

EASTERN CARIBBEAN SUPREME COURT

COURT OF APPEAL SITTING

ANTIGUA AND BARBUDA

VIDEOCONFERENCE

Monday, 3rd June 2025 – Friday, 6th June 2025

JUDGMENTS

Case name:

WQN

v

XEV

[ANUHCVAP2023/0007]

ANTIGUA AND BARBUDA

Date:

Wednesday, 4th June 2025

**Coram for
delivery:**

**The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]
The Hon. Mde. Cadie St. Rose Albertini, Justice of
Appeal [Ag.]**

Appearances:

Appellant:

Mr. Dexter Theodore KC

Respondent:

Ms. C Debra Burnette

Issue:

**Civil Appeal – Family law – Custody of minor child –
Welfare of the child first and paramount
consideration - Whether judge erred in awarding
sole custody of the minor child to the mother -
Relationship of the parties acrimonious - Whether
appropriate to deprive father of custody - Whether
the learned judge erred in refusing to grant joint
custody on the basis of the Canadian case of Kruger
v Kruger - Access and visitation - Whether the judge
erred in not following the recommendations of the**

court appointed experts in relation to counselling between the parties and the amount of direct contact the appellant should have with the minor child - Whether the judge failed to take into account relevant considerations or took into account irrelevant considerations in determining access and visitation

Result/order:

IT IS HEREBY ORDERED THAT:

- 1. The appeal is dismissed.**
- 2. The learned judge's decision and orders are affirmed.**
- 3. No order as to costs in the court below and on the appeal.**

Reason:

- 1. The scope of appellate review in family cases is narrow. An appellate court's role is generally one of error correction; it is not to retry a case. An appeal is not a litigant's opportunity to get a 'second bite of the cherry', especially in family cases where finality of litigation should be promoted. An appellate court therefore may only intervene where there is a material error, a serious misapprehension of the evidence, or an error in law. Absent an error of law or a palpable and overriding error of fact, deference is vital. Appellate courts must therefore review a trial judge's reasons cautiously and as a whole, bearing in mind the presumption that trial judges know the law.**

Piglowska v Piglowski [1999] 1 WLR 1360 applied; Re H-W (children) [2022] UKSC 17 applied.

- 2. In Antigua and Barbuda, in any dispute relating to a child, the court must have regard to the child's welfare as the first and**

paramount consideration. This principle applies whether the dispute arises in the context of the guardianship, matrimonial causes, child maintenance, wardship or affiliation. However, while the welfare of the child is paramount, it is not exclusive as other considerations may be relevant in assisting in the determination of what is actually for the welfare of the child such as the wishes of the child (where appropriate), the wishes of the parents, the conduct of the parents towards each other and towards the child, maintenance of the family unit, and preserving the status quo. Over the years, this non-exhaustive list of factors has evolved into what is now commonly referred to as the welfare checklist.

Section 3 of the Guardianship of Infants Act, Cap 197 of the Laws of Antigua and Barbuda applied; *Durity v Benjamin* No. 1596 of 1993 (unreported) 30 July 1993, HC, T&T applied.

3. An order for joint custody should not be made unless it is likely to promote the welfare of the child or children in question, and an important matter to be taken into consideration is whether the parents can be expected to co-operate if an order for joint custody is made. Ultimately, each case must be considered on its own set of circumstances. This is especially true in family law cases which are by their very nature, fact-based and discretionary. In the present case, the learned judge had to decide what was best for the minor child, taking into account a number of factors in the welfare checklist which had to be balanced against each other. She considered the evidence of the relationship between the parties and formed the view that

an atmosphere of civility did not exist to allow the parties to co-operate in making the major decisions in respect of the minor child's upbringing. In the final analysis the judge concluded that an order for joint custody was not appropriate and awarded sole custody to the Mother. The learned judge did not err when she found, based on the seriously strained relationship between the parties, that joint custody would not have been the appropriate order to have made. This was an exercise of her discretion and given the totality of the evidence, there was clearly a basis to support that finding. In the instant case, there is nothing to cause the Court to set aside the determination made by the learned judge.

