

THE EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

ANGUILLA
VIDEOCONFERENCE
MONDAY, 9th FEBRUARY & THURSDAY, 12th FEBRUARY 2026

JUDGMENTS

Case Name: Golden Meditech Stem Cells (BVI) Company Limited
v
[1] Blue Ocean Creation Investment Hong Kong Limited
[2] Blue Ocean Structure Investment Company Limited

[BVIHCMAP2023/0022]
Territory of the Virgin Islands

Date: Thursday, 12th February 2026

Coram for delivery: Her Ladyship, The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
Her Ladyship, The Hon. Mde. Esco Henry, Justice of Appeal
Her Ladyship, The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal

Appearances:

Appellant/ Respondent:	Mr. John Carrington, K.C with him Ms. Reisa Singh
Respondents/ Applicants:	Mr. Edward Davies, K.C with him Mrs. Nadine Whyte Laing

Issues: Application for conditional leave to appeal to His Majesty in Council – Appeal against interlocutory decision of the Court of Appeal – Adducing fresh evidence – Summary judgment - Section 3(2)(a) of The Virgin Islands (Appeal to Privy Council) Order

1967 – Matter of great general importance – Whether the intended appeal raises a question that by reason of its great general or public importance or otherwise, ought to be submitted to His Majesty in Council – Whether there is an issue of law which requires some definitive guidance from His Majesty in Council with regard to the applicable principles in relation to the first condition in Ladd v Marshall – Whether there are conflicting decisions of the Court of Appeal in relation to this issue that warrant guidance from the Privy Council – Agency and attribution – Alter ego principle – Whether new category of agency created – Whether there is an issue of great general or public importance – Stay of execution – Whether a stay of execution should be granted pending the hearing of the proposed appeal to the Privy Council

**Results/
Orders:**

IT IS HEREBY ORDERED THAT:

- 1. The application for Leave to Appeal to His Majesty in Council the Court of Appeal's decision in relation to the first condition of the Ladd v Marshall principles is granted upon the following conditions:**
 - a. the applicants within 90 days of the date hereof do enter into good and sufficient security in the sum of five hundred pounds sterling for the due prosecution of the appeal, such security to consist of a deposit of the said amount at the court office;**
 - a. within 90 days of the date hereof, the applicants take the necessary steps for the purposes of procuring the preparation of the records, the settling of such records with the solicitors for the respondent to this application, and the certification of the record by the Registrar of the Court of Appeal;**
 - a. the record shall be prepared in accordance with rules 27 of the Judicial Committee (Appellate Jurisdiction) Rules Order 2024 (SI2024/997) and Practice Direction 2024 5.3 to 5.8; and shall be transmitted to the Registrar of the Judicial Committee of the Privy**

Council without delay where final permission to appeal has been granted.

- 2. The applicant shall make an application to the Court for final permission to appeal to His Majesty in Council, supported by the certificate of the Registrar that the security for costs ordered herein has been given within the time prescribed by this Order to the satisfaction of the Registrar.**
- 3. The application for leave to appeal to His Majesty in Council in relation to the Summary Decision is dismissed.**
- 4. The application for a stay of execution is dismissed.**
- 5. Costs of the application for leave to appeal shall be costs in the appeal to His Majesty in Council.**

Reasons:

- 1. Appeals to the Privy Council are governed by section 3(2)(a) of the Virgin Islands (Appeals to the Privy Council) Order 1967. It vests a discretion in the Court to grant conditional leave to appeal to the Privy Council on one of two bases. The first is where the Court is of the opinion that the question involved in the appeal is one that by reason of its great general or public importance ought to be submitted to His Majesty in Council. It is understood that a question of ‘great general or public importance’ arises when there is a significant legal issue at stake, an unsettled constitutional matter, a disputed area of law, or a question whose resolution could have serious or far-reaching effects. A principle is considered “unsettled” if even after being established by the Court, differing opinions or conflicting judgments exist, or genuine uncertainty remains. The second ground on which this Court may exercise its discretion to grant conditional leave to appeal is where the matter, though not of great general or public importance, ought otherwise to be submitted to His Majesty in Council. The term “or otherwise” covers situations where a case does not qualify as one of great public importance but requires clarification and some definitive statement from the apex court. In both circumstances, the Court should strive for**

consistency in applying the test for conditional leave so that it aligns with current practice and that of other comparable courts, recognizing the significance of invoking the jurisdiction of the highest appellate court.

