

THE EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SPECIAL SITTING

SAINT CHRISTOPHER AND NEVIS
VIDEOCONFERENCE

Wednesday, 15th April 2026

APPLICATION

Case name:

Director of Public Prosecutions

v

Paul Bilzerian

[SKBHCVAP2026/0006]

Date:

Wednesday, 15th April 2026

Before:

The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mde. P. Nicola Byer, Justice of Appeal
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal

Appearances:

Applicant:

Mr. Adlai Smith, Director of Public Prosecution

Respondent:

Mr. Douglas Mendes SC with Ms. Derriann Charles and Mr. Bervis Burke

Issue:

**Criminal Appeal - Application for stay pending appeal –
Whether there is cogent evidence that the appeal will be
stifled or rendered nugatory unless a stay is granted –
Whether there is prejudice to the successful party – The
prospect of the appeal succeeding - Consent order**

Result/order:

IT IS HEREBY ORDERED THAT:

- 1. The Stay Application and extant applications are adjourned pending the hearing and determination of the variation application in the court below.**
- 2. The parties are at liberty to file the final order of the court below together with a consent order withdrawing, discontinuing and dismissing the appeal.**
- 3. Subject to the filing of the final order and/or a consent order, the matter shall be fixed by the Chief Registrar for determination on the papers.**
- 4. No order as to costs.**

Reason:

The Court noted a draft consent order agreed between the parties and filed on 15th April 2026, containing proposed variations to the Respondent's bail conditions, which would culminate in the withdrawal of the extant applications and the appeal. The Court expressed concerns regarding the terms of the consent order, in particular as the order sought variation of the orders of the lower court granting bail, without this Court hearing the extant applications and the appeal on the merits. In light of these concerns, which were raised by the Court, and with the agreement of counsels, the extant applications were adjourned to facilitate the Applicant making the proper and appropriate application to the High Court for a variation of the bail order of 10th April 2026 as amended by the order of 12th April 2026, to include the camera surveillance conditions agreed to by the parties.

The Court noted that the proposed variations appeared to be reasonable, proportionate, and unlikely to give rise to substantive objection, particularly having regard to the nature of the underlying proceedings and the circumstances of the Respondent. Notwithstanding this view, the Court considered it procedurally improper to effect such variation, and that the parties should be afforded the opportunity to return to the High Court to exercise its jurisdiction to vary its bail order.

Accordingly, the Court directed that upon determination of the variation application in the High Court, the parties may, if so advised, withdraw and discontinue the appeal. In that event, the Court indicated its willingness to determine any consequential or ancillary matters on paper, without the need for a further oral hearing.

APPLICATION

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The Hon. Mde. P. Nicola Byer, Justice of Appeal
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal

Appearances:

Applicant: Mr. Adlai Smith, Director of Public Prosecution

Respondent: Mr. Douglas Mendes SC with Ms. Derriann Charles and Mr. Bervis Burke

Issue: Criminal Appeal - Application to set aside order of a single judge - Interim bail order - Consent order - Whether the order of the single judge ought to be set aside in the interest of the overriding objectives

Result/order:

IT IS HEREBY ORDERED THAT:

- 1. The Set Aside Application is adjourned pending the hearing and determination of the variation application in the court below.**
- 2. The parties are at liberty to file the final order of the court below together with a consent order discharging the Set Aside Application and withdrawing, discontinuing and dismissing the appeal.**
- 3. Subject to the filing of the final order and/or a consent order, the matter shall be fixed by the Chief Registrar for determination on the papers.**
- 4. The adjourned chamber hearing scheduled for 28th April 2026 for the hearing of the substantive stay application of the order of Thompson Jr. J dated 4th April 2026 are vacated.**
- 5. The hearing of this appeal fixed for 18th May 2026 is vacated.**
- 6. No order as to costs.**

Reason:

Before the Court was an application to set aside the order of a single judge made on 7th April 2026 granting an interim stay of the order of the learned judge, Thompson Jr J, dated 4th April 2026.

Prior to the determination of the set aside application, the parties filed a draft consent order which, when properly construed, was intended to resolve all extant issues between them, including those arising from the order of Thompson Jr. J, the interim stay granted by the single judge, the substantive application for stay, and the appeal itself.

The Court considered that, as a matter of substance, the interim bail order made by Thompson Jr. J had been overtaken and superseded by a subsequent substantive bail order. In those circumstances, the earlier interim order no longer had any operative effect. The Court further accepted

the parties' agreement that any ancillary components of the interim order, including the direction for disclosure of anonymised material over which public interest immunity was claimed, would likewise be discharged and treated as spent.

The Court also considered that the proposed consent order, which contemplated the withdrawal or discontinuance of the appeal, was sufficient to dispose of the proceedings in their entirety. In particular, the Court was satisfied that the consent order effectively addressed both orders of Thompson Jr. J and the subsequent interim stay granted by the single judge and rendered the set aside and stay applications academic.

In those circumstances, the Court adjourned the set aside application, noting that the variation order sought in appeal SKBHCVAP2026/0006 would render this appeal otiose.

Finally, the Court addressed the procedural timetable. It was noted that the substantive stay application had been listed for determination on 28th April 2026 on the papers and that the substantive appeal had been fixed for hearing on 18th May 2026. In light of the parties' agreement and the anticipated resolution of all issues, the Court considered that both dates should be vacated. The parties so agreed, and the Court ordered accordingly.