal for 2020, in continued demonstration of the court's commitment to accountability and transparency.

The COVID-19 pandemic dominated 2020! It brought challenges, but through resilience and innovation, some good was achieved. The primary beneficial effect was the institution of the virtual platform as the main method of conducting the hearing of appeals. While the method is not perfect, it allows for the elimination of transportation and associated costs for counsel to attend court.

It may well be that in-person hearings will not be generally feasible during the course of 2021, but with the achievement of a widely inoculated population the court will hopefully be able to facilitate such sittings by the middle of 2022.

Early in the year under review, there was a sense of optimism as the court looked forward to the execution of the Strategic Plan for the Judiciary, which is the brainchild of the Chief Justice, the Honourable Mr Justice Bryan Sykes. The unveiling of the plan had hardly been completed when COVID-19 entered the island and changed our lives. Nonetheless some progress was made with the Strategic Plan. Some members of the court were trained in its implementation and further progress will occur during 2021. The court's work also reflected mixed results. There were some negatives in the criteria by which performance is measured. As is demonstrated by Tables F-H, the number of pending cases increased during the course of the year. There was also a 7.25% decline in the number of appeals that were disposed of, compared to 2019 (Tables I-J). There

was, however, an 11% increase over 2019 in the clearance rate of appeals to achieve an 81% rate (Chart 5). Also on a positive note is the significant increase (37.10%) in the number of written judgments delivered during the course of the year (Table N). A significant number of the oldest cases on the reserved judgment list were cleared (Table O).

The pandemic has undoubtedly contributed to those results, as it reduced the number of sittings and cases heard, while it allowed judges more time out of court to write judgments. The co-relation between the decreased total number of cases disposed of and the increased number of written judgments will be examined to determine the optimum balance between the time judges should be allowed out of court sittings to write judgments. That co-relation will be conducted with the assistance of the court's statistician Dr Denarto Dennis, and will no doubt guide the way forward in this regard.

A high note during the year was the celebration of the award of national honour of the Order of Distinction in the rank of Commander to one of our judges, The Honourable Miss Justice Paulette Williams. We were not able to witness, in person, the usual presentation ceremony, but we celebrate with her the recognition of her sterling contribution and dedication to the judiciary in general and to this court in particular.

We inched closer to achieving our full complement of judges. We got as high as 12 judges (including the President), with the addition of three judges during the Michaelmas Term. The Honourable Mr Justice David Fraser and The Honourable Miss Nicole Simmons, were the permanent appointments to the court, while The Honourable Mrs Justice Marcia Dunbar-Green was appointed to act as a Judge of Appeal. The number dipped slightly to 11 by the end of the year with the retirement of President Morrison.

It was almost at the end of 2020 when The Honourable Mr Justice Dennis Morrison OJ, CD, demitted office as President of the Court. He retired on 4 December 2020. The court owes a huge debt of gratitude to President Morrison, who not only oversaw and navigated the court's transition from its previous to its present location, but guided the

court through the upheaval caused by the onset of the pandemic. His calm approach prevented panic and allowed for the instituting of the relevant technology that allowed the court to continue its work on the new platforms. A special sitting of the court was held to mark his retirement. Special arrangements had to be made to have three divisions of the court sit simultaneously, in order to maintain the physical distancing. Special thanks are due to the Court Administration Division and the Jamaica Information Service for providing the technology for the simultaneous sittings and the livestreaming of the event. The court already misses Justice Morrison immensely, but we wish him all the very best in this new phase of his life. A section of this report is dedicated to the farewell ceremony that was held in his honour and the tribute that was paid to him. The proceedings were spearheaded by the Honourable Miss Justice Hilary Phillips CD, to whom we owe a special debt of gratitude.

Justice Phillips is, herself, scheduled to proceed on retirement in the early months of 2021. Her contribution to the court has also been monumental, but more will be said in that regard at a later time.

On 7 December 2020, His Excellency the Governor General, appointed and invested your humble servant as the President of the Court.

Sittings of the court in the parish of Hanover have been a feature of the court's itinerary over the past several years. The pandemic prevented that sitting in 2020, but the West was not deprived of the Court's services as the relevant cases were dovetailed into the Court's videoconference sittings. Counsel were, therefore, still saved the cost and inconvenience of travelling into Kingston for hearings.

Kudos are due to the judges and staff (professional, administrative and ancillary) of the court who all patiently soldiered through the various challenges that the pandemic brought. Their careful observance of the national protocols helped the court to avoid having to be severely dislocated or closed completely due to illnesses. The Registrar, Mrs Stacie-Anne Brown and the Human Resources and Administration Director, Miss

Judith Whyte, created the atmosphere for a smooth operation, while ensuring the safety of all.

Mrs Brown, apart from her unruffled execution of the tasks that keep the court running, has almost single-handedly put together this annual report. The court, as usual, owes her a debt of gratitude, as it does to Dr Denarto Dennis, who has assisted in ensuring the accuracy of the tables and graphs that are included in the report.

Thanks are also due to the Honourable Chief Justice and the Court Administration Division for helping this court through these turbulent times. Thanks are also due to the Ministry of Justice for assisting us with the teething pains that we still experience with our new location.

As we traverse through 2021, the end of the pandemic does not seem to be imminent, but the court will continue to strive to do its best to serve the profession and the public.

Patrick A Brooks OJ, CD
President of the Court of Appeal
2 March 2021

Judges of the court

Composition

The Court of Appeal, by virtue of section 3 of the Judicature (Appellate Jurisdiction) Act ('the Act'), is comprised of the President of the court and not more than 12 Judges of Appeal.

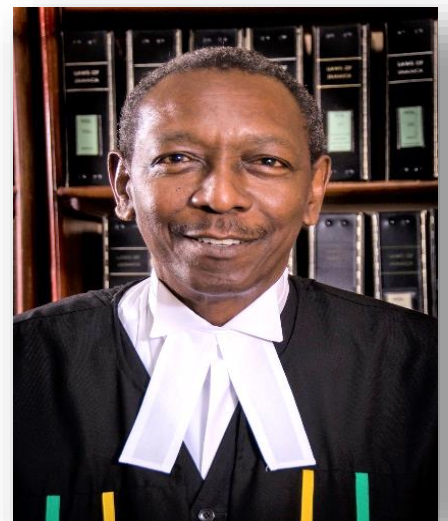
As head of the judiciary of Jamaica, the Chief Justice is also a member of the court. The Chief Justice, however, can only sit in the court if he is invited to do so by the President and if there are at least four other Judges of Appeal sitting.

It was the hope of the court that at the end of 2020 it would achieve its full complement of 13 judges, as prescribed by the Act. However, although the addition of two permanent judges at the start of the Michaelmas Term brought the goal closer to reality, the court remained short of the full complement. At the end of 2020 the complement stood at 11 (including the President).

Retirement

On 4 December 2020, the court bade farewell to its President, the Hon Mr Justice C Dennis Morrison OJ, CD, who proceeded on retirement, after over 12 years of distinguished service to the Court of Appeal.

Following an eminent career at the Bar as one of the island's leading, most respected and beloved Queen's Counsel, the learned President was appointed to this court as a Judge of Appeal on 1 May 2008. Mr Justice Morrison was subsequently appointed President of the Court of Appeal on 4 January 2016.



The Hon Mr Justice C Dennis Morrison, OJ, CD

Among the many initiatives with which the learned President is credited is the publication of the Court of Appeal's annual reports, the purpose of which is to give an overview of the work and output of the court, and the establishment of the Court Users Committee for the purpose of interfacing with the court's stakeholders on matters specifically related to the Court of Appeal.

The court records its immense gratitude to Mr Justice Morrison for his sterling and immeasurable contribution to the judiciary, to the development of the law, to the Jamaican court system, to legal education and to the people of Jamaica. As he embarks on this new chapter in his life, the court wishes Mr Justice Morrison and his family every happiness.