Martinus Francois v The Attorney General Civil Appeal No. 37 of 2003 (delivered 27th June 2004, unreported) followed; Renaissance Ventures Ltd et al v Comodo Holdings Ltd BVIHCMAP2018/0005 (delivered 8th October 2018, unreported) followed; Multibank FX International Corporation v Von De Heydt Invest S.A. BVIHCVAP2022/0008; BVIHCVAP2021/0009; BVIHCMAP2022/0032 (delivered 7th July 2023, unreported) followed; Pacific Wire & Cable Company Limited v Texas Management Limited et al BVIHCVAP2006/0019 (delivered 6th October 2008, unreported) followed.

2. In **Ladd v Marshall**, Denning LJ established 3 conditions that the Court must consider for granting an application for admitting fresh evidence on appeal: (1) the evidence could not have been obtained with reasonable diligence for use at trial; (2) it must be such that, if given, it would probably have an important influence on the result of the case, though it need not be decisive; and (3) it must be apparently credible, though it need not be incontrovertible. The question the applicants seek clarification from the Privy Council on is whether the first condition can be satisfied by evidence that did not exist at the time of trial. Conflicting decisions from this Court have emerged. In **Staray Capital Limited v Cha Yang and Adam Bilzerian v Weiner**, the Court admitted fresh evidence that came into existence after the trial, suggesting that the first limb extended to evidence that came into existence post-trial. However, in **WWRT v Carosan Trading Limited**, the Court rejected this approach, holding that fresh evidence must have existed at the time of trial, even if it could not have been obtained, and distinguished **Staray Capital** on the basis that the underlying information contained in the evidence existed at the time of trial. Dissatisfied with that decision, **WWRT** sought conditional leave to appeal to the Privy Council. In a judgment delivered on 11th May 2023, the Court of Appeal, recognizing this conflict, granted leave to seek clarification on adducing evidence that did not

exist at the time of trial. The Court accepted that the issue raised a question of great general or public importance. The conflict in the aforementioned appeals, and indeed the leave to appeal decision in WWRT provides a clear basis for finding that the question involved in the present appeal is one of great general or public importance and as such a grant of conditional leave to apply to His Majesty in Council concerning the first Ladd v Marshall condition is appropriate.

Ladd v Marshall [1954] 1 WLR 1489 applied; Staray Capital Limited and another v Cha Yang BVIHCMAP2013/0009 (delivered 14th July 2014, unreported) considered; Adam Bilzerian v Gerald Lou Weiner et al SKBHCVAP2019/0028 (delivered 21st July 2020, unreported) considered; WWRT Limited v Carosan Trading Limited (BVIHCMAP2022/0002 (delivered 20th July 2022, unreported) considered; Lam Wo Ping and another v Chen Jian Yun and another BVIHCMAP2023/0006 (delivered 20th August 2024, unreported) considered.

3. The Court of Appeal in its 9th July 2025 judgment in this matter found that the lower court judge was wrong to grant summary judgment on the actual and apparent authority issues because there were genuine triable issues of fact that required a full trial to resolve. The Court concluded that the issues of the debt, the execution of documents, and the authority of the individuals were all closely intertwined. Since the judge had already found the debt issue to be triable, it was an error to summarily dismiss the authority issue, as the two are linked in the overall factual matrix of the fraud allegations. The Court of Appeal did not thereby create any new concept that ignores normal principles of agency, nor does it amount to a piercing of the corporate veil. The Court of Appeal merely determined that there were triable issues regarding Mr. Xu's actual or apparent authority to execute the documents on behalf of the Ying Peng Fund and the applicants.
4. The application for a stay of execution of the orders of the Court of Appeal was made on the basis that if a stay is not granted, the appeal to His Majesty in Council would risk being rendered

