

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

CHAMBER HEARING
Tuesday 21st January 2025

MATTERS DEALT WITH ON PAPER

Case
Name:

Karl Warner
v
The King

[ANUHCRAP2024/0011]
(Antigua and Barbuda)

Date: Tuesday, 21st January 2025

Before: The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant: In person

Respondent: Shannon Jones-Gittens

Issues: Application for leave to appeal against sentence;
Application for waiver of transcript fees

Result/
Order:

IT IS HEREBY ORDERED THAT:

1. The applicant shall file a copy of the minute of conviction that is the subject of this appeal within 14 days of the date of this order.
2. The determination of the application for leave to appeal is adjourned to the next Chamber Hearing of the Court scheduled 18th February 2025.

3. The determination of the application for a waiver of transcript fees is adjourned to the next Chamber Hearing of the Court scheduled 18th February 2025.
4. The Registrar of the High Court shall serve a copy of this order on the applicant within 7 days of the date of this order.

Reason:

The Court considered rule 62.2(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (2023) which states that leave to appeal may be given only where (1) the Court considers that the appeal would have a realistic prospect of success or (2) there is some other compelling reason why the appeal should be heard. The Court, having noted that the minute of conviction was not filed, determined that the applications should be adjourned to the next Chamber Hearing of the Court to allow the applicant to file a copy of the minute of conviction that is the subject of the appeal.

**Case
Name:**

**Alfred Delice
v
The King**

**[ANUHCRA2024/0012]
(Antigua and Barbuda)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant:

In Person

Respondent:

Shannon Jones-Gittens

Issues:

Application for leave to appeal against sentence

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal sentence is granted.
2. The notice of application filed on 17th December 2024 is deemed to be the notice of appeal.
3. The registrar shall serve a copy of this order on the parties within 7 days of the date of this order and provide proof of service thereafter.

Reason:

The Court was mindful of rule 55 of the Eastern Caribbean Supreme Court, Court of Appeal Rules which empowers the court, when it is minded to grant leave to appeal, to deem the application for leave to appeal as the notice of appeal and was of the view that the applicant had met threshold for the grant of leave to appeal.

**Case
Name:**

**Everton Welch
v
The Attorney General

[ANUHCVAP2021/0011]
(Antigua and Barbuda)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant: Adlai David Dorsett
Respondent: Carla Brookes-Harris

Issues:

Application for extension of time to file written submissions and relief from sanctions

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for an extension of time filed on 16th December 2024 is granted.**
- 2. The submissions filed on 30th October 2024 is deemed to have been properly filed.**

Reason:

The Court considered the principles on which an extension of time should be granted as enunciated in Lindsay F.P. Grant et al v Tanzania Tobin Tanzil SKBHCVAP2020/0004 (delivered 6th July 2020, unreported).

The Court, having noted (1) that the length of the delay is 12 days with the applicant having provided reasons for the delay, (2) that the respondent is not opposed to the grant of the extension and (3) there would be no prejudice to the respondent determined that the applicant should be granted an extension of time to file legal submissions to comply with the Order dated 22nd April 2024.

**Case
Name:**

**Osarumwense Barrecy Ibuze
v
The Police**

**[DOMMCRAP2023/0005]
(Dominica)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant:

Wayne Norde

Respondent: Marie Louise Pierre-Louis

Issues: Application for leave to appeal against sentence

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

1. The Application for leave to appeal sentence is granted.
2. The notice of application filed on 10th July 2023 is deemed to be the notice of appeal.
3. The grounds of appeal filed on 12th December 2024 and additional grounds of appeal filed on 16th January 2025 are deemed part of the notice of appeal filed on 10th July 2023.
4. The appellant shall serve a copy of the notice of appeal, grounds of appeal filed on 12th December 2024, additional grounds of appeal filed on 16th January 2025, and written submissions filed on 12th December 2024, on the respondent within 14 days of the date of this order and provide proof of service thereafter.
5. The registrar shall serve a copy of this order on the parties within 7 days of the date of this order and provide proof of service thereafter.

