

THE EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

VIDEOCONFERENCE
SAINT LUCIA

Monday, 27th October 2025 - Thursday, 30th October 2025

JUDGMENTS

Case Name:

Bary McMillan Hunte

v

The King

**[SLUHCRA2020/0002]
(Saint Lucia)**

**Date of
delivery:**

Wednesday, 29th October 2025

**Coram for
delivery:**

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Reginald T. A. Armour, Justice of Appeal
[Ag.]
The Hon. Mde. Cadie St. Rose-Albertini, Justice of
Appeal [Ag.]**

Appearances:

Appellant: Mr. David Francis and Mr. Zarek Phillip

Respondent: Ms. Kelly Thomson and Mr. Peter Moyston

Issues:

**Criminal appeal – Appeal against conviction and
sentence – Section 132 and 133 of the Criminal Code
of Saint Lucia - Buggery – Gross Indecency –
Directions to Jury – Section 136 of the Evidence Act
of Saint Lucia – Unreliability warning – Whether the
judge failed to give a proper unreliability warning as**

required by section 136(1)(e) and (2) of the Evidence Act – Good Character Direction – Whether the judge erred in failing to give a good character direction – Recent complaint – Whether the learned judge failed to direct the jury on how to treat with the evidence of the Virtual Complainant that he told his mother what happened in circumstances where there was no admissible evidence of recent complaint – Whether the conviction unsafe – Application of the proviso

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The appeal is allowed.**
- 2. The conviction is quashed and the sentence is hereby set aside.**
- 3. A retrial is deemed inappropriate.**

Reason:

- 1. Section 136 of the Evidence Act prescribes that unless there are good reasons for not doing so, a judge presiding over a jury trial shall give an unreliability warning. The focus of section 136(1)(e) is the evidence of the victim of the sexual offence and it is to his or her evidence that the warning is directed. First, the judge must direct the jury that the evidence may be unreliable. Secondly, the judge must identify the tangible factors or features of the evidence that may cause it to be unreliable and explain why and thirdly, the judge must warn the jury to exercise caution in approaching two aspects of their task: (i) whether to accept the victim's evidence at all and (ii) in deciding what weight to attach to it.**
- 2. The section 136(2) warning contemplates that a searching light will be trained on the evidence**

of the VC after the jury has been told that his evidence may be unreliable. This did not happen in this case. First, the judge gave no clear warning that the VC's evidence may be unreliable. Secondly, the judge was required to, but did not, identify those matters that might have caused the VC's evidence to be unreliable. The most glaring feature of the evidence that potentially made the VC's evidence unreliable was the medical evidence which recorded an absence of any injury, lacerations or abrasions to the VC's anus. The judge failed to specifically draw the medical evidence to the jury's attention and to explain to them that it could potentially make the VC's evidence unreliable as it could possibly be seen as inconsistent with his detailed account of a violent and prolonged sexual assault. The learned judge was further required to warn the jury that there was a need for caution in accepting or assigning weight to the evidence of the VC as a result of the matters that made his evidence unreliable and explain why. Although the failure to give the unreliability warning does not ineluctably lead to the quashing of a conviction, in this case, there is no other evidence implicating the appellant. In a case where it was the VC's words against the appellant, the need for a full and adequate unreliability warning is brought into high relief. The learned judge therefore erred in failing to

properly and adequately discharge her duty to give the unreliability warning, and this error is fatal to the conviction.

Section 136 of the Evidence Act Chap. 4.15 of the Revised Laws of Saint Lucia applied; *Edwards and Haynes v The Queen [2017] CCJ 10 (AJ)* applied; *Mitchel Joseph v The Queen SLUHCRA2011/0001 (delivered 8th July 2013, unreported)* distinguished; *Derek Cort v The Queen BVIHCRA2010/0004 (delivered 19th December 2013, unreported)* distinguished.