nugatory and the parties would incur substantial costs and inconvenience in preparing for the trial in the commercial court, when it may turn out that a trial is unnecessary. The applicants have met the threshold for leave to appeal in relation to the Fresh Evidence Decision but not in relation to the Summary Judgment Decision. The grant for leave to appeal the Fresh Evidence Decision is on the basis that this Court could benefit from the guidance of the Privy Council on the scope of the first condition of Ladd v Marshall. However, the Court of Appeal also found that the second condition of Ladd v Marshall had not been satisfied in this case. The Notice of Motion does not seek leave to appeal this aspect of the Fresh Evidence Decision. Accordingly, if a stay is not granted in relation to the Order dismissing the Fresh Evidence Application, this will not render the appeal nugatory in the circumstances of this case. Having regard to all the circumstances; considering that a stay is the exception rather than the general rule; that the party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted; weighing the balance of harm by considering the likely prejudice to the successful party; and considering that, for the reasons previously stated, the applicants have not shown strong grounds of appeal or a strong likelihood that the appeal will succeed in relation to the Summary Judgment Decision, the applicants have not met the threshold for a stay and the application is accordingly refused.

C-Mobile Services Limited v Huawei Technologies Co. Limited BVIHCMAP2014/0017 (delivered 2nd October 2014, unreported) applied.

Case Name:

[1] Tetiana Ieremeieva

[2] Roman Yeremeiev

v

Estra Corporate Services (BVI) Limited

[BVIHCMAP2024/0017]

Territory of the Virgin Islands

Date: **Thursday, 12th February 2026**

Coram for delivery: **Her Ladyship, The Hon. Mde. Vicki Ann Ellis, Justice of Appeal**
Her Ladyship, The Hon. Mde. Esco Henry, Justice of Appeal
Her Ladyship, The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal

Appearances:

Appellants: **Ms. Jennifer Jenkins**
Respondent: **Mr. James Walmsley with Ms. Kimberly Crabbe-Adams**

Issues: **Interlocutory Appeal – Commercial Law – Rule 26.3(1)(b) of Civil Procedure Rules 2000 – Case management powers under rule 26.3 of Civil Procedure Rules 2000 – Striking out of statement of claim – Reasonable grounds for bringing the claim – Whether pleadings disclosed reasonable grounds for bringing claims – Trust – Constructive trust – Trustee de son tort – Sham trust – Impact of forgery documents – Assumption of fiduciary responsibility – Institutional and remedial trust – Virgin Islands Special Trusts Act – Trust Deed set aside – Equitable mistake – Ex tunc effect – Exercise of judicial discretion – Whether the learned judge erred in law by concluding that the appellants’ statements of claim disclosed no reasonable grounds for bringing the claims against the respondent – Whether the learned judge was correct in his treatment of the ex tunc effect of the order setting aside the Deed of Amendment**

Results
/Orders:

IT WAS HEREBY ORDERED THAT:

- 1. The appeal is allowed in part.**
- 2. The findings of the learned judge as it relates to the striking out of those parts of the appellants’ case founded on the contention that Estera assumed liability as a trustee de**

son tort (the trustee de son tort limb of the appeal) are set aside.

3. The findings of the learned judge as it relates to the ex tunc limb of the appeal are affirmed.
4. The counter notice is dismissed.
5. There is no order as to costs.

Reasons:

1. The court, in the exercise of its case management powers under CPR 26.3(1)(b), has a discretion to strike out a statement of claim or any part thereof where it is shown that the statement of claim discloses no reasonable ground for bringing the claim. It is settled that an appellate court will not lightly interfere with the exercise of a discretionary case management power. In order to successfully challenge the exercise of the court's discretion, the appellants must therefore discharge the heavy burden of showing that the learned judge was wrong in the exercise of his discretion to strike out the appellants' claims in the sense that the decision to strike out the claims was plainly wrong or falls outside the generous ambit within which reasonable disagreement is possible.

Rules 1.2 and 26.3(1)(b) of the Civil Procedure Rules 2000 applied; Michel Dufour and others v Helenair Corporation Limited and others (1996) 52 WIR 188 applied; Ian Hope-Ross v Martin Dinning AXAHC VAP2020/0005 & 0006 (delivered 30th April 2021, unreported) applied; Ian Peters v Robert George Spencer ANUHC VAP2009/0016 (delivered 22nd December 2009, unreported) considered.

