

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

CHAMBER HEARING

TUESDAY 24TH JUNE 2025

MATTERS DEALT WITH ON PAPER

Case Name:

Jenoure Craig

v

The King

**[ANUHCRAP2014/0013]
(Antigua and Barbuda)**

Date:

Tuesday 24th June 2025

Before:

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

On paper:

Applicant:

Mr. Wendel Alexander

Respondent:

Office of the Director of Public Prosecutions

Issues:

Application for leave to appeal conviction and sentence, leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The extension of time application filed on 10th June 2025 is granted.**
- 2. The application for leave to appeal filed on 31st December 2024 is granted and deemed properly filed.**
- 3. The Criminal Form 1- Notice of Application for leave to appeal is deemed to be the notice of appeal.**
- 4. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions and provide**

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

5. The parties shall comply with the practice and procedures prescribed by the Court of Appeal Rules as well as the relevant Practice Directions in advancing this appeal.

Reason:

The Court considered: i. rule 9 of the Eastern Caribbean Supreme Court of Appeal Rules 1968 (“the Court of Appeal Rules”) which provides, inter alia, that the Court may enlarge or abridge the time appointed by these Rules, or fixed by an order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed, or the Court may direct a departure from these Rules in any other way where this is required in the interests of justice; ii. 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) which are the length of the delay; the reasons for delay; the chances of the appeal succeeding if the extension is granted; and the degree of prejudice if the application is granted; iii. 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; iv. the extension of time application is not opposed.

The Court further determined that it is in the interest of justice that the applicant be allowed to present his appeal and that the applicant had met the threshold for the grant of an extension of time and for leave to appeal.

Case Name:

**Clem Sylvester
v
The King**

**[SLUHCRA2024/0001]
(Saint Lucia)**

Date: Tuesday 24th June 2025

Before: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal

On paper:

Applicant: In Person

Respondent: Office of the Director of Public Prosecutions

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

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted an extension of time to comply with the Order of 27th May 2025. The applicant will file and serve the affidavit evidence which makes clear and sets out details of his financial means within 21 days of this Order or by 16th July 2025.
2. The Registrar of the High Court is directed to forthwith provide the applicant with relevant forms and provide any other assistance as may be necessary to ensure that the applicant complies with the order of this Court.
3. The Registrar of the High Court will confirm in writing that the applicant was assisted or provided with forms to complete the affidavit evidence of his means within 7 days of today's date.
4. The application is adjourned for further consideration at the next Chamber Hearing scheduled for 29th July 2025.

Reason: The Court considered: (i) rule 9 of the Eastern Caribbean Supreme Court, Court of Appeal Rules 1968 ("the Court of Appeal Rules") which

provides, inter alia, that the Court may enlarge or abridge the time appointed by these Rules, or fixed by an order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed, or the Court may direct a departure from these Rules in any other way where this is required in the interests of justice; (ii) 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; (iii) that although the applicant's notice of application for leave to appeal against conviction was filed 6 months out of time, it is unlikely that prejudice will be caused to the respondent if the application for an extension of time is granted. (iv) that the applicant is a litigant in person incarcerated at the Bordelais Correctional Facility; (v) the application does not disclose any information which would inform the factors which the court must consider in determining whether to grant an extension of time; (vi) the Extension of time Application is not opposed. The Court determined that the applicant had not met the threshold for the grant of an extension of time and for leave to appeal.

The Court considered that a judge of this Court is empowered under section 46 of the Eastern Caribbean Supreme Court (Saint Lucia) Act Cap. 2.01 of the Laws of Saint Lucia to assign legal aid to an appellant and noted the order of Price Findlay JA dated 29th April, 2025 which directed that the applicant provide affidavit evidence of his financial means which had not been provided as of the date of this chamber hearing.

The Court was of the view that the applicant had not established that he does not have sufficient means to enable him to obtain legal representation

and noted that the office of the Registrar of the High Court in Saint Lucia had represented that no attempts have been made to assist the applicant in accordance with the directions set out in the Order dated 27th May 2025.

Case Name:

**Lincoln Pemberton
v
St. Kitts Nevis Anguilla National Bank
Limited
[SKBHCVAP2025/0004]
(Saint Kitts and Nevis)**

Date:

Tuesday 24th June 2025

Before:

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

On paper:

Applicant:

O’Grenville Browne

Respondent:

No appearance

Issues:

Application for leave to appeal and stay of decision pending appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application filed on 24th April 2025 for leave to appeal and a stay of the decision of Master Yuri Saunders dated 10th April 2025 is granted.**
- 2. Costs of the application shall be in the appeal.**

Reason:

The Court considered i. Rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 which states 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; ii. the application of the principles for the grant of leave to appeal 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 determined that the applicant had met the threshold test for the grant of leave to appeal and also 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 which include the following: 'The first is that the court should take into account all the circumstances of the case. Second, a stay is the exception rather than the general rule. Third, the party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted. Fourth, in exercising its discretion, the court applies what is in effect a balance of harm test in which the likely prejudice to the successful party must be carefully considered. The fifth is that the court should also take into account the prospect of the appeal succeeding, but only where strong grounds of appeal or a strong likelihood the appeal will success is shown (which would usually enable a stay to be granted)'.

Thus, the Court was of the view that taking into consideration the totality of the circumstances, the justice of the application demands that a stay of execution be granted pending the hearing and determination of the appeal.