Appointments

a) President

Upon the retirement of the Hon Mr Justice Morrison P, the Court of Appeal was very pleased to welcome the appointment of the Hon Mr Justice Patrick Brooks, CD as its new President.

Mr Justice Brooks was sworn in by His Excellency the Governor General on 7 December 2020, the date on which his appointment as President took effect. At the swearing in, the Governor General also conferred on the new President the national honour of Order of Jamaica.

Prior to becoming President, Mr Justice Brooks served with great distinction as a Judge of Appeal of this court, having been appointed to the post on 16 January 2012, following his equally distinguished career as a Puisne Judge.

The court acknowledges the appointment of Mr Justice Brooks P as one which is well deserved and assures the new President of the full support of all the judges and staff of the court as he embarks on his tenure.



The Hon Mr Justice Patrick Brooks, CD taking the oath of office

b) Permanent Judges of Appeal

At the start of the Michaelmas Term in 2020 the court was happy to welcome the appointment of two additional permanent members.

The Hon Mr Justice David Fraser and the Hon Miss Justice Nicole Simmons, Puisne Judges of the Supreme Court, were sworn in by the Governor General as Judges of Appeal with effect from 21 September 2020.



The Hon Miss Justice Nicole Simmons JA



The Hon Mr Justice David Fraser JA

These permanent appointments followed successful periods for both judges as acting Judges of Appeal. Mr Justice Fraser JA so acted in the Hilary and Easter Terms of 2019 and Miss Justice Simmons JA in the Michaelmas Term of 2019 and the Hilary Term of 2020.

The Court of Appeal records its delight at the appointment of both Judges of Appeal and extends best wishes on this new phase of their judicial careers.

c) Acting Judges of Appeal

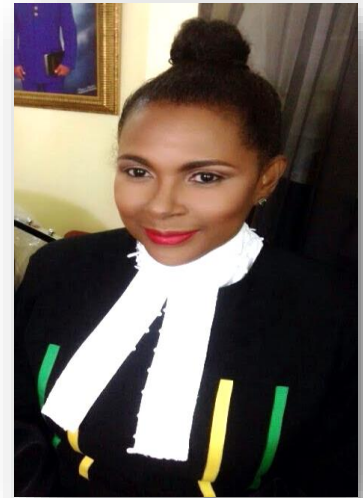
During the year under review the court also welcomed two acting Judges of Appeal. The first was the Hon Justice Vivene Harris, Puisne Judge, who acted as a Judge of

Appeal during the Easter Term of 2020 when the Hon Miss Justice Carol Edwards JA proceeded on vacation leave.



The Hon Mrs Justice Vivene Harris JA (Ag)

Later, during the Michaelmas Term of 2020, when the Hon Mr Justice Frank Williams JA proceeded on vacation leave, the Hon Mrs Justice Marcia Dunbar Green, Puisne Judge, was appointed to act as a Judge of Appeal.



The Hon Mrs Justice Marcia Dunbar-Green JA (Ag)

Judges of the court

At the end of 2020, the court constituted: The Hon Mr Justice Patrick Brooks P; The Hon Miss Justice Hilary Phillips JA; The Hon Mrs Justice Marva McDonald-Bishop JA; The Hon Mrs Justice Almarie Sinclair-Haynes JA; The Hon Mr Justice Frank Williams JA; The Hon Miss Justice Paulette Williams JA; The Hon Miss Justice Jennifer Straw JA; The Hon Miss Justice Carol Edwards JA; The Hon Mrs Justice Nicole Foster-Pusey JA; The Hon Mr Justice David Fraser JA; and The Hon Miss Justice Nicole Simmons JA.



The Hon Mr Justice Patrick Brooks P



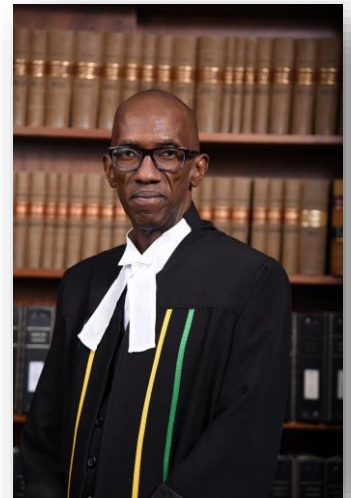
The Hon Miss Justice Hilary Phillips JA



**The Hon Mrs Justice Marva
McDonald Bishop JA**



**The Hon Mrs Justice Almarie
Sinclair Haynes JA**



**The Hon Mr Justice Frank
Williams JA**



**The Hon Miss Justice Paulette
Williams JA**



**The Hon Miss Justice Jennifer
Straw JA**



**The Hon Miss Justice Carol
Edwards JA**



**The Hon Mrs Justice Nicole
Foster Pusey JA**



**The Hon Mr Justice David
Fraser JA**



**The Hon Miss Justice Nicole
Simmons JA**

Court Staff

Staff Complement

In 2020 the total number of staff posts in the Court of Appeal, under the Civil Service Establishment (General Order) 2019, was 52. However, the actual staff complement was 43, comprising:

- 1 Registrar
- 1 Deputy Registrar
- 12 Senior Judicial Clerks
- 1 Director, Human Resource and Administration
- 1 Administrator
- 6 Executive Secretaries
- 1 Senior Secretary
- 3 Chief Court Assistants
- 2 Senior Court Assistants
- 1 Senior Records Officer
- 1 Records Officer
- 3 Orderlies
- 3 Attendants
- 1 Casually Daily Paid Worker
- 6 Part-time Cleaners

The court hopes to achieve its full complement of staff members by the end of 2021.

Staff movement

a) Farewell

The court was called upon to bid farewell to a few staff members in 2020. Miss Georgette Campbell, Executive Secretary, was appointed to act as Court Administrator at the Corporate Area Criminal Court in Half Way Tree. Mrs Diahann

Bernard and Mrs Sherrine Reddie Smith, Senior Judicial Clerks, were selected by the Judicial Services Commission to act as Parish Court Judges with effect in January 2021.

These officers have all made invaluable contributions in their respective posts to the Court of Appeal and so their appointments to other areas of public service were not surprising. The court wishes them all a very successful tenure in their new positions.

b) Secondment

Mrs Crystal Jennings Hamilton was seconded to the Public Procurement Commission.

c) Internal acting appointments

The court also saw internal staff movements in 2020 as some staff members were appointed to act in higher posts. Mrs Shelly Ann Jackson was appointed to act as Chief Court Assistant for the period during which Mr Wesley James proceeded on vacation leave. Mr Shavar Sewell was appointed to act as Senior Court Assistant during the period of Mrs Jennings Hamilton's secondment elsewhere in the public service.

d) New staff members

During the year under review, the Court of Appeal welcomed four new members of staff. Mrs Kimberley Clarke, Miss Nicole McLennon and Miss Kalisia Miller joined the court as acting Senior Judicial Clerks, while Miss Sardia Kerr joined the court as acting Executive Secretary to the Judges of Appeal.

The Court of Appeal extends a warm welcome to all the new members of staff and expresses the hope that their tenure at the court will be an enjoyable, productive and fulfilling one.

Sittings

During the year under review the Court of Appeal sat for a total of 40 weeks (13 in the Hilary Term, 14 in the Easter Term and 13 in the Michaelmas Term).

The court sat each week primarily in two divisions in panels of three judges. Additionally, two Judges of Appeal were assigned to chambers in each week to consider paper applications or conduct oral hearings of applications and case management conferences. During the court's three vacation periods in 2020 a Judge of Appeal was also assigned during each week to consider any procedural applications that were filed.

The full list of the weeks of sittings for 2020 is available on the court's website - www.courtofappeal.gov.jm.