3. Where a person has no convictions of any relevance or significance, he is regarded as being of good character and is entitled to the benefit of a good character direction and the judge must give one as a matter of course and not discretion when summing up to the jury. The judge must explain the relevance of a defendant's good character to the issues in the case. The standard good character direction consists of two limbs: credibility and propensity. The credibility direction instructs that a person of good character is more likely to be truthful than one of bad character. This limb is given where the accused gives evidence or when he relies upon an account given in an interview. The propensity direction tells the jury that he is less likely to commit a crime, especially one of the nature with which he is charged. This limb of the good character direction is given whether or not the accused has given evidence or an account in an interview. Given that credibility was the central issue in the case, the complete absence of the good character direction was a material irregularity that affected the fairness of the trial and renders the conviction unsafe.

Teeluck and John v The State (Trinidad and Tobago) [2005] UKPC 14 applied; *France and Vassell v The Queen* [2012] UKPC 28 applied; *Jagdeo Singh v The State* [2005] UKPC 35 applied.

4. At common law, there is a general prohibition against a witness being asked in evidence-in-chief whether he or she has previously made a statement consistent with their present testimony, and the witness may not recite that previous statement and no witness may testify about it either. This is sometimes described as the rule against proof of previous self-consistent statements. To this rule there are two exceptions. One exception concerns sexual offence cases where the VC makes a complaint at the first reasonable opportunity after the offence. In such circumstances, evidence of that complaint can be given to show the VC's consistency and to negative consent. However, for there to be evidence of recent complaint, the complainant must testify about making the complaint and the person to whom the complaint was made must give evidence of what was said to them by the VC.
5. In this case, the VC testified that when he got home, he told his mother what happened.

There was no evidence before the jury which could be regarded as recent complaint because, as is common ground and as the judge correctly ruled, the VC's mother did not give evidence of what the VC had told her. In those circumstances, the judge was obliged to direct the jury to disregard the VC's evidence in this regard and the failure to do so was a serious misdirection.

Sheldon Thomas v The Queen Criminal Appeal No. 11 of 2002 (delivered 20th October 2003, unreported) followed; *Kory White v The Queen (1997) 53 WIR 293* applied; *David Jobe v The Queen Criminal Appeal No. 23 of 2003 (delivered 20th September 2004, unreported)* followed.

6. Section 35 of the Supreme Court Act identifies three grounds on which the Court of Appeal may allow an appeal and overturn a conviction. The proviso permits the Court of Appeal, notwithstanding the existence of any such ground, to uphold the conviction if it is satisfied that there has been no miscarriage of justice. The question is whether the jury would inevitably have returned the same verdict had they been properly directed or the irregularity had not occurred; or more appropriately, whether the appellate court is satisfied that the jury would have returned the same verdict had

the direction been given. If the Court is so satisfied, the verdict will stand; where the court entertains reasonable doubt that the same verdict would have been returned, the fairness of the trial is brought into question and conviction is unsafe and should be set aside. In this case, the three misdirections identified in this judgment all impacted in a significant way the critical issue of the VC's credibility. Considering the evidence as a whole, and given the absence of these three important directions, there is a reasonable doubt that the jury would have returned the same verdict had the judge properly directed them on each of these matters. The deficiencies in the summing up make it impossible to say that no miscarriage of justice has occurred. This is therefore not an appropriate case for the application of the proviso.

Section 35 of the Eastern Caribbean Supreme Court Act Chap 2:01 applied; *Carlton Junior Hall v The Queen* applied; *Stafford & Carter v The State* applied.

7. Considering the serious misdirections, the fact that the prosecution's case cannot be described as overwhelming, the passage of 17 years since the alleged incident in 2008, and the substantial time already served by the appellant, a retrial is deemed inappropriate.

Reid v R (1978) 27 WIR 254 PC applied.