Reason: The Court was of the view that the applicant had met the threshold for the grant of leave to appeal.

The Court was mindful of rule 11 of the Eastern Caribbean Supreme Court, Court of Appeal Rules which allows for non compliance to be waived if the Court considers that such non compliance was not willful and that it is in the interest of justice that compliance be waived. The Court was also mindful of rule 55 of the Eastern Caribbean Supreme Court, Court of Appeal Rules which empowers the court, when it is minded to grant leave to appeal, to deem the application for leave

to appeal as the notice of appeal. In the circumstances, the Court determined that the application for leave to appeal should be granted.

**Case
Name:**

**The Attorney General
v
Alpha David Alexander**

**[DOMHCVAP2024/0012]
(Commonwealth of Dominica)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant: Vanica Sobers-Joseph

Respondent: In Person

Issues:

Application for stay of execution

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall file written submissions in support of its application for a stay within 14 days of the date of this order.**
- 2. The application for a stay pending determination of the appeal is set down for further consideration at the next chamber sitting of this Court scheduled for 18th February 2025.**

Reason: The Court had regard to the principles for the grant of a stay pending appeal as outlined in the authorities *Wenden Engineering Service Co. Ltd v Lee Shing Uey Construction Co Ltd* HCCT No. 90 of 1999, *C-Mobile Services Limited v Huawei Technologies Co. Limited* BVIHCMAP2014/0017 (delivered 2nd October 2014) and *Michael James v Tasman Gaming Inc et al* Civil Appeal No. 6 of 2006 (delivered 8th February 2007, unreported).

The Court was ultimately of the view that the appellant has not provided submissions to this Court by way of skeleton arguments on why a stay pending the determination of the appeal should be granted and in the circumstances directed the applicant to file written submissions in support of the application within 14 days of the date of the order.

Case Name: **Athene Shillingford**
(as personal representative of the estate of
Idoline John)
v
[1] Infrastructure Services Ltd., A Firm
[2] Attorney General of Commonwealth of
Dominica
[DOMHCVAP2024/0027]
(Commonwealth of Dominica)

Date: **Tuesday, 21st January 2025**

Before: **The Hon. Mr. Eddy D. Ventose, Justice of Appeal**

On paper:

Applicant: **Cara Shillingford**

Respondents: **Nadira Lando for the 1st respondent**
The 2nd respondent in person

Issues:

Application for leave to appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall file written submissions in support of its application for leave to appeal within 14 days of the date of this order.**
- 2. The application for leave to appeal is set down for further consideration at the next chamber sitting of this Court scheduled for 18th February 2025.**

Reason:

The Court considered rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 as well as the principles for the grant of leave to appeal as stated in Othneil Sylvester v Faelleseje Civil Appeal No. 5 of 2005 (delivered 20th February 2006, unreported) and in Cage St. Lucia Limited v Treasure Bay (St. Lucia) Limited Saint Lucia Civil Appeal No. 45 of 2011 (delivered on 23rd January 2012, unreported).

The Court was of the view that the applicant ought to file written submissions in support of his application, in particular on the issue of whether the intended appeal has a realistic prospect of success, in order for the Court to properly consider and determine whether leave to appeal should be granted. The Court directed the applicant to file the said written submissions within 14 days of the date of the order.

**Case
Name:**

**[1] Ramesh Amarnani
[2] Mohan Amarnani
(By his lawful son and interested party Mahesh
Amarnani)
v**

AEA Company Limited

Kennie John

[GDAHCVAP2023/0019]

(Grenada)

Date: Tuesday, 21st January 2025

Before: The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant: Gennilyn Ettienne

Respondent: Ruggles Ferguson

Issues: Application for leave to appeal; application for extension of time

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant shall file and serve the settled order of Glasgow J dated 13th May 2024 within 14 days of today's date.
2. The application for leave to appeal shall be set down for hearing before the Full Court on a date to be fixed by the Chief Registrar.