Special Sittings

a) Opening of Michaelmas Term

On 25 September 2020 the court held a special sitting to mark the start of the Michaelmas Term 2020. The sitting was held in Division 1 of the court before a panel comprising the Hon Miss Justice Hilary Phillips JA and the newly appointed judges, the Hon Mr Justice David Fraser JA and the Hon Miss Justice Nicole Simmons JA.

The sitting, which was conducted virtually, was attended by representatives of both the public and private Bars as well as members of the media.

b) Farewell sitting for the President

On 4 December 2020 the court sat *en banc* to bid farewell to the Hon Mr Justice C Dennis Morrison, OJ, CD, on his retirement from the court. Due to the need to observe the necessary health and safety protocols because of Covid-19, the sitting was held simultaneously in three court rooms with judges, staff and limited guests in each. The Hon Mr Justice Bryan Sykes, OJ, CD, Chief Justice of Jamaica, sat with the judges to mark the occasion. Also present were members of the President's family led by his wife, Mrs Janet Morrison.

Through a collaboration between the Court Administration Division (CAD) and the Jamaica Information Service, the sitting was livestreamed on the judiciary's social media platforms. Retired Presidents of the court and retired Judges of Appeal joined the sitting by video conference. The President's son, Mr Simon Morrison, also joined by video conference and gave a moving tribute to his father.

The sitting was expertly moderated by the Hon Miss Justice Hilary Phillips JA, who commenced with an excellent overview of the illustrious career of the President (as seen in Appendix A of this report). In addition to the viewing of a recorded tribute by the Hon Mr Justice Adrian Saunders – President of the Caribbean Court of Justice, the sitting heard tributes by representatives of both the public and private Bars.

The court records its appreciation to the technical teams from the Information and Communication Technology Department of the CAD and the Jamaica Information Service for their expertise. The court also extends its gratitude to Mrs Kadiesh Fletcher, Acting Director of Client Services, Communication and Information of the CAD, for her usual expert assistance in ensuring media coverage and making the necessary arrangements to facilitate the live streaming.



The Hon Mr Justice Morrison P (centre) with the Hon Mr Justice Sykes CJ (left) and the Hon Mr Justice Brooks JA (right)

Work of the Court

The judges of the court hear and determine a variety of matters each week. These matters range from procedural applications and procedural appeals to substantive appeals. After hearing these matters, judges are required to prepare written judgments for matters in which judgments are reserved or reasons for judgment for matters in which the decisions have already been delivered.

Judges of Appeal are also assigned each week to consider procedural applications on paper as well as to sit in chambers for oral hearings of applications and case management conferences.

However, it must be noted that the work of the court extends far beyond the hearing of matters listed each week. The duties of the judges of the court in 2020 included considering:

1. criminal applications for permission to appeal from convictions and/or sentences passed in the Supreme Court - most criminal matters from the Supreme Court commence as applications for permission to appeal. Single Judges of Appeal are therefore required to review the transcripts and determine whether to grant the applications;
2. procedural applications (such as applications for stays of execution, injunctions, and security for costs)- under the Court of Appeal Rules, applications which fall within the jurisdiction of single judges are first considered on paper. The judges will then either make orders on the applications or issue directions (such as setting the matters down for *inter partes* hearing);
3. records of appeal for the purposes of making case management directions in matters from the Supreme Court; and
4. motions/applications for leave to appeal to Her Majesty in Council (pursuant to Practice Direction No 1/2016).

Individual judges are also periodically asked by the President to assist with administrative matters such as attending meetings and participating in job interviews.

As in previous reports, the work of the court will be reflected as follows:

- i. transcripts referred to single Judges of Appeal for consideration of applications for leave to appeal in criminal cases (Table A and Chart 1);
- ii. procedural applications and motions for leave to appeal to Her Majesty in Council referred to single Judges of Appeal for consideration on paper (Table B and Chart 2);
- iii. civil records of appeal referred to single Judges of Appeal for case management directions (Table C and Chart 3);
- iv. oral hearings conducted in chambers by single Judges of Appeal (Table D);
- v. disposal of applications and motions (Table E) and appeals (Tables F-H, J & K and Chart 4) and the court's clearance rate (Chart 5);
- vi. new appeals filed in the year under review and pending appeals at the end of the period (Tables F – I and Chart 4)
- vii. judgments delivered within six months of completion of hearings (Table L);
- viii. total number of matters (applications and appeals) disposed of (Table M)
- ix. written judgments delivered (Table N);
- x. outstanding reserved judgments (Table O);
- xi. outstanding reasons for judgment (Table P);
- xii. outstanding transcripts in criminal cases pending appeal (Table Q and Chart 6);
- xiii. outstanding records of proceedings in civil matters pending appeal (Table R and Chart 7); and
- xiv. appeals pending (Table S).

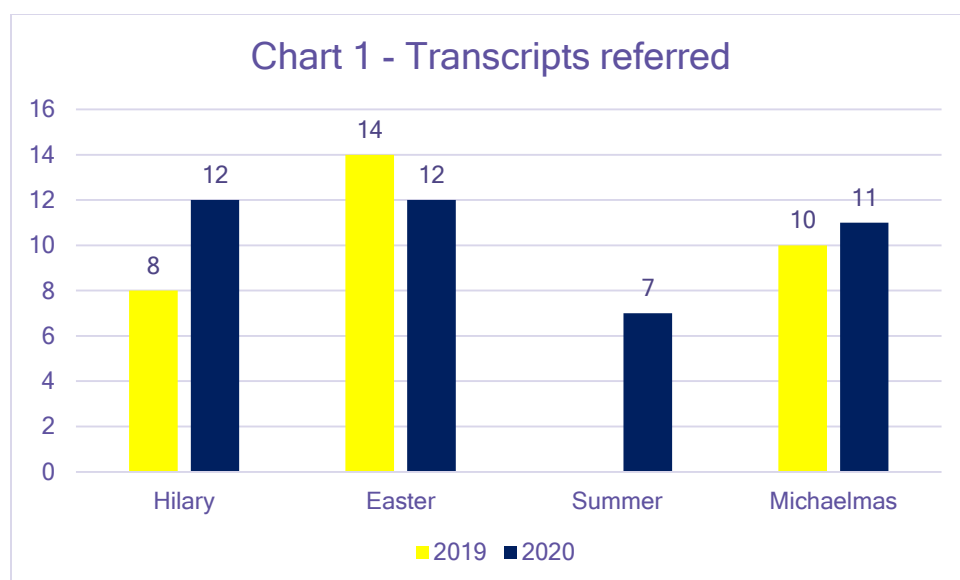
Criminal transcripts referred to single judges of appeal

When the registry receives transcripts in criminal matters from the Supreme Court, the transcripts are referred to individual judges for the consideration of applications for permission to appeal conviction and/or sentence. Table A and chart 1 show the number of transcripts referred to single Judges of Appeal in 2020.

Table A - Transcripts referred

Period	2019	2020
Hilary Term	8	12
Easter Term	14	12
Summer Vacation		7
Michaelmas Term	10	11
Total	32	42

As seen in table A and chart 1 the number of criminal transcripts from the Supreme Court referred for the consideration of Judges of Appeal in 2020 increased by 31.25% over the previous year.