Case name:

**Antigua Commercial Bank
v**

Mary E. Prophet

**[ANUHCVAP2021/0026]
(ANTIGUA & BARBUDA)**

**Date of
delivery:**

Thursday, 30th October 2025

**Coram for
Delivery:**

**The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]
The Hon. Mde. V. Georgis Taylor-Alexander, Justice of
Appeal [Ag.]**

Appearances:

Appellant: Ms. Safiya Roberts

**Respondent: Ms. Shannon Porter holding papers for Mr. Justin
Simon KC**

Issues:

**Civil Appeal – Employment Law – Retirement –
Interpretation of employment contract and Collective
Bargaining Agreement – Whether the Industrial Court
erred in law in holding that the contractual term
stipulating the retirement age was null, void and
unenforceable as being contrary to the Collective
Bargaining Agreement – Whether the Industrial Court
erred in law in holding that there was no retirement
age policy in the absence of a negotiated position
with the Union – Construction of the term ‘permanent
employee’ – Whether the Industrial Court erred in
determining that the term connoted employment of**

indefinite duration – Whether the Industrial Court erred in finding that the respondent was not given proper, adequate or reasonable notice of retirement – Industrial relations practice – Exemplary Damages – Whether the Industrial Court erred in finding that the Bank’s conduct was harsh, oppressive and contrary to good industrial relations principles so as to warrant an award of exemplary damages – Pension entitlement – Whether the Industrial Court erred in finding that payment under the Staff Pension Scheme was not contingent upon the respondent’s contribution and that participation in the Scheme was automatic – Whether the Industrial Court erred in holding that the Bank was liable to pay 50 per cent of the respondent’s pension – Costs – Whether the Industrial Court erred in awarding costs to the respondent.

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The appeal is allowed in part.**
- 2. The basic award of \$23,712.00 being fifty-two weeks’ wages in lieu of notice of compulsory retirement is quashed and substituted with the sum of \$5472.00 being twelve weeks’ wages in lieu of notice of retirement.**
- 3. The pension award at the rate equivalent to 50% of the rate set out in Part 4 of the Trust Deed is quashed.**
- 4. The award of exemplary damages in the sum of \$20,000.00 is quashed.**
- 5. The costs order of \$5000.00 is quashed.**
- 6. No order as to costs on appeal.**

Reason:

- 1. A retirement policy as contemplated and described by this Court in *E. Alex Benjamin Limited v St. Lawrence DeFreitas* is not limited to the establishment and institution of a compulsory retirement age for a single employee. As clearly articulated by the Court, the policy must be applicable to all employees.**

It may be captured in each employment contract, or it can be set out in a policy document that is readily available and communicated to the affected employees. The policy need not establish a compulsory retirement age (although it might) but must set out the main features of the company's position on retirement of employees generally. The fact that such a policy is implemented is not intrinsically unreasonable or unfair. However, the employer must ensure that its application is reasonable and fair so that adequate notice of retirement is given to an affected employee. There is no dispute that in the absence of a policy, a company is entitled to agree with individual employees the terms and conditions of their retirement in an employment contract limited to that discrete relationship. Additionally, since the Labour Code is silent about whether retirement affords a basis for dismissal, it is clear that the circumstances in this case do not give rise to a claim by Ms. Prophet for unfair dismissal, by virtue of the bank's unilateral imposition of a retirement policy.

2. The Trust Deed and the Explanatory Booklet to the Staff Pension Scheme which came into force in 1991 by the bank's unilateral initiative, comprehensively capture the bank's retirement age policy. The policy in practical terms translates to a mandatory retirement age of 60 years subject to the exceptions that the employee is either unable to continue working to age 60 years due to incapacity to fulfil his or her duties by reason of illness or injury; or there is an agreed deferral of retirement for a period up to but not extending beyond his or her 70th birthday. It does not translate to indefinite employment. Moreover, the Trust Deed, having been instituted by the bank, satisfies the requirements of a retirement age policy that was imposed unilaterally by the bank, and it was not necessary for those terms as to retirement to be negotiated with the Union and incorporated as part of the

Collective Agreements. It sufficed that the retirement age policy was outlined in the Trust Deed in 1991 and was open to membership by all employees. The Industrial Court therefore erred in determining that the term 'permanent employee' had the effect of employment of indefinite duration and in holding that there was no retirement age policy in the absence of a negotiated position with the Union with respect to such a policy.