4. As it relates to the Father's contention that the learned judge erred in not following the court-appointed experts who recommended discussions between the parties with the help of a neutral third party, but instead, directed that the parties separately attend an online co-parenting course, the fact that this order prescribes online counselling would not preclude the bilateral meetings which would focus on communication and conflict resolution. The judge's order was clearly informed by the fact the parties did not physically reside in the same jurisdiction and so some electronic online platform would have to be employed. In addition, the judge's order was consistent with the recommendation of the expert Dr. Morgan Campbell who urged that co-parenting sessions should be held with the parties to assist with effective co-parenting strategies focusing on communication, conflict resolution and future planning, so that

healthy communication and both parents' involvement in child's life can be possible. If the precise scope and conduct of the counselling was unclear, it was in any event certainly open to the parties (who are *ad idem* on the need for counselling) to approach the court below for clarification (or specific details) of the order.

5. An expert witness is a person who is qualified by his or her knowledge or experience to give an opinion on a particular issue(s) to a court. However, expert witnesses, however skilled or eminent, cannot usurp the functions of the adjudicator. Their duty is to furnish the judge with the necessary criteria for testing the accuracy of their conclusions, so as to enable the judge to form his or her own independent judgment by the application of these criteria to the facts proved in evidence. The opinion evidence, if sufficiently cogent, becomes a factor for consideration along with all of the other evidence in the case, but the decision is for the judge. However, where a judge departs on the opinions of the experts, reasons for the departure must be given. The error lies in failing to explain why the expert was wrong, not the fact of disagreement in itself. It is incumbent upon a judge to explain his departure, so that the basis of his decision is clear.

Re N-B and others (Children) (Residence: expert evidence) [2002] EWCA Civ 1052 distinguished.

6. When considering a contact order, a court must have regard to the welfare of the child, the conduct of the parents and the wishes of the parents. The welfare of a child usually

dictates that both parents should be able to preserve his natural links with his child. Applying the reasoning in *Re N-B*, it is clear that the learned judge would not be obliged to blindly accept the experts' views as to how contact should be facilitated and arranged. This is especially so when one considers that the experts were not engaged to instruct the court on what contact order is appropriate but rather to provide a clinical assessment on the matters which should be considered in arriving at that determination.

Re O (Contact: Imposition of Conditions) [1995] 2 FLR 124 applied; *Re C (A Child) (Suspension of Contact)* [2011] EWCA Civ 521 applied.

7. In this case, the judge was sensitive to the peculiar factual context of the case which would impact the terms of such a contact order. This included: (1) the fact that the parties resided in different geographical locations; and (2) the lingering impact which the Father's ill-advised unilateral removal of the minor child and the contentious litigation in the United Kingdom would have resulted. While it would be in the minor child's best interest to have direct contact with her father, the factual and historical context of this case could not be ignored. Given the totality of the evidence before her, it is not startling that the judge would have ordered supervised access and would have mandated that the Father surrender his passport during the period of access. The judge clearly embraced the expert's opinion that contact with the minor child would be an evolving process beginning first with supervised visits in Antigua, thereafter, progressing to more flexible

arrangements once trust was restored and the benefits of counselling became evident. There is no basis to disturb that finding.

8. Ultimately, having regard to the totality of the evidence, the judge was led to craft an order which maintained the interim contact/access arrangements (save the direct contact would now be with supervised access). This order would be maintained (without variation) for a period of 12 months during which period the parties would be expected to engage in appropriate co-parenting counselling aimed at restoring healthy communication, rebuilding the trust between the parties and arriving at common ground in regard to conflict resolution and parenting. Thereafter, it would be open to either or both parties to approach the court to vary the terms of the order. There was clearly a range of options available to the judge, all of which are defensible, but in the exercise of her discretion, she chose one that she considered best met her perception of what is needed to fulfil the requirements of this particular case. It cannot be said that the learned judge failed to take into account relevant matters, had regard to irrelevant factors or that she has exceeded the generous ambit of her discretion or that her decision was plainly wrong. At all times, the judge applied the relevant legal principles and remained focused on the child's best interests.
9. It is unusual to order costs in children cases, however where for example, the conduct of a party has been reprehensible, or the party's stance has been beyond the band of what is reasonable costs may be ordered. These proceedings do not fall within the latter

category. Therefore, there will be no order as to costs on the appeal.