Reason: The Court considered rule 26.1(2)(k) of the Civil Procedure Rules (Revised Edition) 2023 (the "CPR") as well as the principles upon which an extension of time is granted as enunciated in Carleen Pemberton v Mark Brantley SKBHCVAP2011/0009 (delivered 14th October 2011, unreported) and John Cecil Rose v Anne Marie Uralis Rose SLUHCVAP2011/0013 (delivered 22nd September 2003, unreported).

The Court was of the view that the main issue upon which the applicants sought an extension of time to appeal and leave to appeal, that is, that the time for filing the ancillary claim had expired and there had been no extension of time granted hence Master Michel erred when he ordered the applicants to file their defence to

the ancillary claim. In the circumstances the Court determined that an oral hearing be scheduled so that the issues raised in the application for leave to appeal could be ventilated before the Full Court.

**Case
Name:**

**[1] Eva Kachelriess-Aban
[2] William Aban
[3] Palm Trees Immo Ltd**

v

**[1] Hans Paulig
[2] Marlen Paulig**

**[GDAHCVAP2021/0027]
(Grenada)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicants: Navindra Ramnanan

Respondents: Derick Sylvester

Issues:

Application for appointment as personal representative

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The applicant has leave to file further submissions in relation to CPR 21.7(1) and (2) on or before 31st January 2025.**
- 2. The respondent is at liberty to file submissions in response on or before 10th February 2025.**
- 3. The application for the appointment of a personal representative is set down for further consideration at the next chamber sitting of this Court scheduled for 18th February 2025.**

Reason: The Court was cognizant of the rules for appointing a representative party, which as is relevant to the application at hand are rules 21.1(2), 21.2, 21.7, 21.8 4 of the Eastern Caribbean Civil Procedure Rules (Revised Edition) 2023 ('CPR') and for the substitution of a party at CPR 19.3(2)(b) and 19.4.

The Court noted ground 8 of the notice of application and also noted that no evidence had been adduced as to the whereabouts or consent of or effort to contact any other person(s) who may lawfully be appointed as the personal representative of the estates of Hans Paulig or Marlen Paulig and that the applicant had provided no cogent evidence apart from bare assertions in relation to the requirements set out in CPR 21.7 (2). The Court determined that the applicant should be granted leave to file further submissions with the respondent at liberty to file submissions in response.

Case Name: Grenada Electricity Services Limited
v
Public Utilities Regulatory Commission
[GDAHCRAP2024/0024]
(Grenada)

Date: Tuesday, 21st January 2025

Before: The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:
Applicant: Afi Ventour de Vega
Respondents: Ruggles Ferguson

Issues: Application for stay of execution; application for extension of time and relief from sanctions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Extension of Time Application is granted.

2. The Notice of Appeal lodged on 6th December 2024 is deemed properly filed.
3. The Stay Application is granted.
4. The matter shall proceed in accordance with the provisions of the Civil Procedure Rules (Revised Edition) 2023.

Reason:

The Court considered rule 26.1(2)(k) of the Civil Procedure Rules (Revised Edition) 2023 (the “CPR”) which provides that court may extend or shorten the time for compliance with any rule, practice direction, order or direction of the court even if the application for an extension is made after the time for compliance has passed and the power of a single judge to extend time pursuant to CPR62.19(c). The Court also considered the principles upon which an extension of time is granted as enunciated in *Carleen Pemberton v Mark Brantley* SKBHCVAP2011/0009 (delivered 14th October 2011, unreported) and *John Cecil Rose v Anne Marie Uralis Rose* SLUHCVAP2011/0013 (delivered 22nd September 2003, unreported) and also considered the appellant’s notice filed on 14th November 2024 indicating that she consents to the granting of the application.