- 3. The evidence is that the Union and Ms. Prophet were aware of the terms of the Trust Deed at all material times. It was unnecessary for those terms as to retirement to be negotiated with the Union and incorporated as part of the Collective Agreement, they already having been settled years before the Collective Agreements were executed and well before the negotiation and execution of the employment contract with Ms. Prophet. It follows that on the facts of this case the Industrial Court erred in law by holding that there was no retirement age policy in the absence of a negotiated position with the Union with respect to such a policy. Applying the learning from *E. Alex Benjamin*, in the circumstances, Ms. Prophet was properly and lawfully retired in accordance with the bank's retirement age policy.**

E. Alex Benjamin Limited v St. Lawrence DeFreitas Antigua and Barbuda Civil Appeal No. 12 of 2002 (delivered 16th September 2003, unreported) followed.

- 4. In deciding whether the notice of retirement is reasonable, the court should consider the relevant circumstances of the case such as the employee's qualifications, the stature in the position held, period of employment, the post held, the duties performed, the employee's age, expertise, skill, training and the reasonable length of time it would take him to obtain alternative employment. The Industrial Court did not advert to any of those factors in settling on a period of twelve months as reasonable**

notice and thereby erred. The court also erred in failing to discount that period by the five months between February and July 2008 during which time Ms. Prophet remained in the bank's employ. Having reviewed the circumstances of the case, eight months would have afforded the respondent a reasonable period of notice. Having received five months' notice by letter dated 4th February 2008, the respondent would be entitled to receive three additional months' pay in lieu of notice. Accordingly, the Industrial Court's award of twelve months' pay in lieu of notice is substituted with three months' (twelve weeks) pay in lieu of notice which amounts to \$5,472.00.

E. Alex Benjamin Limited v St. Lawrence DeFreitas Antigua and Barbuda Civil Appeal No. 12 of 2002 (delivered 16th September 2003, unreported) followed; Julie Sanders et al v St. Kitts Sugar and Manufacturing Corporation Saint Kitts and Nevis Civil Appeal No. 1 of 1993 (delivered 6th April 1995, unreported) followed.

5. Properly construed, sections 10(4) and (5) of the Industrial Court Act confers on the court a discretion to award exemplary damages to an employee whom the court determined was dismissed from his employment, but only where the court first finds that the circumstances of the dismissal were harsh and oppressive or not in accordance with the principles of good industrial relations practice. A finding of dismissal is a condition precedent to awarding exemplary damages. The Industrial Court did not find that the respondent was dismissed from her employment and therefore erred in awarding exemplary damages to the employee in contravention of the clear and unambiguous language of the statute. The award of exemplary damages is therefore quashed.

Section 10(4) and (5) of the Industrial Court Act Cap. 214 of the Laws of Antigua and Barbuda applied.

6. The Industrial Court erred in law by not attributing sufficient weight to the evidence that the pension scheme is run by a board of trustees which is separate from the bank. The court overlooked the fact that the employee did not address her application for admission into the Pension Scheme to the bank. Consequently, the foundation on which the court arrived at its conclusion regarding pension liability is evidentially and legally flawed. Its determination regarding payment of pension is thereby fatally undermined and cannot stand. The court therefore erred in finding that Ms. Prophet's participation in the Scheme was automatic and that the bank's payment under the Staff Pension Scheme was not contingent on such participation and her contribution to the Scheme and in holding that the bank is responsible for paying 50% of Ms. Prophet's pension.

Montserrat Utilities Limited v Mildred Kirwan Territory of Montserrat Labour Tribunal MNILTAP2013/0002 (delivered 17th April 2015, unreported) considered.

7. The court's power to award costs is to be exercised in exceptional cases as provided in section 10(2) of the Industrial Court Act. The Industrial Court justified its costs order by virtue of its reasons for awarding exemplary damages. In view of the conclusion that the exemplary damages award was made in error, the court's basis for the costs award falls away.