Sutton London Borough Council v Davis (No 2) [1994] 1 WLR 1317 applied; Gojkovic v Gojkovic [1992] Fam 40 considered.

Case name:

[1] Intimere Holdings Limited
[2] Hellicorp Investments Limited
v
Katina Papanikolaou
[ANUHCVP2022/0031]
ANTIGUA AND BARBUDA

Date:

Wednesday, 4th June 2025

**Coram for
delivery:**

The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]
The Hon. Mde. Cadie St. Rose Albertini, Justice of Appeal [Ag.]

Appearances:

Appellant:

Mr. Andre Mckenzie

Respondent:

Mr. Richard Evans

Issue:

Commercial Appeal – Inspection of electronic copies of documents and records of the appellant companies - Sections 100(1) and 184B of the BVI Business Companies Act, 2004 - Documents and records to be inspected including unredacted copies of engagement letters entered into by the appellants and their legal advisors – Disclosure of the party funding the appellants and other companies within the corporate group in various litigation and arbitrations – Whether the learned judge erred in law in finding that the scheme of

section 100 of the Business Companies Act did not permit the court to refuse to make an order when satisfied that an applicant was acting for an improper purpose - Whether the learned judge erred as a matter of fact in finding that the respondent was acting for a proper purpose in bringing the application - Whether the learned judge erred as a matter of law in concluding that the application should not be refused on the ground that the respondent was acting for an improper purpose

Result/order:

IT IS HEREBY ORDERED THAT:

- 1. The appeal is dismissed.**
- 2. The respondent shall have her costs on this appeal to be assessed if not agreed within 21 days of today's date.**

Reason:

- 1. Section 100(1) of the Business Companies Act speaks in mandatory terms to the unqualified entitlement of a director of a company to inspect documents and records of that company. Section 100(1) imposes a demanding obligation on a BVI company to allow inspection of the records by a director. Further, a distinction can be drawn between sections 100(1), 100(2) and 100(3). While both section 100(1) and section 100(2) applies, respectively, to a director's entitlement to inspect the company's records and to member's entitlement to inspection, in the case of the member, that entitlement is expressly made subject to the right of the directors to refuse inspection (in whole or in part) of the company's records as listed, which decision may be challenged by the member before the courts. In the case of a director, should this right be refused or not accommodated, the director may seek relief from the court pursuant to the enforcement**

provision in section 184B, which enables the court to grant relief regarding actual or proposed conduct by a company or a director of a company which contravenes the BCA or the memorandum or articles of the company.

Sections 100 and 184B of the BVI Business Companies Act, 2004 Act No. 16 of 2004 of the Laws of the Territory of the Virgin Islands applied.

2. In enacting section 100, the Legislature appreciated that an individual director cannot make his full contribution to the management of the corporate business unless given access to the company's books and records. The Legislature empowered the court to order the inspection of the documents and records of a company to make it clear and incontrovertible that directors would have a right to see and inspect the records in order to perform their fiduciary duty and to obtain a true and fair picture of the state of the company's affairs.

Bowview Overseas Limited and Others v Aleman, Cordero, Galindo and Lee Trust (BVI) Limited BVIHCV2017/0156 (delivered 27th February 2020, unreported) applied.

3. The learned judge did not find that there was no place for the improper purpose test in the context of an application under section 184B to enforce compliance with section 100 of the BCA. The learned judge did in fact consider whether Ms. Papanikolaou was acting for an improper purpose. Although the learned judge did not explicitly say this in his oral decision, this finding is manifest or at minimum implicit in the learned judge's

conclusion having regard to his assessment of the purpose for which the inspection was sought. The learned judge's conclusion was also based on the paucity of evidence in support of the assertions and accusations made by the appellants that Ms. Papanikolaou was acting in concert with Mr. Rabinovich and that she was part of some conspiracy with the Russian State Nuclear Energy Authority.