The Court was of the view that the length of delay was inordinate being some 9 months after the time in which a notice of appeal was to be filed had expired but noted that there was a reasonable explanation for the delay, that the intended appeal concerned an issue of law of great public importance and the degree of prejudice was tipped in favour of the applicant if the extension of time to appeal was not granted. The Court was ultimately of the view that the extension of time application should be granted.

The Court considered the relevant principles which a court should apply when deciding whether to exercise its discretion to grant a stay adumbrated in *Hammond Suddard Solicitors v Agrichem International Holdings Limited* [2001] EWCA Civ 2065 applied in *C-Mobile*

**Services Limited v Huawei Technologies Co Limited
BVIHCMAP2014/0017 (delivered 2nd October 2014,
unreported) and was of the view that in all the
circumstances of the case justice requires that a stay
pending the determination of the appeal be granted in
particular considering that there is a great risk of
injustice to the applicant/intended appellant if a stay is
not granted while the risk to the respondent is minimal
and that the appeal would be rendered nugatory if a stay
is not granted.**

**Case
Name:**

**Isaac Joseph
v
Matthew Blair
[GDAHCVAP2019/0009]
(Grenada)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant: In Person

Respondents: In Person

Issues:

Application for amendment against decision

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application is adjourned for consideration before the Full Court at the Sitting of the Court for Grenada scheduled for the week commencing on Monday, the 27th day of January 2025.**

2. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.

Reason: The Court noted that the applicant had not properly identified the order sought from the Court due to a lack of clarity in the statement of the application and was of the view that the application should be heard orally before the Full Court during its Sitting for Grenada.

Case Name: Andre West
v
Commissioner of Police
[MNIMCRAP2023/0002]
(Montserrat)

Date: Tuesday, 21st January 2025

Before: The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant: In Person
Respondent: Oris Sullivan

Issues: Application for extension of time to appeal against conviction

Result / Order: IT IS HEREBY ORDERED THAT:
1. The Registrar shall provide to the applicant and to this Court, a copy of the applicant's minute of conviction and sentence within 14 days of the date of this order.

2. The Registrar shall provide this Court with an affidavit evidencing service of the applicant's notice of application and the authorization code generated by the ECSC's E-Litigation Portal within 14 days of the date of this order.
3. The application for leave to appeal against sentence is adjourned to the next Chamber Hearing of the Court scheduled for 18th February 2025.

Reason:

The Court noted that a copy of the applicant's minute of conviction and sentence was not filed before the Court and that there was no affidavit of service filed before this Court evidencing service of the notice of application and the authorization code on the respondent. The Court was minded in the circumstances to direct the Registrar to provide to the applicant and the Court a copy of the minute of conviction and sentence and to provide the Court with an affidavit evidencing service of the applicant's notice of application and the authorization code within 14 days of the date of the order.

**Case
Name:**

**Sheldon Shield
v
Tyrel Hendricks**

**[SKBHCVAP2024/0015]
(Saint Christopher and Nevis)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant: Delara Taylor

Respondent: OGrenville Browne

Issues: Application for extensive of time; application for leave to appeal

Result /
Order: IT IS HEREBY ORDERED THAT:

1. The notice of application filed on 15th November 2024 for an extension of time is granted.
2. The application filed on 15th November 2024 seeking leave to appeal against the order of Master Yuri Saunders is granted.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.

Reason: The Court considered the principles which the Court should take into account in exercising its discretion to grant an extension of time as affirmed in the case of *Hyacinth v Joseph* GDAHCVAP2015/0025 (delivered 20th June 2016, unreported). The Court, being of the view that the length of the delay in filing the application for extension of time is not inordinately long and there is likely to be no prejudice suffered by appellant if the extension of time is granted, was minded to grant the application for extension of time.

The Court, upon considering rule 62.2(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 (“the CPR 2023”) as well as the principles on leave to appeal elucidated in *Othneil Sylvester v Faelleseje, A Danish Foundation* Civil Appeal No. 5 of 2005 (delivered 20th February 2006, unreported), was ultimately of the view that the applicant has met the threshold for the grant of leave to appeal.