2. In this case, the appellants alleged inter alia, that Estera knowingly accepted appointment, exercised control over trust assets, and acted in a trustee-like capacity in circumstances said to involve fabrication or fraud. The appellants' case is (at least in part) premised on the basis that the R&S Trust is invalid. If that is so, then there is no extant operative other than a constructive trust which would have arisen when Estera purported to act as trustee (when it would have had no authority to do so) and become an intermeddler. The appellants' case is that these allegations, if established, were capable in law of supporting

liability as a trustee de son tort. The learned judge determined that in order to advance a reasonably arguable case, the appellants would have had to show that Estera accepted or assumed the role of trustee by transactions not impeached by the appellants, independently of a preceding any breach of duty. He concluded that they could not because they impeach the very basis of the respondent's purported trusteeship.

3. There is sufficient conflation of all categories of institutional constructive trusts (trustee de son tort, quasi trustees and fiduciary duty trusts) such as to leave open questions as to the circumstances where a trusteeship de son tort can be imposed. A review of the dicta afforded by the English apex judgment in *Mitchell v Al Jaber* gives much force to the appellants' argument that this area of the law remains dynamic and that the judge erred in principle when he determined no reasonably arguable case could be advanced on the appellants' pleaded case. This critical judgment makes plain that the trustee de son tort liability is not based on a narrow, technical construction of a 'settled' doctrine. Rather it is a developing area of the law based on the arrogation of fiduciary power over property over which the trustee would have assumed custody and administration. The learned judge therefore erred in concluding that the trustee de son tort claims were doomed to fail as a matter of law.

Mara v Browne [1896] 1 Ch 199 considered; *Barnes v Addy* (1874) LR 9 Ch App 244 considered; *Dubai Aluminium Co Ltd v Salaam* [2003] 2 AC 366 considered; *Paragon Finance PLC v DB Thakerar & Co* [1999] 1 All ER 400 considered; *Carl Zeiss Stiftung v Herbert Smith & Co and another (No. 2)* [1969] 2 Ch. 276 considered; *Selangor United Rubber Estates Ltd v Cradock (a bankrupt) and others (No. 3)* [1968] 1 WLR 1555 considered; *High Commissioner for Pakistan in the United Kingdom v Prince Muffakham Jah* [2019] EWHC 2551 (Ch) considered; *Mitchell v Sheikh Mohamed Bin Issa Al Jaber (No 2)* [2025] UKSC 43 considered.

4. While at common law a claim can be struck out if an exclusion clause renders the claim legally

untenable, there are two issues which militate against this in the present case. Firstly, it remains to be seen whether the appellants can persuade the trial court that on the construction and the scope of the exoneration/exclusion clause, the alleged conduct amounting to breach of trust at paragraphs 106 and 171A to 176 of the amended statement of claim, is not captured by the said clause. Secondly, in light of the manner in which the appellants' case has been advanced, it is indeed relevant that there is some doubt as to whether trustee exemption clauses in a trust instrument in favour of a trustee are to be construed so as to cover a trustee de son tort. Moreover, the application of the doctrine of trustee de son tort does not depend on the intermeddler having title to the trust property but it is sufficient that the trustee has command or control over the relevant assets. The appellants' amended statement of claim sets out in different paragraphs, at least in part, their case that Estera assumed command and control of the property. Wholistically, the arguments advanced in Estera's counter notice of appeal do not disgorge the appellants' success on the trustee de son tort limb of the appeal and could not be said to reach the threshold which would entitle a judge to exercise his discretion to strike out the claim.

Pinewood Technologies Asia Pacific Ltd v Pinewood Technologies PLC [2023] EWHC 2506 considered; Smith v Chief Constable of Sussex [2008] EWCA Civ 39 considered; Mitchell v Sheikh Mohamed Bin Issa Al Jaber (No 2) [2025] UKSC 43 considered.