Oxford Legal Group Ltd v Sibbasbridge Services Plc [2008] EWCA Civ 387 applied.

APPLICATIONS & APPEALS

Case name:

**Ultramarine (Antigua) Limited
v
Sunsail (Antigua) Limited
[ANUHCVP2025/0005]
ANTIGUA AND BARBUDA**

Date:

Monday, 2nd June 2025

Coram:

**The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]**

Appearances:

**Applicant/Respondent: Mr. Ian Clarke KC with him Mr. Septimus Rhudd and
Ms. Loreal Wilson**

Respondent/Appellant: Dr. David Dorsett

Issue:

**Application to add Peter Cochran as 2nd respondent
to the appeal - Whether the respondent (Sunsail**

(Antigua) Ltd) is a proper party to the appeal - Whether Mr. Peter Cochran can be joined to the appeal in a representative capacity - Whether Mr. Peter Cochran can be joined to the appeal where leave to appeal has not been granted to appeal against Mr. Cochran - Part 19 Civil Procedure Rules (Revised Edition) 2023 - The Court's power to substitute a party on appeal - Application to adduce fresh evidence - Whether the affidavit of Andrew Frake should be admitted as evidence in the appeal - Whether the admission of fresh evidence is in furtherance of the overriding objective - Whether the application to adduce fresh evidence has met the criteria as laid down in Kwok Kin Kwok v Yao Juan [2022] UKPC 22

Type of order:

Oral decision/Directions

Result/order:

IT IS HEREBY ORDERED THAT:

- 1. Sunsail (Antigua) Limited is removed as a party to these proceedings and the appeal against Sunsail (Antigua) Limited is dismissed.**
- 2. Costs awarded to Sunsail (Antigua) Limited to be assessed if not agreed within 21 days of today's date.**
- 3. Judgment is reserved with respect to the joinder of Peter Cochran pending receipt of supplemental written submissions of no more than 3 pages which are to be filed and exchanged on or before 17th June 2025 addressing the issue of joinder of Peter Cochran in a representative capacity as to whether or not as a legal concept that is in fact a possibility.**

4. The application to adduce fresh evidence is adjourned pending the determination of the application to add Peter Cochran as a respondent.

Reason:

Before the Court was an application filed on 23rd May 2025 in which the applicant seeks an order that the respondents to the appeal be (1) Sunsail (Antigua) Limited and (2) Peter Cochran of TUI/Travelopia Group Representing inter alia Sunsail (Antigua) Limited, Sunsail (UK) Limited, and First Choice Holidays and Flights Limited. That application was supported by affidavit evidence.

The Court reviewed the submissions of the parties, heard the oral arguments advanced by counsel, the order of Robertson J made on 1st March 2023, the order of Williams J made on 22nd January 2025, the hearing bundle filed in these proceedings as well as the hearing bundle filed before the Court of Appeal in support of the application for leave to appeal on 17th March 2025. The Court was satisfied that Sunsail (Antigua) Limited was not a proper party to this appeal and that the proceedings as it relates to Sunsail (Antigua) Limited should come to an end and be dismissed.

As it relates to the joinder of Peter Cochran of TUI/Travelopia Group Representing inter alia Sunsail (Antigua) Limited, Sunsail (UK) Limited, and First Choice Holidays and Flights Limited, the Court reserved its judgment on this issue pending receipt of supplemental written submissions of no more than 3 pages addressing the issue of whether the joinder of Peter Cochran in a representative capacity is a possibility as a legal concept within 14 days of the date of the hearing.

The Court adjourned the application to adduce fresh evidence pending the hearing and determination of

the application to add Peter Cochran as a respondent.