Case Name: [1] Digital Security Services Limited
[2] Michael Peets

v
Nevis International Bank and Trust Limited
(formerly Hamilton Reserve Bank Limited)

[NEVHCVAP2024/0020]
(Saint Christopher and Nevis)

Date: **Tuesday, 21st January 2025**

Before: **The Hon. Mr. Eddy D. Ventose, Justice of Appeal**

On paper:

Applicants: **Maria Angela Cozier**

Respondent: **Aymah George**

Issues: **Application for leave to appeal**

Result /
Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall file the decision of Thompson J. dated 18th November 2024 within 14 days of the date of this order.**
- 2. The applicant shall file submissions in support of the application for leave to appeal within 14 days of the date of this order.**
- 3. The application for leave to appeal filed on 10th December 2024 is adjourned to the next chamber hearing scheduled for 18th February 2025.**
- 4. The Registrar of the High Court shall serve a copy of this order on the applicant and provide**

proof of service within 7 days of the date of this order.

Reason:

The Court, considering rule 62.2(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 (“the CPR 2023”), noted that the applicant had not filed the decision of Thompson J dated 18th November 2024 and thus was ultimately of the view that the applicant must provide a copy of the decision of the learned trial judge in order to determine the application for leave to appeal. The Court was also of the view that the applicant must file submissions in support of the application for leave to appeal.

**Case
Name:**

**[1] SKN Choice Times Limited
[2] Dwight C. Cozier**

v

Josephine Huggins

**[SKBHCVAP2024/0016]
(Saint Christopher and Nevis)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant:

Maria Angela Cozier

Respondent:

Dane Elliott-Hamilton

Issues:

Application for leave to appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The notice of application for leave to appeal filed on 19th December 2024 is granted.
2. The applicant shall file and serve a notice of appeal within 21 days of the date of this order.
3. Thereafter the appeal shall proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.
4. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.

Reason:

The Court, considering rule 62.2(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 (“the CPR 2023”), was of the view that the application satisfied the threshold for the grant of leave to appeal.

**Case
Name:**

**Abkim Bryan
v
Director of Public Prosecutions

[SKBHCRAP2024/0001]
(Saint Christopher and Nevis)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicants: In Person

Respondent: Teshaun Vasquez

Issues:

Application for legal aid

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall provide this Court with detailed affidavit evidence which makes clear and sets out his financial means and also provide reasons for delay in filing the affidavit of means dated 9th December 2024, within 14 days of the date of this order.**
- 2. The application for legal aid is adjourned for consideration by a single judge of the Court of Appeal in Chambers.**
- 3. The registrar shall serve a copy of this order on the parties within 7 days of the date of this order and provide proof of service thereafter.**

Reason:

The Court considered that a judge of this Court is empowered under section 55 of the Eastern Caribbean Supreme Court (Saint Christopher and Nevis) Act Cap. 3.11 of the Laws of Saint Christopher and Nevis to assign legal aid to an appellant. The Court was ultimately of the view that the affidavit of means had not clearly established that the applicant did not have sufficient means to enable him to obtain legal representation and was minded in the circumstances to direct him to provide the Court with detailed affidavit evidence which makes clear and sets out his financial means and also provide reasons for delay in filing the affidavit of means.

**Case
Name:**

**Kevin A. Horstwood
v
Adam Bilzerian**

[SKBHCVAP2023/0005]

(Saint Christopher and Nevis)

Date: **Tuesday, 21st January 2025**

Before: **The Hon. Mr. Eddy D. Ventose, Justice of Appeal**

On paper:

Applicant: **Michelle Slack- Clarke**

Respondent: **Derriann Charles**

Issues: **Application for assessment of costs**

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

The applicant shall forthwith apply to a master or the registrar in the court below for directions as to how the assessment is to be carried out.