5. The proper approach to the interpretation of a court order is, broadly, to apply the principles of statutory interpretation. Accordingly, the common starting point is the natural and ordinary meaning of the words used in light of the syntax, context and background in which those words were used. The words of the 2018 Order are therefore to be given their natural and ordinary meaning and are to be construed in view of these principles. In construing the 2018 Order, the learned judge had before him the terms of the actual order, the transcript of proceedings from the 2nd May 2018 hearing and the legal submissions of both sides. It is clear

that the learned judge considered the actual natural and ordinary meaning of the wording employed in the recitals of the 2018 Order and determined as a matter of law, that not only was a false understanding that the beneficiaries to the Trust knew and approved of its conversion to a VISTA trust but also that the law recognises Estera's false belief or assumption about the beneficiaries' knowledge and approval as a mistake.

R v Evans [2004] EWCA Crim. 3102 applied; Feld v The Secretary of State for Business, Innovation and Skills [2014] EWHC 1383 (Ch) applied; Sans Souci Limited v VRL Services Limited [2012] UKPC 6 applied.

6. While the strike out remedy is limited to plain and obvious cases where there was no point in having a trial, it may also obtain where the judge is satisfied that striking out will obviate the necessity for a trial or will substantially reduce the burden of preparing for trial or the burden of the trial itself. Having come to the conclusion which he did on the operative mistake issue, the learned judge then considered the appellants' pleaded case and determined that the case could not be maintained. Further, the claim could not be cured by amendment because Estera's putative trusteeship was either governed by VISTA or it was not, and the answer to that question turns on the ex-tunc point which is a point of law. The appellants failed to demonstrate that setting aside a deed on the ground of mistake does not, necessarily, as a matter of law operate ex tunc. In any event, the critical question is whether the Deed of Amendment is to be treated as having existed for the purposes of the imposition of duties under VISTA. From all accounts, the whole point of the setting aside was to undo the conversion of the Trust to a VISTA trust. Accordingly, if the conversion to a VISTA trust is to be treated as not having been effective then it stands to reason that: i) the R&S Trust is to be treated as having been a VISTA trust; and ii) Estera cannot be treated as having been under the duties of section of VISTA.

Pitt v Holt [2013] 2 AC 108 considered; Allan v Rea Brothers Trustees Ltd. [2002] EWCA Civ 85 distinguished.

APPLICATIONS & APPEALS

Case Name:

Rex

v

Kirkland Spencer

[AXAHCRA2022/004]

Date:

Monday, 9th February 2026

Before:

His Lordship, The Hon. Mr. Trevor M. Ward, Justice of Appeal

Her Ladyship, The Hon. Mde. P. Nicola Byer, Justice of Appeal

His Lordship, The Hon. Mr. Reginald Armour, Justice of Appeal [Ag.]

Appearances:

Applicant:

Ms. Erica L.P. Edwards

Mr. Darshan Ramdhani, KC on behalf of the Anguilla Bar Association

Respondent:

No appearance

Issues:

Application for leave to appeal - Adjournment

Type of Order:

Adjournment/Directions

Result/Order:

[Oral delivery]

IT IS HEREBY ORDERED THAT:

- 1. The joint application of the appellant and the Anguilla Bar Association filed on the 6th February 2026 for the adjournment is granted**

primarily to enable the Court to ascertain the position of the respondent.

2. Leave is granted to the appellant and respondent to file their responses to the submissions of the Anguilla Bar Association on or before 3rd March 2026.
3. The Registrar of the High Court is to serve on the respondent the orders emanating from today's sitting and to furnish proof of service on the respondent within seven (7) days of service.
4. The matter is adjourned to the next sitting of the Court of Appeal for the state of Anguilla in the week commencing the 13th July 2026.

Reasons:

The Court considered the joint application for an adjournment following the Anguilla Bar Association's failure to meet the 30th December deadline, having filed its submissions a month late on 30th January 2026.

This delay rendered the appellant unable to file a response by today's date, 9th February 2026.

Further, upon the Court noting that the respondent has been unrepresented since the order of this Court dated the 28th June 2022 and was absent though served with the notice of hearing for the appeal as evidenced by to be present at today's hearing by way of Return of Service Form filed on the 6th February 2026 the Court granted the adjournment to clarify the respondent's position in relation to participation in the appeal and granted the appellant and respondent leave to file a response to the Association's submissions, if necessary, by 3rd March 2026.