Case name:	Caribbean Development (Antigua) Limited v Stuart Lockhart [ANUHCVP2023/0010] ANTIGUA AND BARBUDA
Date:	Monday, 2 nd June 2025
Coram:	The Hon. Mde. Vicki Ann Ellis, Justice of Appeal The Hon. Mde. Esco L. Henry, Justice of Appeal The Hon. Mr. Gerard St. C. Farara, Justice of Appeal [Ag.]
Appearances:	
Applicant:	Mr. Hugh Marshall
Respondent:	Dr. David Dorsett
Issue:	Application for extension of time - Personal service on the 1 st respondent of the notice of appeal - Rule 26.1(2)(k) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 (CPR) - Power of the Court to 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 - Rule 62.9(2) of the CPR - Service of the notice of appeal within 14 days after the notice has been filed
Type order:	Oral decision

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for extension of time is withdrawn and dismissed.**
- 2. No order as to costs.**

Reason:

Before the Court was an application filed on 29th May 2025 seeking an extension of time to serve the notice of appeal filed on 27th May 2025. Also before the Court was an application for an adjournment of the hearing of the substantive appeal filed on 30th May 2025. The Court, having considered the applications and having considered the evidence filed in support of the applications and having heard counsel in their oral submissions before the Court, determined that (1) the application for the adjournment sets out both grounds for the adjournment and the application is unopposed and therefore should be granted in the circumstances and (2) the application for the extension of time was wholly unwarranted as service of the notice of appeal was effectively done via the electronic portal filing in 2024.

Case name:

**Ultramarine (Antigua) Limited
v
Sunsail (Antigua) Limited
[ANUHCVP2025/0005]
ANTIGUA AND BARBUDA**

Date:

Monday, 2nd June 2025

Coram:

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

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

Appearances:

Appellant: Dr. David Dorsett

**Respondent: Mr. Ian Clarke KC with him Mr. Septimus Rhudd and
Ms. Loreal Wilson**

Issue: Interlocutory appeal

Type of order: Adjournment

Result/order: IT IS HEREBY ORDERED THAT:

- 1. The appeal is adjourned pending the determination of the application to add Peter Cochran as a respondent.**

Reason: Before the Court was an application filed on 23rd May 2025 in which the applicant seeks an order that the respondents to the appeal be (1) Sunsail (Antigua) Limited and (2) Peter Cochran of TUI/Travelopia Group (Representing inter alia Sunsail (Antigua) Limited, Sunsail (UK) Limited, and First Choice Holidays and Flights Limited. That application was supported by affidavit evidence.

The Court reviewed the submissions of the parties, heard the oral arguments advanced by counsel, the order of Robertson J made on 1st March 2023, the order of Williams J made on 22nd January 2025, the hearing bundle filed in these proceedings as well as the hearing bundle filed before the Court of Appeal

in support of the application for leave to appeal on 17th March 2025. The Court was therefore satisfied that Sunsail (Antigua) Limited was not a proper party to this appeal and that the proceedings as it relates to Sunsail (Antigua) Limited should come to an end and be dismissed.

As it relates to the joinder of Peter Cochran of TUI/Travelopia Group (Representing inter alia Sunsail (Antigua) Limited, Sunsail (UK) Limited, and First Choice Holidays and Flights Limited the court reserved its judgment on this issue pending receipt of supplemental written submissions of no more than 3 pages within 14 days of the date of the hearing addressing the issue of whether the joinder of Peter Cochran in a representative capacity is a possibility as a legal concept. Therefore, the Court adjourned the hearing of the substantive appeal pending the determination of this application.

APPLICATIONS

Case name:

Debby Looby

v

**Talia DaCosta
[ANUHCVP2024/0036]**

ANTIGUA AND BARBUDA

Date:

Tuesday, 3rd June 2025

Coram:

**The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Cadie St. Rose Albertini, Justice of Appeal [Ag.]
The Hon. Mr. Reginald T.A. Armour, Justice of Appeal [Ag.]**

Appearances:

Appellant/Respondent: In person

Respondent/Applicant: Ms. Samantha Marshall

Issue: Application to strike out appeal - Application test - Whether the order being appealed was interlocutory or final - Whether appellant was required to obtain leave to appeal

Type of order: Oral Decision

Result/order: IT IS HEREBY ORDERED THAT:

1. The notice of appeal filed on 17th December 2024, having been filed without leave being granted to file the same, and being against an interlocutory order, is deemed a nullity and there is therefore no pending appeal before the Court.
2. For the avoidance of doubt, the notice of appeal filed on 17th December 2024, is struck out.
3. The respondent/applicant shall have the costs of the application to be assessed if not agreed within 21 days.