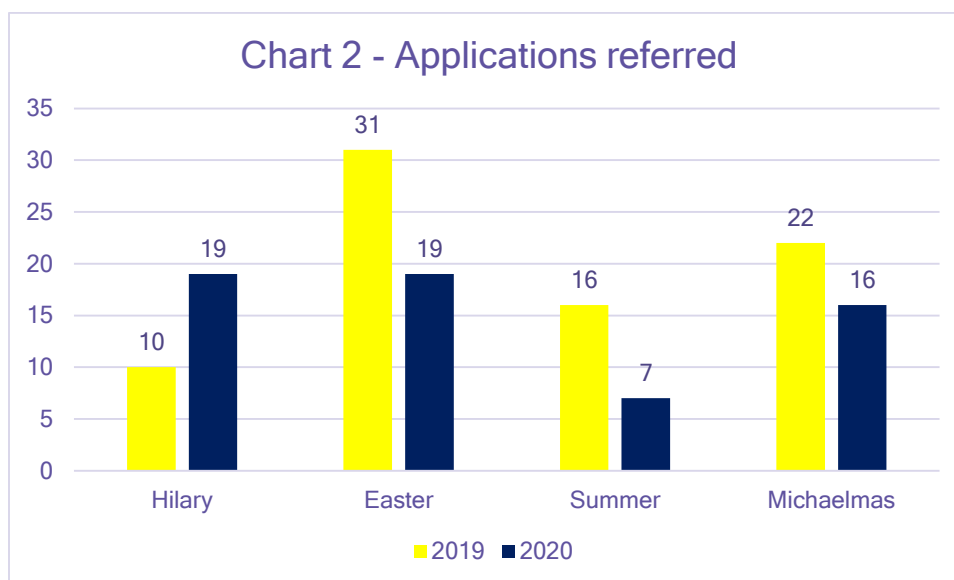
Applications referred to single Judges of Appeal for consideration on paper

Pursuant to the Court of Appeal Rules, procedural applications which are within the jurisdiction of single Judges of Appeal, are generally referred to them on paper. The judges are empowered to make orders/directions without a hearing or to direct that an oral hearing should be held.

Table B - Number of applications referred

Period	2019	2020
Hilary Term	10	19
Easter Term	31	19
Summer Vacation	16	7
Michaelmas Term	22	16
Total	79	61

Table B and chart 2 reveals a 22.78% reduction in the number of applications referred in 2020 when compared to 2019. The number of applications referred to judges is dependent on the number and types of applications filed. There are some applications which do not fall within the jurisdiction of single judges.



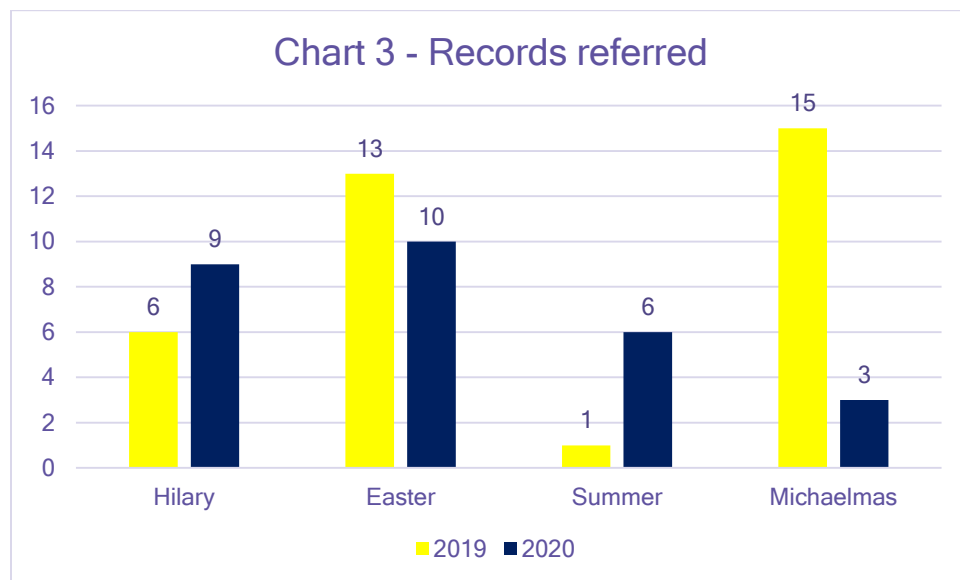
Records of appeal referred to single Judges of Appeal

Appellants in Supreme Court civil appeals are required by the Court of Appeal Rules to file records of appeal within a prescribed time. When the records of appeal are filed, they are referred to a single Judge of Appeal for case management directions.

Table C – Records of Appeal Referred

Period	2019	2020
Hilary Term	6	9
Easter Term	13	10
Summer Vacation	1	6
Michaelmas Term	15	3
Total	35	28

Table C and chart 3 show a 20% decrease in the number of records of appeal referred in 2020 when compared to 2019. The number of records of appeal referred is dependent on the number of certified records of proceedings received from the Supreme Court and the level of compliance with the rules by the appellants.



Hearings in chambers by single Judges of Appeal

Table D shows the number of hearings conducted by single judges in Chambers during the year in review. The table reflects the hearings of applications as well as case management conferences.

Table D - Hearings in Chambers

Term	2019	2020
<i>Applications</i>		
Hilary	16	18
Easter	18	19
Michaelmas	21	26
<i>CMCs</i>		
Hilary	24	12
Easter	15	6
Michaelmas	26	10
Total	120	91

CMCs - Case Management Conferences

In 2020, as seen in table D, there was a 24.17% decrease in the number of matters heard orally in chambers over the previous year. As indicated earlier in this report, the Court of Appeal Rules require the referral of certain procedural applications and records of appeal to single judges on paper in the first instance. The single Judges of Appeal are empowered by the rules to make orders/directions on paper (that is, without having a hearing). As a consequence, not every matter referred to a single judge is set for a hearing in chambers. Oral hearings in chambers are generally only scheduled on the direction of the single judge to whom the applications were referred or who made case management directions.

Disposal of applications and motions by the court

There are some applications which do not fall within the jurisdiction of single judges. These applications must therefore be set for hearing by the court. Some examples of these applications are applications for leave to adduce fresh evidence; permission to appeal; extension of time within which to file and serve the appeal; and to vary or discharge the order of a single judge. Additionally, the court determines motions for leave to appeal to Her Majesty in Council where the appeal is not as of right and motions on referral from a single Judge of Appeal¹.

Table E – Applications² and motions determined by the court

	2019	2020
Hilary	35	39
Easter	37	33
Michaelmas	28	26
Total	100	98

Table E shows a decrease of 2% in the number of motions and applications heard by the court in 2020 over the previous year. It should be noted that number of applications and motions heard and disposed is dependent on the numbers filed as well as the state of readiness of the matter at the point of hearing (such as whether the parties have filed the requisite documents for the use of the court, whether service has been effected and whether filing and service have been done in a timely manner).

¹ A single Judge of Appeal may also refer applications for hearing by the court.

² This excludes criminal applications for permission to appeal which are dealt with in Tables F, G, H, J and K.

Table F
New and disposed appeals, Hilary Term 2020

Appeals	Pending at the start of the term	New cases filed	Disposed cases	Pending at the end of the term
Supreme Court				
Civil Appeals	972	28	15	985
Criminal Appeals	686	28	19	695
Miscellaneous Appeals	26	0	0	26
Costs Appeals	0	0	0	0
Parish Court				
Civil Appeals	71	10	4	77
Criminal Appeals	61	4	3	62
Miscellaneous Appeals	1	0	0	1
Total	1817	70	41	1846

Table G
New and disposed appeals, Easter Term 2020

Appeals	Pending at the start of the term	New cases filed	Disposed cases	Pending at the end of the term
Supreme Court				
Civil Appeals	985	31	41	975
Criminal Appeals	695	14	22	687
Miscellaneous Appeals	26	1	1	26
Costs Appeals	0	0	0	0
Parish Court				
Civil Appeals	77	13	2	88
Criminal Appeals	62	3	3	62
Miscellaneous Appeals	1	0	0	1
Total	1846	62	69	1839

Table H
Michaelmas Term 2020

Appeals	Pending at the start of the term	New cases filed	Disposed cases	Pending at the end of the term
Supreme Court				
Civil Appeals	975	38	34	979
Criminal Appeals	687	34	25	696
Miscellaneous Appeals	26	5	1	30
Costs Appeals	0	0	0	0
Parish Court				
Civil Appeals	88	10	6	92
Criminal Appeals	62	2	3	61
Miscellaneous Appeals	1	0	0	1
Total	1839	89	69	1859