Reason:

The Court had regard to the powers of a single judge of the court as stated in rule 62.19 of the Civil Procedure Rules (Revised Edition) 2023 ('CPR') and CPR 65.12(3) and was minded to direct the applicant to apply to a master or the registrar in the court below for directions as to how the assessment is to be carried out.

**Case
Name:**

**Beach Front Condominium Holdings Limited
v
Nelson Spring Condominium Homeowners
Association**

**[NEVHCVAP2024/0021]
(Saint Christopher and Nevis)**

Date: Tuesday, 21st January 2025

Before: The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant: Terence Byron

Respondent: OGrenville Browne

Issues: Application for leave to appeal

Result /
Order: IT IS HEREBY ORDERED THAT:

The application for leave to appeal shall be set down for hearing before the Full Court on a date to be fixed by the Chief Registrar.

Reason: The Court considered rule 62.2 8(a) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 (“the CPR”), as well as recital 3 of Thompson J’s order which indicates that the applicant was allowed to make submissions and these were considered by the learned judge. The Court also considered that the judgment summons was adjourned for hearing on 3rd January 2025 and the decision has not yet been provided to the Court and also considered rule 62.2(7) of the CPR. The Court was ultimately minded to refuse the application and therefore schedule an oral hearing so that the issues raised in the appeal on whether leave ought to be granted could be ventilated before the Full Court.

Case Name:

Oran Bute
v
The Commissioner of Police

[SVGMCRAP2023/0024]
(Saint Vincent and the Grenadines)

Date: Tuesday, 21st January 2025

Before: The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant: Jomo Thomas

Respondent: Sejilla Mc Dowall

Issues: Application to adduce fresh evidence

Result /
Order: IT IS HEREBY ORDERED THAT:

The application to adduce fresh evidence filed on 30th December 2024 is granted.

Reason: The Court considered the decision in Darryl Frett v Commissioner of Police BVIMCRAP2022/0002 (delivered 6th June 2024) where this Court considered section 42 Eastern Caribbean Supreme Court (Virgin Islands) Act, dealing with the duty to admit fresh evidence, which is identical to section 45 of the Eastern Caribbean Supreme Court (St. Vincent and the Grenadines) Act. The Court determined that the threshold for the admission of fresh evidence had been satisfied in accordance with the principles stated by the Court in Frett.

Case
Name: Calbert Toney
v
The King

[SVGHCRAP2024/0017]
(Saint Vincent and the Grenadines)

Date: Tuesday, 21st January 2025

Before: The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant: In Person

Respondent: Maria Jackson

Issues: Application for legal representation

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The applicant shall provide this Court with affidavit evidence which makes clear and sets out details of his financial means within 14 days of the date of this order.
2. The court's office in Saint Vincent and the Grenadines will assist the applicant and facilitate the filing of the said affidavit evidence within the time prescribed.
3. The application for legal aid is adjourned for consideration by a single judge of the Court of Appeal in Chambers.
4. The registrar shall serve a copy of this order on the parties within 7 days of the date of this order and provide proof of service thereafter.

Reason:

The Court considered that a judge of this Court is empowered under section 56 of the Eastern Caribbean Supreme Court (Saint Vincent and the Grenadines) Act Cap. 24 of the Laws of Saint Vincent and the Grenadines to assign legal aid to an appellant and was of the view that the applicant had not established that he did not have sufficient means to enable him to obtain legal representation.

**Case
Name:**

Cassel Lavia

v

The King

**[SVGHCRAP2022/0012]
(Saint Vincent and the Grenadines)**

Date: **Tuesday, 21st January 2025**

Before: **The Hon. Mr. Eddy D. Ventose, Justice of Appeal**

On paper:

Applicant: **In Person**

Respondent: **Renee Simmons**

Issues: **Application for bail; Application for legal representation**

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for bail filed on 9th December 2024 is refused.**
- 2. The application for legal aid filed on 9th December 2024 is set down for an oral chamber hearing before a single judge on a date to be fixed by the Chief Registrar to allow the applicant the opportunity to provide oral evidence of his financial means.**
- 3. 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 thereafter.**

Reason:

The Court considered the State v Lynette Scantlebury (1976) 27 WIR 103 and that a judge of this Court is empowered under section 51 of the Eastern Caribbean Supreme Court (Saint Vincent and the Grenadines Act) Cap. 24 to assign legal aid to an applicant.