Reasons:

This was a notice of application filed on the 16th January 2025 by the respondent/applicant for orders that: 1.) the notice of appeal filed by the intended appellant/respondent on 17th December 2024 against the order of the learned trial judge, dated 22nd October 2024 be struck out as a nullity pursuant to Civil Procedure Rules Revised Edition (2023) rule 26.3(1) being an interlocutory appeal and no leave

having been sought and obtained to file the appeal; 2.) that costs of the application be awarded to the applicant; and 3.) such further or other relief that the Court may deem fit.

The application to strike out the notice of appeal was supported by affidavit filed on the 7th February 2025. The principal grounds of the application were that: 1.) pursuant to CPR 62.6(b) (sic) notice of appeal must be filed at the appropriate court office in an interlocutory appeal, where leave is required, within 21 days of the date when such leave was granted; 2.) the appellant has failed to seek the leave of the Court pursuant to CPR 62.2; 3.) the applicant is wrongfully named as a party within the said notice of appeal, as the applicant at all times acted within a professional capacity and had no personal interest in the said matter; and 4.) in addition to not being properly before this Court and out of time, the appeal is without merit and vexatious.

The order of the learned judge arose out of an application filed on 28th August 2024, by which the respondent/applicant applied for an order removing her as a party to the proceedings initiated by the intendant appellant/respondent against six defendants, including the respondent/applicant, and the resulting order of the learned judge striking out the respondent/applicant as a party to the proceedings, and awarding costs of \$250.00 to the respondent/applicant's legal practitioner.

The Court considered the application to strike out the appeal, the affidavit in support, written skeleton arguments and submissions filed on 28th April 2025 by the respondent/applicant, the skeleton arguments of the intended appellant/respondent filed on 9th May 2025, the affidavit of opposition and the amended affidavit in opposition filed by the

intended appellant/respondent respectively on 28th January 2025 and 12th May 2025.

The Court also examined and looked at section 31(2) of the Eastern Caribbean Supreme Court Act Chapter 143 of the Laws of Antigua and Barbuda, CPR 26.3(1)(a), CPR 62.1(3), CPR 62.2(1) and the test outlined in *Othneil Sylvester v Satrohan Singh* Civil Appeal No. 10 of 1992 – St. Vincent and the Grenadines (delivered 18th September 1995), which explains how the court determines if a court order is interlocutory or final.

The Court noted that the combined effect of section 31(2) of the Supreme Court Act, CPR rule 62.2(1) and 62.1(3) is that a litigant who desires to appeal from an interlocutory order made by a judge of the High Court must first obtain leave to appeal either from the lower court or from the Court of Appeal; that the test for determining whether an order is final or interlocutory is set out in CPR rule 62.1(3) and is referred to as the application test; that in the case of *Othneil Sylvester v Satrohan Singh*, this Court explained: “an interlocutory order is one that is made on an application which would not necessarily bring an end to the proceedings, whichever way the decision on it is made”. This test has been applied numerous times by this Court, including in *Antigua Commercial Bank v Louise Martin* ANUHCVP2007/0022 (delivered 15th April 2008, unreported) and *Jn. Marie and Sons Ltd. and another v Jamie St. Louis* SLUHCVP2006/0014 (delivered 20th February 2007, unreported).

Applying that test to the impugned order of the learned trial judge, the Court was satisfied that the order removing the respondent/applicant as a party to the proceedings in the court below would not have brought those proceedings to an end. If the order had not been made, the proceedings would have continued as between the parties. Accordingly,

the Court determined that the order of the learned judge dated 22nd October 2024 is an interlocutory order and that leave of the court would be required to lodge and prosecute an appeal against that order. The intended appellant accepted that she has made no such application to the High Court or to the Court of Appeal. It followed that the notice of appeal filed of 17th December 2024 is a nullity and must be struck out.

It was therefore ordered that the notice of appeal filed on 17th December 2024, having been filed without leave being granted to file the same and being against an interlocutory order is deemed a nullity and struck out. Costs of the application were awarded to the respondent/applicant, to be assessed if not agreed within 21 days.