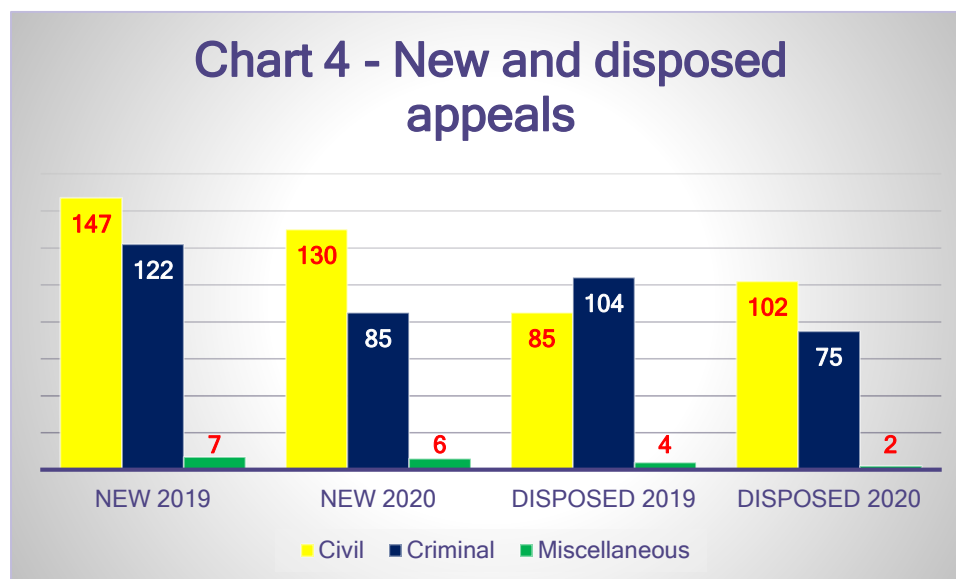
As seen in tables F – H, the absolute increase in pending appeals at the end of 2020 was 42. This equates to an increase of 2.31%. This is an improvement over the previous year where the absolute increase in pending appeals at the end of 2019 was 83, which equated to 4.79%. This improvement in 2020 is a reflection of the improvement in the court's clearance rate of appeals.

Table I - New appeals

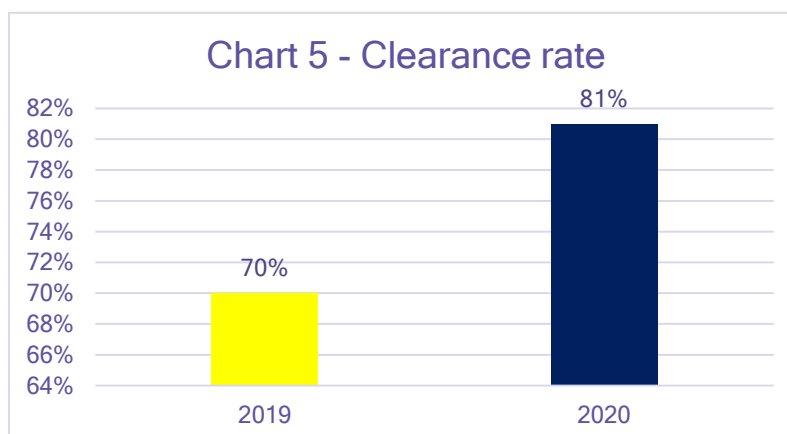
	2019	2020
Civil	147	130
Criminal	122	85
Miscellaneous	7	6
Costs	0	0
Total	276	221

Table J - Disposed appeals

	2019	2020
Civil	85	102
Criminal	104	75
Miscellaneous	4	2
Total	193	179



Tables I and J and chart 4 show that there was a 7.25% decrease in the number of appeals disposed in 2020 over the previous year. This notwithstanding, there was a notable increase in the court's clearance rate of appeals in 2020 when compared to 2019. In 2019 the court had a 70% clearance rate of appeals. However, in 2020 the court's clearance rate of appeals was 81%. This is an increase of 11 percentage points as seen in chart 5.



Disposal of appeals by the court

Table K

Term	2019	2020	Change
<i>Civil Appeals</i>			
Hilary	16	19	+3
Easter	23	43	+20
Michaelmas	46	40	-4
<i>Criminal Appeals/Applications for Leave to Appeal</i>			
Hilary	18	22	+4
Easter	21	25	+4
Michaelmas	65	28	-37
<i>Miscellaneous</i>			
Hilary	1	0	-1
Easter	0	1	+1
Michaelmas	3	1	-2
Total	193	179	-14

Tables J and K reveal that there was a 7.25% decrease in the overall number of appeals disposed of in 2020 when compared to 2019.

Judgment delivery timeline - 2020
Table L

Type of matter	Number of judgments delivered on day hearing was completed	Number of judgments delivered within a week of hearing	Number of judgments delivered within 3 months of hearing	Number of judgments delivered within 6 months of hearing
Hilary	29	9	8	1
Easter	46	10	9	7
Michaelmas	39	12	12	3
Total	116	31	29	11

Table L shows that 67.5% of the total matters which were disposed of in 2020 were disposed of within six months of the hearing date. This reflects a 2.32 percentage point increase over 2019. Of the 187 matters disposed of within six months of the hearing, 62.03% were disposed of on the same day of the hearing and 78.61% were disposed of within a week of hearing.

Number of matters disposed of - Applications and appeals

Table M

Type of matter	Disposal 2019	Disposal 2020
Applications/Motions	100	98
Criminal appeals/applications for Permission to appeal	85	75
Civil appeals	104	102
Miscellaneous	4	2
Total Disposal	293	277

Written judgments

Table N shows the total number of written judgments delivered by the court. This includes judgments delivered in writing at the time of the making of the court's order, oral judgments that were subsequently reduced to writing and written reasons for judgments previously delivered. These figures do not include oral judgments which have not been put in writing.

Table N - Written judgments

Term	2019	2020	Change
Civil Appeals			
Hilary	10	12	+2
Easter	15	26	+11
Michaelmas	24	30	+6
Criminal Appeals			
Hilary	14	12	-2
Easter	12	22	+10
Michaelmas	16	19	+3
Applications			
Hilary	9	16	+7
Easter	13	22	+9
Michaelmas	11	11	0
Total	124	170	+46

Table N shows that there was a significant increase of 37.10% in the number of written judgments delivered by the court in 2020 over the previous year.

Outstanding reserved judgments

Table O below shows the number of judgments which the court had outstanding at the end of 2020.

Table O - Outstanding reserved judgments

Year Reserved	Number Outstanding 2019	Number Outstanding 2020
2015	3	0
2016	1	0
2017	6	0
2018	24	7
2019	40	21
2020		26
Total	74	54

As seen in table O there was a significant decrease of 27.03% in the number of outstanding judgments at the end of 2020 when compared to 2019.

Outstanding reasons for judgment

Table P shows the number of judgments at the end of 2020 for which the court has delivered its decisions but has not yet delivered its promised written reasons.