Section 10(2) of the Industrial Court Act Cap. 214 of the Laws of Antigua and Barbuda applied; *Kenard Byron v Eastern Caribbean Amalgamated Bank ANUHCVP2010/0010 (31st May 2017, unreported)* considered.

APPLICATIONS AND APPEALS

Case Name: **Bamboo Springs Bottled Water LTD**

v

The Bank of Nova Scotia

**[SLUHCMAP2022/0003]
(Saint Lucia)**

Date: **Monday, 27th October 2025**

Before: **The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]
The Hon. Mr. Reginald T. A. Armour, Justice of Appeal
[Ag.]**

Appearances:

Appellant: **Mr. Martin Martin, representative for the appellant
(counsel absent)**

Respondent: **Mr. Deale Lee**

Issue: **Application for an adjournment**

Type of Order: **Adjournment**

Result/Order: **[Oral Delivery]**

IT IS HEREBY ORDERED THAT:

- 1. Upon noting the application with supporting documents for an adjournment by counsel for the appellant, Ms. Natalie Da Breo, the appeal is adjourned to the next sitting of the Court in**

the state of Saint Lucia scheduled for the week commencing on 9th March 2026.

2. There is no order as to costs.

Reason:

Upon the appeal filed on 22nd April 2022 coming on for hearing on 27th October 2025 with the appellant represented by Mr. Martin Martin (representative of appellant) and the respondent represented by counsel, Mr. Deale Lee.

Upon the Court having before it an application for adjournment of the hearing of the appeal filed on 27th October 2025 supported by an affidavit of Romauld Harte filed on even date which sought to advance an application for an adjournment of the hearing on the basis that counsel on record for the appellant, Ms. Natalie Da Breo is ill or indisposed, and unable to prosecute the appeal.

Upon the Court noting the medical certificate exhibited to the affidavit verifying that counsel was seen on 26th October 2025 by a medical practitioner registered in this State who certified that she was unable to work for the next 7 days.

The Court was satisfied that in light of the urgency caused by the short period of time between the date of the medical certificate and today's hearing that it would not have been possible for counsel to appear to advance the application for adjournment in person or for her to instruct someone to do it on her behalf.

The Court heard both the representative for the appellant as well as counsel for the respondent and determined that the application should be granted with no order as to costs.

Case name:

Adrienne Denise Kearney

v
Michael Leslie Winter

[SLUHCVAP2024/0022]
(Saint Lucia)

Date: **Tuesday, 28th October 2025**

Before: **The Hon. Mr. Trevor M. Ward, Justice of Appeal**
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal [Ag.]

Appearances:

Appellant: **Mr. Fidel Michel**

Respondent: **Mrs. Wauneen Louis-Harris**

Issues: **Application for Extension of Time to File Skeleton Arguments**

Type of Order: **N/A**

Result/Order: **IT IS HEREBY ORDERED THAT:**
1. The application for Extension of Time to File Skeleton Arguments filed on 6th June 2025 is granted.

Reason: **The application was not opposed by counsel for the appellant and was granted by the Court.**

Case name: **Alexandra Amorsingh**
(as representative of the estate of Shervon Amorsingh)

v

Germain Denbow

**[SLUHCVAP2024/0007]
(Saint Lucia)**

Date: **Tuesday, 28th October 2025**

Before: **The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal [Ag.]**

Appearances:

Appellant: **Mrs. Maureen John-Xavier and Mrs. Cynthia Combie-Martyr**

Respondent: **Mr. Sahleem Charles**

Issues: **Civil Appeal - Personal Injury - Procedural Irregularities - Whether the judge erred in exercising his discretion when he admitted the viva voce evidence of Constable Kevin Ross on the basis of a witness summons issued without the court's permission less than 21 days before the hearing when no witness statement or witness summary had been filed on his behalf - Rules 29.10, 29.11 and Part 33 of the Civil Procedure Rules 2000 - Prejudice - Whether the judge erred in admitting the pocket book of the police officer which was not previously disclosed pursuant to the order for standard disclosure where no application for an extension of time and relief from sanctions had been filed - Whether there were material inconsistencies in the defendant's pleading and evidence as to how the accident occurred which the judge failed to resolve - Contributory Negligence - Whether the judge failed to recognize as a starting point, the high duty of care that drivers owe to pedestrians, especially in residential areas and at pedestrian crossings**