Case name:

**Akeem Benjamin
Mark Mansoor
Martin Mansoor
v
Novella Phillip
Wayne Phillip
[ANUHCVP2023/0014]
ANTIGUA AND BARBUDA**

Date:

Tuesday, 3rd June 2025

Coram:

**The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Cadie St. Rose Albertini, Justice of Appeal [Ag.]
The Hon. Mr. Reginald T.A. Armour, Justice of Appeal [Ag.]**

Appearances:

Appellants:

Ms. C. Debra Burnette with her Ms. Mandi A. Thomas

Respondents: Mr. Kendrickson Kentish KC with him Ms. Kathleen Bennett

Issue: Civil appeal - Appeal against order for liability in negligence resulting in the death of Oniqua Phillip - Whether the learned judge erred in finding that a claim was made on behalf of the estate of Oniqua Phillip, when in fact the claim was brought solely by the Claimants as Dependents under the Fatal Accidents Act, Cap. 166 - Whether the learned judge erred in her evaluation of the facts of the case - Whether the learned judge's decision is against the weight of the evidence - Whether the learned judge erred in applying only 15% contributory negligence to the deceased, despite the appellant's contention that the evidence supports either full liability or a greater degree of contributory negligence on the part of the deceased - Whether the learned judge exceeded her jurisdiction by assessing the respondent's damages in contravention of the Fatal Accidents Act, Cap. 166, which mandates that a jury assess such damages

Type order: N/A

Result/Order: IT IS HEREBY ORDERED THAT:

1. Judgment is reserved.
2. The Chief Registrar will notify the parties when the judgment is available for delivery.

Reason: N/A

Case name: Pinneys Hotel Development Limited
v
St. Kitts Nevis and Anguilla National Bank Limited

**[SKBHCVAP2024/0008]
SAINT KITTS AND NEVIS**

Date: Tuesday, 3rd June 2025

Coram: The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Cadie St. Rose Albertini, Justice of Appeal [Ag.]
The Hon. Mr. Reginald T.A. Armour, Justice of Appeal [Ag.]

Appearances:

Appellant: Ms. Angela Cozier

Respondent: Ms. Chante Francis

Issue: Interlocutory appeal - Appeal against order refusing to strike out amended defence - Whether the learned master misdirected himself and was wrong in several findings including that the appellant had made 3 applications to strike out the amended defence which he found amounted to an abuse of the court's process and in refusing to order that the impugned paragraphs of the amended defence be struck out - Whether the Order of Actie M (as she then was) striking out prolix averments in the defence was complied with by the respondent bank

Type of order: Oral decision

Result/order: IT IS HEREBY ORDERED THAT:

1. The appeal is dismissed and the learned master's orders affirmed.

2. The appellant shall bear the costs of the appeal to be assessed if not agreed within 21 days of the date of this decision.

Reasons:

The interlocutory appeal before the Court was filed on 13th November 2024 and seeks to set aside the decision of Saunders M contained in a judgment delivered on 24th July 2024, by which the learned master refused the appellant's application to strike out the respondent's amended defence for failure to comply with paragraph 1 and 2 of the Order of Actie M (as she then was) which Order is dated 26th June 2018 and also for failure to comply with CPR 10.5.

This Court remains bound by its previous decision in *Dufour and others v Helenair Corporation Limited and others* (1996) 52 WIR 188 which is the seminal case on appellate restraint when considering an appeal from the exercise of judicial discretion in relation to case management decisions. An appellate court is reluctant to interfere with the exercise of discretion of a judge below unless it can be shown that the judge took into account irrelevant material or gave too much or too little weight to relevant material which has led to a decision which falls outside the generous ambit within which reasonable disagreement is permitted and as a result, the decision of the judge is plainly or blatantly wrong.

The impugned decision in this interlocutory appeal arises from a determination of the learned master in the exercise of his case management powers and judicial discretion, which raises the principal question as to what is the error that the master has committed to warrant appellate interference with his decision to dismiss the application to strike out the amended defence and his conclusion that the application was an abuse of process.