Table P - Outstanding reasons for judgment

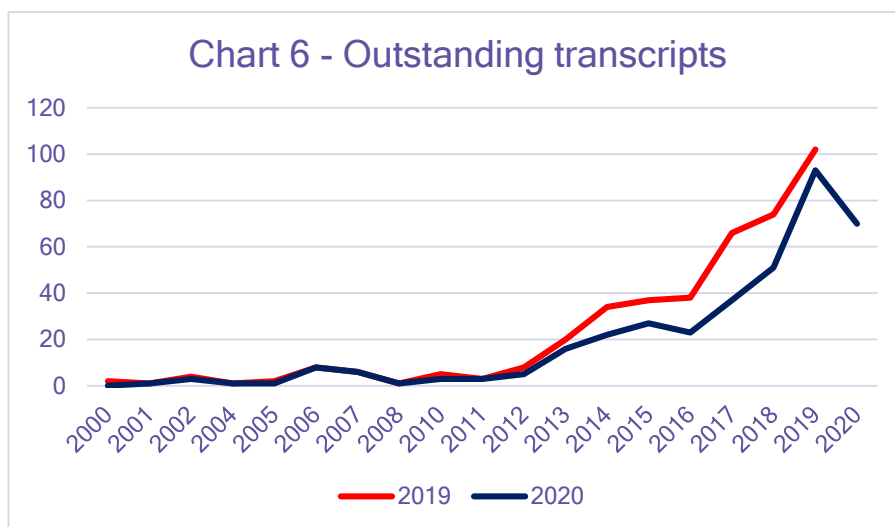
Year	Number Outstanding 2019	Number Outstanding 2020
2016	5	0
2017	7	1
2018	5	1
2019	20	4
2020		22
Total	37	28

Table P shows that there was a 24.32% decrease in the number of outstanding reasons for judgment.

Outstanding criminal transcripts

Table Q

Year Matter filed	Number Outstanding 2019	Number Outstanding 2020	Change
2000	2	0	-2
2001	1	1	0
2002	4	3	-1
2004	1	1	0
2005	2	1	-1
2006	8	8	0
2007	6	6	0
2008	1	1	0
2010	5	3	-2
2011	3	3	0
2012	8	5	-3
2013	20	16	-4
2014	34	22	-12
2015	37	27	-10
2016	38	23	-15
2017	66	37	-29
2018	74	51	-23
2019	102	93	-9
2020		70	
Total	412	371	



As seen in table Q and chart 6 there was a 10% reduction in the number of outstanding transcripts in 2020 when compared to the previous year.

Outstanding civil records of proceedings

Table R

Year Matter filed	Number Outstanding 2019	Number Outstanding 2020	Change
2003	9	9	0
2004	8	8	0
2005	21	21	0
2006	12	12	0
2007	14	14	0
2008	24	24	0
2009	14	13	-1
2010	22	22	0
2011	25	25	0
2012	28	28	0
2013	22	22	0
2014	18	17	-1
2015	29	26	-3
2016	39	36	-3
2017	35	35	0
2018	46	43	-3
2019	61	58	-3
2020	-	50	
Total	427	463	

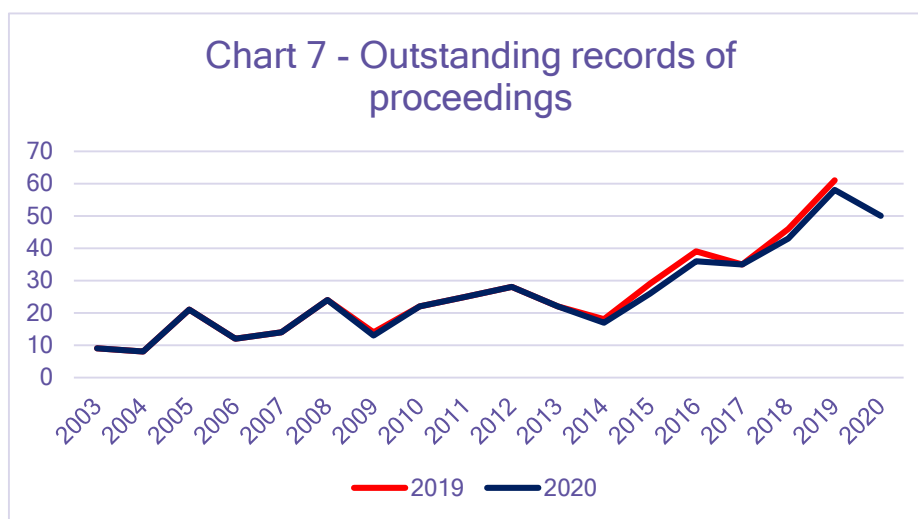


Table R and chart 7 show an increase of 8.43% in the number of outstanding civil records of proceedings from the Supreme Court. It is noted that there are a number of years for which there has been no recorded change in the figures.

Table S - Pending appeals

	2019	2020
Pending at the start of the year	1734	1817
New appeals filed	276	221
Appeals disposed of	193	179
Pending at end of the year	1817	1859

At the close of 2019 the number of pending appeals was 1817. With 412 outstanding criminal transcripts and 427 outstanding civil records of proceedings at the close of 2019, the “true” pending figure was 978. By comparison, in 2020 the number of pending appeals was 1859. Taking the 371 outstanding criminal transcripts and 463 outstanding civil records of proceedings into account, the “true” pending figure for 2020 is 1025.

Practice Directions and Notes

The Court of Appeal issued five Practice Directions and one Practice Note in 2020.

Practice Direction Nos 1-4/2020 deal with the court's emergency response to the Covid-19 virus and the Prime Minister's declaration of Jamaica as a disaster zone. They were borne from the court's recognition of the need to limit physical contact to contain the spread of the virus while continuing to provide court services.

Practice Direction No 5/2020 supplements rules 2.1(2), 2.7(3) and 2.7(7) of the Court of Appeal Rules as well as Practice Direction Nos 3/2006 and 1/2019. It reflects the court's concern about the poor state of some of the documents being filed and, therefore, provides a guide as to the minimum acceptable standard for the filing of these documents. It applies to all records of appeal, core bundles, bundles of authorities and judges bundles.

Practice Note 1/2020 relates to the court's decision to issue, in cases which it deems appropriate, a brief statement of the reasons for which the court arrived at its decision in lieu of an oral or written judgment. This statement, referred to as a memorandum of reasons, will be endorsed on the record and issued by the Registrar by way of notice to the parties and the court or tribunal below.

The Court of Appeal's practice directions and practice notes are available on the court's website (www.courtofappeal.gov.jm)

News

Case Flow Management Training

On 5-7 February 2020 the judges of the Court of Appeal along with the Registrar and Deputy Registrar of the court received welcomed training in case flow management. The training was facilitated by the National Center for State Courts in collaboration with the Judicial Education Institute of Jamaica (JEIJ) and the National Integrity Action.



The Hon Mr Justice Sykes CJ making opening remarks at the training.



The Hon Mr Justice Morrison P offering his opening remarks

Mooting Competition

The Court of Appeal once again had the distinct pleasure of hosting the national rounds of the Phillip C Jessup International Law Moot Court Competition. This was held at the court on 29 February 2020. By all indications the mooting competition was a resounding success.

Covid 19

On 10 March 2020 Jamaica recorded its first case of the Covid 19 virus. Thereafter the Prime Minister declared the entire island as a disaster area. In response, the Court of Appeal issued Practice Direction No 1/2020 by which it suspended all in person sittings at the court and directed that, in general, matters scheduled for hearing in court would be considered on paper but that if the court determined that the matter should proceed by way of oral submissions, matters would be rescheduled unless deemed urgent by the court. The Practice Direction also provided that urgent matters which warranted oral presentation would be conducted by teleconference, video conference or other electronic means. For the remainder of the Hilary Term matters were either rescheduled or dealt with on paper or by teleconference.

As the pandemic continued, the court issued Practice Directions Nos 2-4/2020 which each extended the suspension of in person hearing and outlined how the court would treat with the matters before it. Commencing in the Easter Term the court began hearing most court matters by Zoom video conferencing while maintaining the option of teleconferencing for litigants and attorneys who were unable to appear by video. Additionally, the court allowed for persons on bail to appear in person with their attorneys at hearings.

While the court faced challenges, it continued to deliver its services in the midst of a pandemic. The registry remained opened for its usual hours throughout the pandemic, the judges continued to physically sit in court to hear matters, and the court rooms remained accessible through electronic means to the public. Additionally, by the start

of the Michaelmas Term 2020 the court had exceeded the total number of written judgments delivered for the entire 2019.

