



November 2019, be set aside. The second document, a letter from the Appellant dated 31 July 2020, requested follow up of the matter on grounds that he had not heard anything since lodging his appeal on 14 November 2019.

3. Repeated efforts by the Supreme Court to obtain the Magistrate's reasons for decision and notes of evidence from the Inferior Court proved fruitless. On 17 June 2022, following consultation with Registry staff and the Crown, I concluded that the Supreme Court may not obtain the information sought in a timely manner, and that it must therefore deem all Inferior Court records in relation to this appeal to have been lost.
4. On 17 June 2022, the Belize Central Prison was requested as a matter of urgency to provide all documentation in its possession which may shed light on the Appellant's status and the basis upon which he is detained. The appeal was called up for mention for 20 June 2022.
5. On 17 June 2022, the Belize Central Prison provided the Court with four documents. These comprised:
  - i. A warrant of commitment dated 1 October 2018, following the Appellant's conviction on the same date for breaches of the Immigration Act.<sup>1</sup> This indicates that the Appellant was ordered to pay a sum of \$1000.00 BCY and \$5.00 BCY court costs, and sentenced to six (6) months imprisonment with hard labour in default unless this sum was paid by 1 October 2018. The basis of the committal order was that Mr. Pineda had not obtained extensions of his original visitor's permit granted to him on 10 July 2008 until 31 July 2009, and thus had failed to ensure that his presence in Belize was lawful. Further, he had not paid the applicable fines by 1 October 2018. An associated Removal Order, also dated 1 October 2018 and issued pursuant to Section 30(1) of the Immigration Act, describes the Appellant as a prohibited immigrant and ordered his removal from Belize;
  - ii. A warrant of commitment dated 24 October 2019, indicating that the Appellant was convicted on this date for having been found in possession of a controlled substance (namely, 1,582 grams of cannabis) on 28 September 2018. On 24 October 2019, the Appellant was convicted of the offence of possession of a controlled substance for the purposes of supply to another person for drug trafficking and was sentenced to a term of three years imprisonment with hard labour<sup>2</sup>;
  - iii. The Appellant's prison personnel dossier, which indicates that he is a 59 year old Cuban citizen, and that he was detained on 3 October 2018. This dossier records 23 October 2021 as the Appellant's earliest possible release date, and his scheduled date of release as being 23 October 2022. This document also indicates that the Appellant was eligible for parole as of 23 April 2021; and

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<sup>1</sup> The offences in question are contrary to Sections 34(2)(d) and 34(3) of the Immigration Act, Chapter 156 of the Substantive Laws of Belize, Revised Edition 2000.

<sup>2</sup> The offence in question is contrary to Sections 7(1), (2) and (4) read together with Section 18(1) of the Misuse of Drugs Act, Chapter 103 of the Substantive Laws of Belize, Revised Edition 2011.

- iv. The Appellant's prison history form, which shows the above immigration and drug convictions and sentences (albeit with an admission date for both of 3 October 2018), as well as two earlier drug and immigration offences from 2006 and 2009 (both since discharged).
- 6. At the hearing on 20 June 2020, Mr. Pineda indicated that he had been sentenced to a three (3) year term of imprisonment but that he had to date been detained for approximately three (3) years and eight (8) months. The Appellant's prison records corroborate that he has been in continuous detention since 3 October 2018; that is, for a period of three (3) years, eight (8) months and seventeen (17) days.
- 7. Mr. Pineda's three year term of imprisonment on the above-mentioned drugs offence (paragraph 4(ii)) may not have commenced until 24 October 2019 and thus may not conclude until 23 October 2022. However, the original basis for his detention, on 3 October 2018, was an immigration offence carrying a sentence of imprisonment in default of only six months. He has thus already been detained for two (2) months and seventeen (17) days beyond the length of both prison sentences combined.
- 8. Mr. Pineda's immediate release is therefore ordered.

Dated this 20<sup>th</sup> day of June 2022

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Justice Susan Lamb