Case Name:

Trevon Belle

v

The Commissioner of Police

[AXAMCRAP2023/0001]

Date: Monday, 9th February 2026

Before: His Lordship, The Hon. Mr. Trevor M. Ward, Justice of Appeal
Her Ladyship, The Hon. Mde. P. Nicola Byer, Justice of Appeal
His Lordship, The Hon. Mr. Reginald Armour, Justice of Appeal [Ag.]

Appearances:

Applicant: Ms. Erica Edwards

Respondent: Mr. D. Michael Bourne

Issues: Application to strike out notice of appeal - Failure of the appellant to attend the status hearing(s) - Appellant's departure from the jurisdiction after filing the notice of appeal- Failure of the appellant to prosecute the appeal

Type of Order: Oral Decision

**Results/
Orders:** IT IS HEREBY ORDERED THAT:

1. The notice of appeal filed on 27th February 2023 is struck out.

Reasons: Upon the Court being satisfied that the appellant has taken no steps in progressing the appeal since the filing of the notice of appeal on the 27th February, 2023, and upon being satisfied upon the affidavit evidence that the appellant departed the jurisdiction of Anguilla on 6th February 2025 and the further affidavit evidence filed on 9th February 2026 showing that the appellant has not returned to the jurisdiction, and bearing in mind that the matter in respect of which this appeal is brought was discontinued by the Attorney General on 31st January 2025, thereby rendering the appeal academic, the appeal is struck out.

Case Name:

Joseph Brice

v

Attorney General

[AXAHCVAP2022/0002]

Date:

Thursday, 12th February 2026

Before:

Her Ladyship, The Hon. Mde. Vicki Ann Ellis, Justice of Appeal

Her Ladyship, The Hon. Mde. Esco Henry, Justice of Appeal

Her Ladyship, The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal

Appearances:

Appellant: In person

Respondent: Theon Tross

Issues:

Application for extension of time to file written submissions - Eastern Caribbean Supreme Court Civil Procedure Rules Revised Edition 2023, Rule 26.1(2)(k) - whether the application was made promptly - whether the length of the delay was substantial - whether the explanation for the delay was reasonable and satisfactory - whether any prejudice would be caused to the respondent if the extension is granted - whether the proposed substantive appeal has a reasonable prospect of success

Type of Order:

Oral Decision

**Results/
Orders:**

IT IS HEREBY ORDERED THAT:

- 1. The application for extension of time to file written submissions is granted.**

2. The written submissions filed on 6th January 2026 are deemed properly filed.
3. No order as to costs.

Reasons:

The Court, having considered the notice of application for extension of time to file submissions and an affidavit in support both filed on 9th January 2026, and having reviewed the draft order and submissions filed on 6th January 2026, and noting that the application was unopposed, was satisfied that the application has been properly made and that the orders sought are appropriate in the circumstances.

Case Name:

Joseph Brice

v

Attorney General

[AXAHCVAP2022/0002]

Date:

Thursday, 12th February 2026

Before:

Her Ladyship, The Hon. Mde. Vicki Ann Ellis, Justice of Appeal

Her Ladyship, The Hon. Mde. Esco Henry, Justice of Appeal

Her Ladyship, The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal

Appearances:

Appellant: In person

Respondent: Theon Tross

Issues:

Motion for conditional leave to appeal to His Majesty in Council - Section 72 of the Anguilla Constitution Order, 1982 ("the Constitution") - Whether appeal is of right under section 72(1)(a) of the Constitution - Whether appeal is of right under

section 72 (1)(c) as against a final decision under section 16 of the Constitution - Whether there is a genuinely disputable issue - Whether questions in appeal concern great general or public importance pursuant to section 72(2) (a) of the Constitution

Type of Order:

Oral Decision with Written Reasons to Follow

Results/Orders:

IT IS HEREBY ORDERED THAT:

- 1. The motion for conditional leave to appeal to His Majesty in Council filed on 9th October 2025 is refused.**
- 2. No order as to cost.**

Reasons:

Before the Court was a motion for conditional leave to appeal to His Majesty in Council, filed on 9th October 2025 and supported by an affidavit filed on 10th October 2025. The application was brought pursuant to section 72(1)(a), (b) and (c) and section 72(2)(a) of the Constitution of Anguilla (“the Constitution”).