Balanced Scorecard Training

The Hon Mr Justice Fraser JA, Registrar Brown, Deputy Registrar Edwards and the court's Director of Human Resource Administration, Miss Judith Whyte, joined a select group of court personnel from across the island for training in the Balanced Scorecard method of strategic planning. The training was conducted on 21-24 and 27-30 July 2020 by Mr Mitchell Wiesberg, Managing Director of Lumen Solutions Inc.

National Honours

The year saw the nation honouring one of the court's distinguished members. The Honourable Miss Justice Paulette Williams JA was awarded the Order of Distinction in the Rank of Commander. The court congratulates her on the well-deserved honour.

Stork visit

There were two beautiful additions to the court family during the year 2020. Miss Danique Cornwall welcomed her daughter Naomi and Mr Ackeem Ballantine welcomed his son Nathan. The court congratulates them both on their wonderful bundles of joy.

Wedding bells

Heartfelt congratulations are extended by the court to the Hon Mr Justice Frank Williams JA on his wedding in December 2020. Additionally, congratulations are extended to Miss Clowenese Brown who also got married in December 2020. The court wishes them every success on this wonderful journey. Congratulations are also extended to Miss Judith Whyte and Miss Rochelle Johnson who got engaged during 2020.

Annual Assize Service

The annual Assize Service marking the commencement of the Michaelmas Term was held on 13 September 2020 at the Webster Memorial United Church. The service,

which was moderated by the Honourable Mrs Justice Nicole Foster Pusey JA, was held under the theme “Upholding Justice in Uncertain Times”. The Rev Dr Devon Dick delivered quite a thought provoking sermon encompassing the theme. The Honourable Mr Justice Morrison P led the congregation in the prayers of intercession.

Condolences

In 2020 the court offered its deepest sympathy to Mr Shavar Sewell on the passing of his father; Registrar Brown on the passing of her uncles and Miss Judith Whyte on the passing of an in-law. The court wishes to express to them and their respective families its continued love and support.

Other activities/outreach

In addition to the regular duties of the court, the President and Judges of Appeal were engaged as follows:

- The Honourable Mr Justice Morrison P sat on the National Council on Justice, the Judicial Service Commission and the Regional Judicial and Legal Service Commission. He also chaired the Supreme Court Library Committee and the General Legal Council’s Continuing Legal Professional Development Committee.
- On 21 and 28 August 2020, the Honourable Mr Justice Morrison P facilitated a training course in judgment writing for judges of the Turks & Caicos islands under the auspices of the Commonwealth Judicial Education Institute.
- On 7-10 September 2020, the Honourable Mr Justice Morrison P, the Honourable Miss Justice Phillips JA, the Honourable Mr Justice Brooks JA, the Honourable Mrs Justice McDonald-Bishop JA, the Honourable Miss Justice P Williams JA and the Honourable Miss Justice Straw JA, participated as presenters and facilitators in the JEIJ (in collaboration with the Court of Appeal) Continuing Judicial Education workshops for newly and recently appointed judges at all levels of the judiciary, which was held virtually as well as face-face. The focus was on various

topics, which included, judicial ethics, jury management, summation, Gun Court trials, sentencing and practice and procedure under the Civil Procedure Rules and the Court of Appeal Rules.

- On 22 October 2020, the Honourable Mrs Justice McDonald-Bishop JA and the Honourable Mrs Justice Graham Allen of the Supreme Court were invited by the United Nations Office on Drugs on Crime (UNODC), Vienna, to be part of a three-member panel on the Global Judicial Integrity Network Webinar Series to present on the topic: **'How to Train Judges During a Pandemic: Sharing Good Practices in International Judicial Training During the Covid-19 Pandemic'**.

The Jamaican judiciary was recognised by the UNODC along with the USA to be leading in continuing judicial training programmes during the pandemic. The UNODC extended the invitation to Jamaica because it believes that "the examples of the judicial training programmes [Jamaica and the USA] have implemented are a good example and reference that can be useful to many other judiciaries to put into practice virtual judicial training".

- The Honourable Mr Justice Morrison P and the Honourable Miss Justice Phillips JA sat on the Rules Committee of the Supreme Court.
- The Honourable Mr Justice Brooks JA sat on the General Legal Council.
- The Honourable Mr Justice Morrison P, the Honourable Miss Justice Phillips JA, the Honourable Mrs Justice McDonald-Bishop JA, the Honourable Mrs Justice Sinclair-Haynes JA and the Honourable Mr Justice Fraser JA served as Associate Tutors at the Norman Manley Law School.

Court Users Committee

The Court Users Committee continued its work throughout 2020 with most of its meetings being held virtually due to the Covid 19 pandemic. The Committee's work centred on various areas of the court's and its stakeholders' concerns such as the

amendments to the Court of Appeal Rules, the development of an electronic filing system, and the number of outstanding criminal transcripts and civil records of proceedings from the Supreme Court. The Committee also paid keen attention to the Covid 19 pandemic, its effect on the court, and the court's response to the pandemic. The Committee concluded the year with its meeting on 25 November 2020 at which, having noted the upcoming retirement of the President, members paid tribute to the President, thanking him for his dedicated service and tremendous contribution to the judiciary.

Farewell for the President

Regrettably, due to the Covid 19 pandemic, the court was unable to host a farewell function for the Hon Mr Justice Morrison P in the traditional sense. The judges and staff of the court therefore bade him farewell in a manner which adhered to the safety and health protocols, particularly as it related to physical distancing and avoiding large gathering.







Looking Ahead

2020 was certainly a year like no other. It was one which called on the court, and indeed the nation, to face what was, and continues to be, one of the most challenging health crises in recent history. The court had to implement strategies to ensure the observance of new health and safety protocols and to wholeheartedly embrace the use of technology to ensure that the wheels of justice continued to turn. It was no easy feat. Although the relocation of the court into expanded facilities brought with it new equipment, the court still had some hurdles to overcome such as the instability in the internet supply. Thankfully, with the expanded bandwidth and a hard-working team from the ICT department of the Court Administration Division, the court was able to rise to the occasion and continue to provide its services. The Court of Appeal continued its sittings, almost entirely virtually, and the registry of the court remained open during its normal hours throughout the year. Additionally, by the start of the Michaelmas Term 2020 the court had surpassed the number of written judgments it had delivered in the previous year.

In looking ahead, the court looks forward to finally achieving its full complement of judges by the end of 2021. It also remains committed to seeking the best use of its resources, inclusive of the best use of judicial time, in order to ensure the disposal of matters in a timely and efficient manner. In so doing, the Court of Appeal will continue to play its part in having the Jamaican court system becoming the best in the region and one of the best in the world.

APPENDIX A

Tribute to President Morrison **Opening remarks at the special sitting of the farewell to** **President Morrison on his retirement**

SALUTATIONS!

The Honourable Mr Justice Cecil Dennis Harrington Morrison C.D. O.J, who we honour today, took an unusual path to the judiciary as he was elevated directly from the Private Bar to the Court of Appeal, and appointed as a Judge of Appeal on May 1, 2008. Although a great loss to the Bar of eminent Queen's Counsel, his appointment was a huge feather in the cap of the judiciary. I have the unparalleled privilege of chronicling for everyone today, his incredible journey to this bittersweet occasion of his retirement.