Type of Order:

N/A

Result/Order:

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Case name:

Adrienne Denise Kearney

v

Michael Leslie Winter

**[SLUHCVAP2024/0022]
(Saint Lucia)**

Date:

Tuesday, 28th October 2025

Before:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Cadie St. Rose-Albertini, Justice of
Appeal [Ag.]**

Appearances:

Appellant: Mr. Fidel Michel

Respondent: Mrs. Wauneen Louis-Harris

Issues:

**Civil Appeal - Beneficial interest - Proceeds of sale -
Appeal against learned trial judge's decision that the
respondent is beneficially entitled to the proceeds of
sale of the property to the exclusion of the appellant -
Whether the curator could in law sustain a claim in
her capacity as curator/receiver in circumstances
where the claimant died during the course of the
proceedings and no application was made or order
granted, appointing a representative of the
deceased's estate to conduct the proceedings – Part
21 of the Civil Procedure Rules 2000 – What effect, if**

any, did the absence of such an order appointing a representative of the deceased estate have on the proceedings after the claimant's death

Type of Order:

Adjournment

Result/Order:

IT IS HEREBY ORDERED THAT:

1. The parties are to file and exchange written submissions on the following issues:
 - a. Whether the curator could in law sustain a claim in her capacity as curator/receiver in circumstances where the claimant died during the course of the proceedings and no application was made or order granted, appointing a representative of the deceased's estate to conduct the proceedings; and
 - b. To the extent that no such order was made appointing a personal representative, what effect, if any, did that have on the proceedings after the claimant's death; on or before 18th November 2025.
2. Thereafter, the Chief Registrar will inform Counsel of the mode for deliberating on the filed submissions.

Reason:

Before the Court was an appeal filed on 12th September 2024 challenging the decision of the learned judge that the respondent is beneficially entitled to the proceeds of sale of the property, to the exclusion of the appellant. Prior to hearing the substantial appeal, the Court noted that the respondent (the claimant below) had died prior to trial but was represented by his Curator/Receiver, Lolita Sergio Winter. The Court noted that no application had been made below appointing a representative of

the deceased's estate to conduct the proceedings. After hearing from counsel for both parties, the Court determined that submissions should be filed on the following issues: (1) Whether the curator could in law sustain a claim in her capacity as curator/receiver in circumstances where the claimant died during the course of the proceedings and no application was made or order granted appointing a representative of the deceased's estate to conduct the proceedings; and (2) To the extent that no such order was made appointing a personal representative, what effect, if any, did that have on the proceedings below, after the claimant's death. The Court subsequently adjourned the substantive appeal pending receipt of those submissions.

Case Name:

Christopher Hunte

v

Peterson Francis

**[SLUHCVAP2025/0012]
(Saint Lucia)**

Date:

Wednesday, 29th October 2025

Before:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Reginald T. A. Armour, Justice of Appeal
[Ag.]
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal [Ag.]**

Appearances:

Applicant/Respondent: Mr. Horace Fraser

Appellant/Respondent: Mr. Leevie Herelle

Issues: Application to strike out grounds 3.4 - 3.17 of the notice of appeal - Whether grounds 3.4 - 3.17 can be considered grounds of appeal - Whether the grounds of appeal 3.4-3.17 are contrary to the rules prescribed at Part 62.5 (5) of the Civil Procedure Rules (Revised Edition) 2023, in that they contain narrative and argument - Exercise of discretion - Whether the Court should exercise its discretion to strike out the grounds of appeal

Type of Order: Oral decision

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application to strike out grounds of appeal 3.4 - 3.17 is granted in part.
2. Grounds of appeal 3.5, 3.6, 3.7, 3.8, 3.10, 3.11, 3.12, 3.13, the last sentence in 3.15, all of 3.16, and the last two sentences in 3.17 are struck out.
3. Costs in the appeal.
4. The appellant is to file an amended notice of appeal compliant with the terms of this order within 7 days of today's date.