However, during the course of the oral hearing, the applicant indicated that he no longer wished to rely on the limb set out in section 72(1)(b) of the Constitution and elected to proceed on the other limbs.

The Court read and considered the aforementioned documents together with the applicant’s skeleton arguments filed on 6th January 2026, the respondent’s skeleton arguments filed on 29th January 2026, the applicant’s speaking notes filed on 9th February 2026, and the applicant’s additional authorities filed on 11th February 2026. The Court also gave due consideration to the oral submissions advanced by the applicant and counsel for the respondent and arrived at a unanimous decision.

The Court was ultimately not satisfied that any of the extant limbs relied upon by the applicant had been established. Accordingly, the application was refused. The Court indicated that written reasons would be set out in a reasoned order to follow.

Case Name:

**[1] Kenneth Millette
[2] Randy Dick**

V

**[1] The Commissioner of Police
[2] The Attorney General of Anguilla**

[AXAHCVAP2025/0001]

Date:

Thursday, 12th February 2026

Before:

**Her Ladyship, The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
Her Ladyship, The Hon. Mde. Esco Henry, Justice of Appeal
Her Ladyship, The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal**

Appearances:

**Appellants: In person
Respondents: Theon Tross**

Issues:

Application for leave to amend record of appeal by inserting affidavits filed in the court below which had been inadvertently omitted - Civil appeal - Declaratory relief - Appeal against Judicial Review decision - Whether the learned judge erred in refusing the relief sought in Judicial Review of the decision of the Royal Anguilla Police Force to exclude the appellants from the group of police officers named as recipients of the King's Coronation Medal and debarring said appellants from participating in the public pinning ceremony - Whether the learned judge erred in fact and in law or otherwise misdirected himself in ruling that the allegations made against the appellants for their alleged actions or lack thereof on 4th January 2024 were significant issues which would properly be the

subject of an investigation by the Professional Standards Department and that the launch of the investigation was valid and was a decision properly taken - Whether the learned judge erred in fact and in law in ruling in effect that the cumulative impact of the numerous breaches of standard evident in the conduct of the alleged investigation was not such as to render the investigation invalid - Whether the learned judge erred in fact and in law in failing to acknowledge that the decision of the police authorities to completely withdraw all charges against the appellants at the tribunal convened to consider said charges was a nullification of any and all allegations against them - Whether the learned judge erred in failing to properly consider that it was appropriate to exercise the discretion of the court in favour of the award of damages to the appellants

Type of Order:

Oral Judgment

Results/Orders:

IT IS HEREBY ORDERED THAT:

1. The record of appeal is amended to include the affidavits of Allin Durand and Beverly Thompson both filed in the court below on 12th July 2024.
2. The notice of appeal filed on 21st January 2025 by the appellants is dismissed with written reasons to follow in a reasoned order.
3. The orders of the learned judge are affirmed.
4. No order is made as to costs.

Reasons:

Prior to hearing the parties on appeal, the Court noted the affidavits of Beverly Thompson and Allin Durand filed on 12th February 2026, and upon hearing counsel for the respondent, noted that the affidavits were filed in the court below on 12th July 2024 and disclosed nothing new in relation to the appeal. These affidavits, however, did not form part of the record of appeal, and the appellants therefore requested leave of the Court to amend the record of appeal to include the affidavits. With no

opposition from the respondent, the Court granted the application.

Before the Court was a notice of appeal by the appellants filed on 21st January 2025 against the judgment of the learned judge dated 15th January 2025 in which he (i) held that the respondent, the Commissioner of Police of the Royal Anguilla Police Force, made a decision to exclude the appellants from the list of awardees forwarded to the Governor to receive a medal to commemorate the accession of King Charles III to the British Throne, (ii) ordered that they receive a medal and (iii) denied the other reliefs claimed including damages and made no order as to costs. The appellants sought an order setting aside the orders of the learned judge and an award of damages and costs.

The Court considered the written and oral submissions of the parties, the notice of appeal, the record of appeal, and the judgment of the learned judge delivered on 15th January 2025 and was satisfied that in all the circumstances of the case the appellants had not made out the grounds of appeal and that in the circumstances the appeal should be dismissed with no order as to costs.