The Court was of the view that the applicant had not satisfied the threshold for the grant of bail on appeal according to *The State v Scantlebury* and that in the interest of justice, as well as the Court's time and resources, the application for legal aid filed on 9th December 2024 ought to have been fixed for an oral hearing to allow the applicant to provide oral evidence of his financial means.

**Case
Name:**

**Kirth Stapleton
v
The King**

**[SVGHCRAP2024/0004]
(Saint Vincent and the Grenadines)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant: In Person

Respondent: In Person

Issues:

Application for legal aid

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall file with the Court affidavit evidence of his financial means within 14 days of the date of this order.**
- 2. The legal aid application filed on 9th December 2024 is adjourned to the next Chamber Hearing of the Court for consideration.**
- 3. 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 this Court with proof of service thereof.

Reason:

The Court considered that a judge of this Court is empowered under section 51 of the Eastern Caribbean Supreme Court (Saint Vincent and the Grenadines Act) Cap. 24 to assign legal aid to an applicant and that the legal aid application had not disclosed any written reasons or attached any evidence of the applicant's financial means. The Court was minded in the circumstances to adjourn the legal aid application to allow the applicant the opportunity to furnish evidence of his financial means.

**Case
Name:**

**Therdio McKie
v
The King**

**[SVGHCRA2018/0007]
(Saint Vincent and the Grenadines)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant:

In Person

Respondent:

Director of Public Prosecutions

Issues:

Application for leave to appeal; Application for extension of time

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The notice of application for leave to appeal filed on 19th December 2024 is dismissed.
2. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.

Reason:

The Court noted that in its decision dated 16th September 2024 it had already dealt with an application to appeal and dismissed the applicant's appeal and affirmed the sentence dated 28th February 2018. The Court also noted that the applicant sought to appeal against his sentence and conviction which had already been decided by this Court and was therefore of the view that the application for leave to appeal should be dismissed.

**Case
Name:**

**Ackeem Ferdinand
v
The Commissioner of Police**

**[SVGMCRAP2022/0014]
(Saint Vincent and the Grenadines)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant:

In Person

Respondent:

Sejilla McDowall

Issues:

Application to adduce additional grounds

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The additional grounds application filed on 7th January 2025 is granted to allow the applicant to rely on the additional ground of appeal, namely, the “inconsistency in the evidence”.
2. The additional grounds application is also treated as an application for extension of time to file written submissions.
3. Time is extended to 7th January 2025 for the filing of written submissions by the applicant.
4. The applicant’s written submissions filed on 7th January 2025 is deemed properly filed.
5. The respondent shall file submissions in reply to the additional ground of appeal within 14 days of service of this order.
6. The Registrar of the High Court shall serve a copy of this order on the appellant and the respondent within 7 days of the date of this order and provide proof of service thereafter.

Reason:

The Court considered rule 26.1(2)(y) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 (“the CPR”) which states that the Court may take any other step, give any other direction, or make any other order for the purpose of managing the case and furthering the overriding objective.

The Court was of the view that, having regard to rule 26.1(2)(y) of the CPR and there being no objection by the respondent, the additional grounds application should be treated as an extension of time application and the applicant’s written submissions be deemed properly filed.

