

THE EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

CHAMBER HEARING
TUESDAY, 16th DECEMBER 2025

MATTERS DEALT WITH ON PAPER

Case Name: Howard Anthony Lewis

Applicant

and

SIBEW PTY Ltd

Respondent

[NEVHCVAP2025/0026]
(Saint Christopher & Nevis)

Date: Tuesday, 16th December 2025

Before: The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]

On paper:
Applicant: Mr. Terence V. Byron
Respondent: N/A

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. Time is extended by 21 days from Tuesday, 16th December 2025 for the Registrar of the High Court to comply with the Order of this Court dated 18th November 2025.
2. The Registrar of the High Court shall, by 7th January 2026, procure a settled and approved copy of the order of Thompson, J dated 30th September 2025 within 21 days of the date of this order.
3. The application for leave to appeal is adjourned for further consideration on the papers pending receipt by the Court of Appeal of the settled and approved copy of the said order for hearing before a single judge.

Reason:

The Court noted the undertaking contained in the email dated 23rd October 2025 to provide the perfected order to the Court upon receipt thereof and that its Order dated 18th November 2025 had not been complied with.

The Court also considered rule 62.5(5) of the Eastern Caribbean Supreme Court Civil Procedures Rules (Revised Edition) 2023 which provides that a copy of the judgment or order which is the subject of the appeal must wherever practicable be attached to the notice of appeal, and rule 26.1(2)(k) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which provides that the court may extend or shorten the time for compliance with any rule, practice direction, order or direction of the court.

The Court was of the view that the absence of the learned judge's perfected order, which is the subject of the application, directly impacts its capacity to determine whether the applicant has a realistic prospect of success of appeal.

Case Name:

Karl Warner

Appellant

and
The King

Respondent

[ANUHCRA2024/0011]
(Antigua & Barbuda)

Date: **Tuesday, 16th December 2025**

Before: **The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]**

On paper:

Applicant: **In person**

Respondent: **Mrs. Shannon Jones-Gittens**

Issue: **Application for bail**

Result / Order: **IT IS HEREBY ORDERED THAT:**

1. The appellant's application for bail pending the appeal is refused.
2. Time is extended by 21 days from Tuesday 16th December 2025 for the Registrar of the High Court to comply with the order of Henry JA dated 29th April 2025, failing which an affidavit giving reasons for the non-compliance shall be filed.
3. The Registrar of the High Court shall, by 7th January 2026, provide the appellant with the transcript of proceedings within 21 days of the date of this order.
4. The Registrar of the High Court shall serve a copy of this order on the appellant within 7

days of the date of this order and provide proof of service thereof.

Reason:

The Court noted:

- i. That its Order Court dated 18th March 2025 granting the application for leave to appeal against conviction and sentence;**
- ii. The Order of this Court dated 29th April 2025 granting the appellant's application for waiver of transcript fees and ordering the Registrar of the High Court to provide the appellant with the transcript of proceedings within 14 days of the date of this order;**
- iii. The appellant's letter dated 22nd November 2025 informing of the reason for the late filing of his submissions in reply, which he was ordered on 18th November 2025 to file on or before 24th November 2025;**
- iv. The delay in filing the submissions in reply was one day after the deadline and not inordinate in these circumstances;**
- v. That pursuant to Order dated 29th April 2025, this Court ordered the Registrar of the High Court to provide the appellant with a copy of the transcript of the proceedings within 14 days of the date of that order and to date this order has not been complied with;**
- vi. That the appellant is seeking bail pending appeal on the grounds of exceptional circumstances to include (a) strong likelihood of appeal success; (b) unreasonable delay in transcript preparation; (c) significant hardship as a pro se appellant in custody; (e) poor prison conditions causing health emergencies; (f) low risk to public safety including no prior convictions,**

rehabilitation efforts and willingness to comply with strict bail conditions; and (g) prejudice to appeal process;

- vii. That the appellant's notice of application for bail pending appeal (at ground d) and the affidavit in support (at paragraph 5) indicates that on 12th July 2025 and 5th September 2025 he 'suffered severe respiratory emergencies due to poor prison conditions, including inadequate ventilation' which required hospital treatment but only one medical report in respect of the 12th July 2025 incident was provided;
- viii. That the medical report of Dr. Franqui Southwell dated 19th October 2025 and his assessment of the appellant on 12th July 2025 was of 'Acute Exacerbation of Bronchial Asthma', that the appellant received treatment with 'Ventolin/Antrovent nebulizations and IV Corticosteroids', and further that 'after two (2) rounds of nebulizations and mild improvement in symptoms, he refused to continue with treatment, stating he felt better and signed out against medical advice (AMA)';
- ix. That the said medical report indicates, under the heading 'assessment', that 'after two (2) rounds of nebulizations and mild improvement in symptoms, he refused to continue with treatment, stating he felt better and signed out against medical advice (AMA)';
- x. That the 19th October 2025 medical report does not confirm the appellant's assertions contained in his notice of application at paragraph d that he has 'suffered severe respiratory emergencies due to poor prison conditions (e.g. inadequate ventilation)' and that he has 'suffered life threatening acute

respiratory crises (severe asthma exacerbations) requiring emergency ambulance removal from the prison' at paragraph 5 of the appellant's written reply to the respondent's submissions;

- xi. That the respondent's submissions in opposition to the application for bail pending appeal including that the appellant will not serve his time before the appeal is heard, the appellant has not advanced any submissions in support of his contention that there is a strong likelihood that the appeal will succeed, that the delay in preparation of the transcript and limited resources available to the appellant as a pro se litigant do not present any exceptional circumstances as recognized by the law which warrant the granting of the application, and the authorities relied upon therein;**

The Court considered:

- i. section 46(2) of the Eastern Caribbean Supreme Court Act, Cap. 143 Revised Edition (1992) Laws of Antigua and Barbuda which provides that the 'Court of Appeal may, if it seems fit, on the application of an appellant, admit the appellant to bail pending the determination of his appeal';**
- ii. the principles upon which the court would be minded to grant bail pending on appeal as enunciated in *The State v Lynette Scantlebury* (1976) 27 WIR 103, i.e. that while the court has the jurisdiction to grant bail pending the determination of an appeal, its discretion must be exercised judicially and only in very exceptional circumstances, such as where the**

appellant is likely to serve the sentence before the appeal is heard or where the grounds of appeal are so strong that prima facie the appeal is likely to succeed;

- iii. this Court's decision in *Warren Cassell v The King* MNIHCRAP2022/0003 (delivered on 20th December 2022, unreported) that "bail is granted to a person who is serving a sentence, having been convicted, only in exceptional circumstances. The two most common examples of exceptional circumstances are where the convicted person is likely to serve his sentence before the appeal is heard, or where the grounds of appeal are so strong that prima facie the appeal is likely to succeed".

Although the Court noted the appellant's medical condition, it was of the view that the grounds in support of the application did not amount to exceptional circumstances to warrant the grant of bail pending appeal.

Having noted that the transcript of proceedings which were ordered to be filed by May 2025 were now six (6) months overdue and its provision is necessary for the timely progress of this appeal, the Court extended time for the filing thereof.