Reason: By notice of application filed on 14th July 2025 the applicant moved the Court for the following orders:

1. That the notice of appeal filed on 23rd June 2025 be struck out in its entirety.
2. Alternatively, grounds of appeal numbers 3.4-3.17 be struck out.

At the hearing, learned counsel for the applicant informed the Court that he was withdrawing item 1, that the notice of appeal be struck out in its entirety but was maintaining the application in relation to grounds 3.4-3.17. In summary, the substance of the application was that those grounds violate the prescriptions in rule 62.5(5) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised

Edition) 2023 which prohibits the inclusion of narrative or argument in the grounds of appeal.

The Court heard from counsel for both parties and reviewed the grounds as framed in the notice of appeal. The Court was satisfied that there was some merit to the contentions of counsel for the applicant and made the order striking out the following parts of the notice of appeal: 3.5, 3.6, 3.7, 3.8, 3.10, 3.11, 3.12, 3.13, the last sentence of 3.15, 3.16, and the last 2 sentences of 3.17.

The Court determined that those parts of the notice of appeal were clearly narrative or arguments and that they may later be manifested in skeleton arguments and not in the grounds of appeal. The Court finally ordered that costs of this application shall be costs in the appeal.

Case Name:

Clem Sylvester

v

The King

**[SLUHCRAP2024/0001]
(Saint Lucia)**

Date:

Wednesday, 29th October 2025

Before:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Reginald T. A. Armour, Justice of Appeal
[Ag.]
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal [Ag.]**

Appearances:

Appellant: In person

Respondent: Ms. Kelly Thomson with Mr. Peter Moyston

Issues: Application for an extension of time – Application for leave to appeal – Application for legal aid

Type of Order: Oral decision

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application for an extension of time for leave to appeal the conviction for the offence of rape and gross indecency is granted.
2. Leave to appeal the said conviction is granted.
3. The application for leave to appeal is deemed the notice of appeal.
4. The application for legal aid to prosecute the appeal is granted.
5. The application for the provision of the transcript of proceedings is granted.
6. The Registrar of the High Court is to facilitate the preparation and service of the same on the parties, and the transcripts are to be provided to the appellant at no cost.
7. Thereafter, the appeal shall proceed in accordance with the relevant provisions governing criminal appeals.

Reason: Before the Court was an application filed by the applicant on 19th January 2024 seeking (1) an extension of time to apply for leave to appeal his convictions for rape and gross indecency, (2) leave to appeal the said convictions, (3) the grant of legal aid, and (4) the provision of the transcript of proceedings. The respondent has properly indicated that it has no objection to any of these applications. The applicant explained the reasons for the delay in filing his notice of appeal, and the Court noted that the delay, being six months, cannot be described as inordinate.

The Court, being cognizant of Rule 9 of the Eastern Caribbean Supreme Court of Appeal Rules, Cap. 336

which provides that the Court may enlarge or abridge the time appointed by the Rules, or fixed by an order, determined that the application for an extension of time should be granted in the circumstances.

The Court also noted section 55(c) of the Eastern Caribbean Supreme Court Act, Cap 2.01 which empowers the Court of Appeal to assign legal aid to an appellant. The appellant indicated in his application that he is a person of impecunious circumstances and is unable to fund legal representation without the assistance of the court. The Court therefore granted the application to provide the applicant with legal aid and to waive the transcript fees to prosecute his appeal.