**Case
Name:**

**Lim Yew Cheng
v**

Guanghua SS Holdings Limited

Lin Minghan

**[BVIHCVAP2007/0026]
(Territory of the Virgin Islands)**

Date: **Tuesday, 21st January 2025**

Before: **The Hon. Mr. Eddy D. Ventose, Justice of Appeal**

On paper:

Applicant: **Jerry Samuel**

Respondent: **Mark Wells**

Issues: **Application for leave to appeal**

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal the orders of Mithani J (Ag) dated 14th November 2024 is granted.**
- 2. The applicant shall file and serve a notice of appeal within 21 days of the date of this order.**
- 3. The proceedings in the Commercial Court be stayed pending the final determination of the appeal.**
- 4. Thereafter the appeal shall proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.**
- 5. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.**

Reason: The Court considered rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 which stipulates the conditions under which leave to appeal may be given. The Court also considered the principles adumbrated in C-Mobile Services Ltd. v Huawei Technologies Co. Ltd. BVIHCMAP2014/0017 (delivered 2nd October 2014, unreported) concerning the granting of an application for a stay of execution.

The Court was of the view that while applications for leave to appeal are indeed ex parte, applications for a stay of execution are not, and as such, the respondent was permitted to make submissions objecting to the application for a stay. The Court was also of the view that the applicant had met the threshold test for the grant of leave to appeal and that without a stay the appeal would be rendered nugatory.

Case Name: **KPMG Tax and Advisory SARL**
v
[1] Multibank FX International Corporation
[2] Naser Taher
[3] Von der Heydt Invest S.A.
[BVIHCMAP2024/0035]
(Territory of the Virgin Islands)

Date: Tuesday, 21st January 2025

Before: The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant: Sara Malik

Respondent: Andrew Willins for the 1st respondent
Fay O'Halloran for the 2nd respondent
The 3rd respondent in person

Issues: Application for leave to appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal is granted.**
- 2. The applicants shall file and serve their notice of appeal within 21 days of the date of this order.**
- 3. Thereafter, the appeal shall proceed in accordance with Part 62 of the Civil Procedure Rules (Revised Edition) 2023.**

Reason:

The Court considered rule 62.2 (8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which provides that leave to appeal may be given only where (a) the court considers that the appeal would have a realistic prospect of success or (b) there is some other compelling reason why the appeal should be heard. The Court was ultimately of the view that the applicant had met the threshold test for the grant of leave to appeal.

**Case
Name:**

**The Federal Republic of Nigeria
v
Zhongshan Fucheng Industrial Investment Co
Ltd**

Process & Development Industrial Limited

**[BVIHCMAP2024/0030]
(Territory of the Virgin Islands)**

Date:

Tuesday, 21st January 2025

Before:

The Hon. Mr. Eddy D. Ventose, Justice of Appeal

On paper:

Applicant:

Mark Wells

Respondents: Lauren Peaty for the 1st respondent
Paul Griffiths for the 2nd respondent

Issues: Application for extension of time to file submissions

Result /
Order: IT IS HEREBY ORDERED THAT:

1. The extension of time application filed on 20th December 2024 is granted.
2. The respondent's skeleton arguments in response to the appeal filed on 15th January 2025 is deemed properly filed.
3. Costs in the appeal.

Reason: The Court considered the principles upon which an extension of time is granted as enunciated in *Carleen Pemberton v Mark Brantley* SKBHCVAP2011/0009 (delivered 14th October 2011, unreported) and *John Cecil Rose v Anne Marie Uralis Rose* SLUHCVP2011/0013 (delivered 22nd September 2003, unreported). The Court also considered *Niyazov v Maples et al* BVIHCVAP/0051 (delivered 12th October 2020, unreported) where this Court held that costs are in the discretion of the court and therefore a court has full power to determine by whom, to whom and to what extent costs are to be paid.

The Court was of the view that the threshold for the grant of the extension of time application had been satisfied especially considering that there has been a short delay in filing the skeleton arguments, and that there would not be prejudice if the application is granted, however the Court was not of the view that the reasons proffered for the delay are justifiable. The Court was also of the view that the applicant had not convinced the Court that a costs order should be made against the appellant on the extension of time application and accordingly, the Court exercised its discretion to order that costs be in the appeal.