Justice Morrison was born on December 4, 1950. A graduate of Jamaica College and Wolmer's Boys School he matriculated as a student of the University of the West Indies, Mona (a Taylorite) and Cave Hill campuses attaining in 1973 a First Class Honours Degree and thereafter the Legal Education Certificate with Merit. I am informed and do verily believe that he obtained 14 A's and one A minus whilst pursuing the professional post graduate legal course at the Norman Manley Law School! It was therefore the natural segue for him to be selected as the Rhodes Scholar in 1975, which permitted his journey to Oxford University for further studies. He was admitted to practice on October 6, 1975 and was elevated to the rank of Queen's Counsel in 1994 and later became a fellow of the Chartered Institute of Arbitrators in 2013. Throughout that period however he was engaged in doing several things:

He started his legal career in 1977 as an associate tutor at the Norman Manley Law School and continued as a full-time tutor until 1982 when he commenced a full time private practice. Nevertheless he remained an associate tutor from 1982 until 1998 and then from 2005 until right now. In that short break, between 1998-2005, he was Chairman of the Council of Legal Education. He was also an adjunct lecturer from 2002-2004 of the Faculty of Law, University of the West Indies, Mona.

There is no doubt of Justice Morrison's passion for imparting legal precepts and principles in moulding students of the law, thus shaping the legal landscape in Jamaica and the wider Caribbean region. But he was not only teaching; he was a member of the Jamaica Bar Association, the General Legal Council, the academic Committee of the Council of Legal Education, member of the Independent Jamaica Council for Human Rights, of the International Bar Association, and a member of the Judicial Services Commission and the Regional Judicial and Legal Services Commission (of the Caribbean Court of Justice).

And of course, not to be forgotten; - he was Chairman of the Kinston Legal Aid Clinic; Chairman of the Legal Aid Council of Jamaica, Chairman of Continuing Legal Professional Development of the General Legal Council, Chairman of the Criminal Case Management Steering Committee, and Chairman of the committees established to formulate Judicial Conduct Guidelines for Jamaica, and sentencing guidelines for use in the Parish Courts and the Supreme Court. During that time, he also became a Commonwealth Foundation fellow, and was Rapporteur, at the Eighth Commonwealth Law Conference in Ocho Rios, Jamaica.

But we couldn't hold onto him here at home, though. That would have been considered selfish and perhaps insular, so we loaned him during that time period, to the Commonwealth of the Bahamas as General Counsel to the Commission of Inquiry appointed by the then Governor General to inquire into and report on the *HMBS Inagua Incident/ Vessel Lorequin*, as well as to Trinidad and Tobago as one of the members of the Tribunal appointed by the President to consider the question of the removal of the Chief Justice from office in 2007 and assisted in the production of a report on legislative review of company law in the Turks and Caicos Islands in May 2012.

Because of his immense prowess in the law, he was requested while at the private bar to serve on several Boards, including the Bank of Jamaica, Allied Insurance Brokers Limited, First Global Securities Limited, RBTT Bank Jamaica Limited where he also served as its chairman, as well as of Life of Jamaica Limited (now Sagicor). Additionally he generously gave of his time to the upliftment of the less fortunate by committed service to the CVSS United Way, Mustard Seed and the Kingston YMCA which he chaired.

Despite all that extra curricula activity, however, his main focus throughout the years (believe it or not) was as senior partner in Litigation in the law firm of Dunn Cox, which years he recalls with much fondness. He developed into an extraordinary advocate, appearing as counsel in a wide range of matters in Jamaica and the Caribbean region, as well as before the Law Lords in the Judicial Committee of the Privy Council, where in the latter court, if my memory serves me right, one of his very early forays in that court is reported in the All England Reports. Nevertheless he was also able to give of his time and expertise in the spheres previously indicated for which, we have all in different ways been beneficiaries. It was during that period, when in 2004 he made his first step toward his sterling judicial career, as he became a judge of the Court of Appeal of Belize where he served with distinction for over 11 years. He was also an acting Judge of Appeal for a short time, of the Eastern Caribbean Court of Appeal and since 2015 till the present, serves as a Judge of Appeal in the Court of Appeal of the Cayman Islands. In 2012, a grateful nation honoured him with the Order of Distinction (Commander Class) and he was bestowed with the Order of Jamaica on his appointment as President of the Court of Appeal in 2016. Recently, he was elected as an Honourary Bencher of Lincoln's Inn.

Before I get to the most important aspect of his career, I must mention, just in passing, the fact that over the years Justice Morrison in spite of serving in herculean measure on all those entities, managed to publish 27 papers and articles, write 18 unpublished presentations, covering topics relating to both the civil and criminal law, from consideration of the Judicial Committee and the death penalty, confessions and the voir dire, to interim injunctions, reform of the law of evidence, negligence and the law of banking, confidentiality and Legal Professional Privilege, and I could go on and on.

I must mention also, and although these are not all of them, our President was invited to, and gave the address to the graduating class of the Hugh Wooding Law School in 2010, the Eugene Dupuch Law School in 2012, and delivered in 2018, the Inaugural Maurice Stoppi Lecture the Eugene Dupuch Distinguished lecture in Nassau in 2019 and the Hon Dr Lloyd Barnett Distinguished Lecture, in Jamaica in 2019! Notwithstanding sharing an abundance of riches over these many years, instead of appearing to need to retire to the contrary, he is still looking so youthful, and ready to go on for a further 70 years!!!! And that is because Justice Morrison epitomizes Winston Churchill's pithy comment "***some people dream of success, while others wake up and work hard at it***", or as Rev Martin Luther King Jr reminds us, "***not***

everybody can be famous but everybody can be great, because greatness is determined by service.” That is what our President has done and achieved all of his working life!!

That brings me to our court!!

On May 1, 2008 that journey began here as a judge of this court!! Justice Morrison from day one took on the very difficult cases. He has worked steadfastly and marvelously at developing Jamaican jurisprudence, and leaving for posterity an incredible body of work! He has worked effortlessly with the changing faces of the court, and had led as its President since January 2016. He walked the property when the building was being refurbished and it was a common sight to see him in hard hat, touring with the contractor, architect and property managers to ensure the safety and comfort of all of us who would be deployed here. It was therefore fitting that he presided over the opening of the court in its renewed setting.

He has during his tenure been innovative with the publication of the Court’s Annual Report which ensures transparency of the work being undertaken by the court. He initiated the Court Users Committee made up of members of the Court of Appeal, and representatives of various stakeholders in the profession which interface with the court. These interactions have assisted in the production of new procedures to enable greater efficiency in the operation of the Court. He has with his creative imagination and with the concurrence of the judges of the court, and ALWAYS working with the indefatigable and supremely efficient Registrar, produced several practice directions and practice notes facilitating smoother disposal of matters. He steered the court seamlessly through the difficult experience of the global pandemic and not even COVID was able to prevent this Court under his leadership from continuing to serve the public with a high standard of a timely delivery of justice for all. The virtual hearings have become the norm, the teleconferences a feature which will remain with us for a long time, and there was certainly quick response and compliance with the new regime and regular communication with litigants and the attorneys for the handling of matters in this new paradigm. We thank Justice Morrison for his attention to detail and all of his efforts which made the experience palatable, and not as difficult as it could have been.

Lastly, I must mention the quiet dignity of our President. A man who is accessible to all!! From his wise guidance and discussion on the law, to his contribution to doctor bills, school fees and

the like, and just plain, old counselling sessions. He wears his talents and abilities like a gentle cloak. His humility abounds and that is why to say that he is loved by all, is putting it mildly. To say that he will be monumentally missed by his colleagues, the Registrars, judicial clerks, secretaries and the registry staff, cannot be challenged by anyone.

We can only thank him for just being him.

We also thank his loving and supportive wife Janet; his amazing mother Inez, his sons Simon and Daniel, daughters Gisele and Chrissy, sisters Anthea and Petrona, and other members of his family, for permitting him to be able to spend so much time in the court. Maybe, just maybe you will see more of him now...but we know that he will be called on often by many in the profession...to do many things....His retirement may be in name only! We shall see! But as always, we wish him, all good things!

Justice Morrison

It has been an incredible journey!!

Thank you for your service.

Thank you for your leadership, and your friendship and kindness to us all and especially to me for over five decades!

Go with God in your retirement.

Don't be a stranger!!

Hilary Phillips, CD
Judge of Appeal
4 December 2020

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