Case Name:

**[1] Yann Gustave
[2] Felix Deterville**

v

The Attorney General of Saint Lucia

**[SLUHCVAP2025/0003]
(Saint Lucia)**

Date:

Wednesday, 29th October 2025

Before:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Reginald T. A. Armour, Justice of Appeal
[Ag.]
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal [Ag.]**

Appearances:

Appellants:

Mrs. Wauneen Louis-Harris

Respondent:

Mr. Seryozha Cenac and Mrs. Rochelle John-Charles

Issues:

Civil Appeal - Constitutional law - Appeal against learned judge's finding that there was no need for a

referendum to be held before the Constitution was amended to replace Saint Lucia's final appellate court from the Judicial Committee of the Privy Council to the Caribbean Court of Justice - Whether the learned judge erred in adopting the reasoning in the Attorney General's Reference - Questions relating to sections 41(2), 41(7), 107 and 108 of the Saint Lucia Constitution Order 1978 *SLUHCVP2012/0018 (delivered on 24th May 2013, unreported)* - Whether the learned judge erred in concluding that section 41(7) (a) of the Constitution is to be read as if the reference to section 107 is deleted and replaced with section 108 of the Constitution of Saint Lucia - Whether the learned trial judge erred in law in failing to find and declare that the Constitution of Saint Lucia (Amendment) Act No. 2 of 2023 was unconstitutional, null and void and of no effect - Whether the learned trial judge erred in failing to conclude and declare that the Caribbean Court of Justice (Agreement) Act (Commencement) Order Statutory Instrument No. 85 of 2023 were null and void and of no effect - Whether the learned judge erred in failing to find that the cumulative effect of the three legislative enactments undermined the protection accorded to Saint Lucians by entrenched provisions of the Constitution and accordingly a referendum was required to enact the said legislative enactments which operated to amend entrenched provisions of the Constitution of Saint Lucia, and declare the legislative enactments to be null and void and of no effect

Type of Order:

N/A

Result/Order:

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Reason:

N/A

Case Name:

West Indies Petroleum (Saint Lucia) Limited

v

1. Courtney Wilkinson
2. John Levy

**[SLUHCMAP2024/0004]
(SAINT LUCIA)**

Date: Thursday, 30th October 2025

Coram: The Hon. Mde. Esco Henry, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]
The Hon. Mde. V. Georgis Taylor-Alexander, Justice of Appeal [Ag.]

Appearances:

Appellant: Mrs. Georgia Gibson-Henlin KC with her Mrs. Diana Thomas Hunte

Respondents: Ms. Renee T. St. Rose KC with her Ms. Marie-Ange Symmonds

Issues: Interlocutory appeal - Appeal against order that a stay shall remain in effect against the appellant - Balance of harm test - Whether the learned judge erred in law and in fact in holding that the balance of harm favours maintaining the stay against the applicant, thereby keeping the status quo in effect until further order of the Court - Breach of confidentiality - Whether the learned judge erred by failing to consider that proceedings in Jamaica and Saint Lucia involved allegations of the respondents' breach of confidentiality through the misuse of the applicant's confidential information to establish competing businesses, leading to a breakdown of trust and confidence between the parties - Whether the learned judge erred in law and in fact by failing to consider that the relief sought by the respondents in Claim No. SLUHCM2022/0001 was the winding up of the appellant - Whether the learned judge failed to have regard to the fact that the respondents' stated and primary purpose for seeking the Stay Order was dissatisfaction with the valuation of the appellant's

business, rather than any genuine intention to remain in the commercial relationship - Whether the learned judge erred by finding that the claimants had good arguable grounds to seek revocation of the consent order, notwithstanding her own finding that the issues should properly be addressed at the hearing of the application to strike out the claim - Whether the learned judge erred in law and in fact in holding that the claimants had a good arguable case for revocation of the consent order - Whether the learned judge failed to consider that the claimants could not identify when the alleged representations were made, having been uninvolved in the operations of the applicant and its subsidiaries since 2021 and having had no communication with each other - Whether the learned judge erred by failing to determine at the hearing of the application whether damages would be an adequate remedy - Whether the learned judge failed to consider that the respondents' stated reason for seeking the Stay Order was not to remain shareholders of the appellant, but to obtain a higher price for their shares - Whether the learned judge failed to consider that the relationship between the respondents in this Court and the defendants in the court below has broken down irretrievably

Type of Order:

N/A

Result/Order:

IT IS HEREBY ORDERED THAT:

Judgment reserved.