V
Mauricetine Benjamin
[SKBMCVAP2024/0004]
(Saint Kitts and Nevis)

Date: Tuesday 24th June 2025

Before: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal

On paper:

Appellant/Applicant:	Mr. E. Anthony Ross, KC
Respondent:	No appearance

Issues: Application to amend record of appeal and request for directions

Result / Order: IT IS HEREBY ORDERED THAT:

The Magistrate's court is to file and serve on the appellant a complete record of the proceedings, supplementing what was filed as the Appeal Record on 22nd October 2024 to include: i. Written submissions of the appellant of 16th February 2024 ii. Written reasons for submissions of the appellant of 16th February 2024 iii. All transcripts and orders for hearings on 23rd and/or 24th October 2023, 26th October 2023, 12th January 2024, and 27th May 2024 including what was read into the record on 27th May 2024 on or before 24th July 2025 on or before 24th August 2025.

Reason: The Court noted that the amended affidavit filed on 12th June 2025 claimed that the transcripts of proceedings of 23rd/24th October 2023, 26th October 2023, 12th January 2024, 27th May 2024, and written submissions of the appellant/applicant submitted on 16th February 2024 remains outstanding from the record of appeal and accordingly granted the application for the record to be completed.

Case Name:

**Jonathan Rawlins
v
The Director of Public Prosecutions
[SKBHCRAP2025/0009]
(Saint Kitts and Nevis)**

Date:

Tuesday 24th June 2025

Before:

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

On paper:

Applicant:

In Person

Respondent:

Office of the Director of Legal Prosecutions

Issues:

**Application for leave to appeal against sentence,
legal aid**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The appellant's application for leave to appeal is granted.**
- 2. The notice of application for leave to appeal filed on 24th April 2025 is deemed to be the notice of appeal.**
- 3. The appellant's application for the grant of legal aid is granted.**
- 4. The Registrar of the High Court is directed to assign suitable counsel to assist the appellant in the conduct of hearing of the appeal.**
- 5. The Registrar of the High Court shall furnish counsel with the Record of Appeal including the transcript of proceedings.**
- 6. The Registrar of the High Court shall serve a copy of this order on the appellant and the Office of the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.**

7. The parties shall comply with the practice and procedures prescribed by the Court of Appeal Rules as well as the relevant Practice Directions in advancing this appeal.

Reason:

The Court was of the view that the application for leave to appeal ought to be granted and also considered: i. 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.

Case Name:

Calbert Toney
v
The King
[SVGHCRA2024/0017]
(Saint Vincent & The Grenadines)

Date:

Tuesday 24th June 2025

Before:

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

On paper:

Appellant:

In Person

Respondent:

Office of the Director of Public Prosecutions

Issues:

Application for legal aid

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for legal aid 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 this order.

Reason:

The Court noted the order of Ventose JA of 21st January 2025 in which he 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.

The Court also noted the Chamber hearing Order dated 29th April 2025 of Price-Findlay JA wherein she ordered that: 1. the applicant is granted one final opportunity to provide this Court with evidence that he requires legal representation. 2. the applicant shall provide this Court with medical evidence from the prison doctor regarding his eye condition on or before 15th May 2025. Upon receipt, this Court will reconsider the applicant's application for legal aid.

The Court noted that the applicant had not provided any supporting evidence that he requires legal representation in accordance with the Orders dated 21st January 2025 and 29th April 2025 and accordingly dismissed the application.

Case Name:

**Zakeem Bess
v
The King
[SVGHCRAP2024/0001]
(Saint Vincent & The Grenadines)**

Date:

Tuesday 24th June 2025

Before:

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

On paper:

Applicant:

In Person

Respondent:

Office of the Director of Public Prosecutions

Issues:

Application for legal aid

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The appellant's application for the grant of legal aid is granted.**
- 2. The Registrar of the High Court is directed to assign suitable counsel to assist the appellant in the conduct of hearing of the appeal.**
- 3. The Registrar of the High Court shall furnish counsel with the Record of Appeal including the transcript of proceedings.**
- 4. The Registrar of the High Court shall serve a copy of this order on the appellant and the Office of the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.**

Reason:

The Court considered that: i. 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 of the Laws of Saint Vincent and The Grenadines to assign legal aid to an appellant.

The Court was satisfied that the appellant does not in fact have the means to fund his legal representation and that it appears desirable in the interest of justice that the appellant should have legal aid.

Case Name:

**Harris Walters
v
The Commissioner of Police**

**[BVIMCRAP2025/0002]
(Territory of the Virgin Islands)**

Date:

Tuesday 24th June 2025

Before:

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

On paper:

Applicant:

Mr. Israel Bruce

Respondent:

Office of the Director of Public Prosecutions

Issues:

Application for extension of time to file appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

The Application is dismissed.

Reason:

The Court noted that: i. The Order of the Court dated 27th May 2025 directing that the applicant file a copy of the decision being sought to be appealed and to file and serve affidavit evidence and grounds which inform the factors which a court must take into account in determining whether an extension of time to appeal should be granted would have been served on the applicants via the E-Litigation Portal. ii. The applicant filed the minute of conviction and sentence dated 4th June 2025 but to date no affidavit has been filed addressing the factors which a court must take into account in determining whether an extension of time to appeal should be granted.

The Court determined that i. the application does not (sufficiently or at all) address 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) which are the length of the delay; the reasons for delay; the chances of the appeal succeeding if the extension is granted; and the degree of prejudice if the application is granted; ii. the applicant has failed to disclose what if any efforts have been made to secure the transcript of trial of the proceedings in the court below.