The Court considered the notice of appeal, the written oral submissions of both parties and the guiding principles in *Dufour and others v Helenair Corporation Limited and others* (1996) 52 WIR 188. The Court is satisfied that the learned master's decision was well reasoned and fully articulated the matters that he considered in the exercise of his discretion to arrive at the decision to dismiss the application, and to find that it was an abuse of process. The reasons for the learned master's decision can be gleaned from among other paragraphs 6,7,8,10,11, 12 and 13 of his written judgment.

This - Court notes that in the judgment of the Court of Appeal authored by Justice of Appeal Carrington dated 20th November 2020, the Court held that the amended defence was properly filed, and the case should proceed in accordance with the Rules. Having so held, even if the Court did not agree with the submission that the Order of Actie M allowed the defendant to amend by fixing the prolix paragraphs which were struck out, the Court appeared to have accepted that the defendant had the ability to amend further as it saw fit in accordance with CPR 20.1(1), meaning that the defendant had the ability to amend at least once without leave before the first case management conference.

Concerning abuse of process, the learned master examined several paragraphs from the decision of Ellis J (as she then was) in *The Kelliste 11 BVIHAD2011/005-009* (delivered 30th October 2015, unreported) and he correctly concluded that the application was an abuse of the court's process.

This Court discerns nothing in the learned master's reasons for his determination which departs from the recognised rule that case management discretion should be exercised in accordance with already established principles. The learned master properly considered whether the amended defence

conformed with CPR 10.5 and the Order of Actie M dated 26th June 2018. There is nothing in the master's reasoning as contained in the judgment which amounts to a consideration of irrelevant matters or, attributing too little or too much weight to relevant matters. On the pleadings and the law, the master was entitled to refuse the appellant's application to strike out the respondent's amended defence or parts of it. The Court is satisfied that he did not err in principle, and he did not make a decision that is patently wrong.

In the circumstances, the appellant has not met the threshold for appellate interference with the master's decision and the appeal is accordingly dismissed. The appellant will bear the respondent's costs of the appeal to be assessed, if not agreed within 21 days of this decision.

Case name:

[1] Wayne O'Neal
[2] Carolyn O'Neal
[3] Jacquelyn O'Neal
v
Davindra O'Neal
[BVIHCVAP2025/0012]
ANTIGUA AND BARBUDA

Date:

Wednesday, 4th June 2025

Coram:

The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]
The Hon. Mde. Cadie St. Rose Albertini, Justice of Appeal [Ag.]

Appearances:

Applicant/Respondent: Mr. John Carrington

Respondent/Appellant: Ms. Jessica Lavelle

Issues: Application to discharge order of a single judge

Type of order: Consent order

Result/order: IT IS HEREBY ORDERED THAT:

1. This is an Order containing undertakings in lieu of a stay of execution.
2. The interim order staying the judgment and order of John J dated 20th March 2025 is hereby discharged.
3. The application filed on 25th March 2025 to discharge the interim stay and the motion for a stay filed on 18th March 2025 are both dismissed without prejudice.
4. The Panel accepted the undertakings from the Defendant in paragraph 5 of this Order.
5. Upon the respondent being granted letters of administration in the estate of Victor Vincent O'Neal deceased, then, until the determination of the appeal, the respondent will not directly or indirectly either by himself, his servants or agents or otherwise, administer the estate of Victor Vincent O'Neal, deceased, or otherwise deal in any way with that estate and its assets.
6. The appeal is adjourned to the next sitting of the Court of Appeal on a date to be fixed by the Chief Registrar.

Reason:

The Court considered the Order made in the Draft Order submitted by the parties and was of the view that (1) the Panel is not minded to include any reference that would prejudice or take a decision as to whether or not the grant is to be made, as such is a matter that falls within the remit of the Probate Registrar of the High Court and further that the Order and the undertaking must be premised on the fact that the respondent does secure the letters of administration and (2) that counsel for the parties make representations to the Chief Registrar or Deputy Registrar in order to get a more realistic timeframe as to the hearing date of the appeal.

Case name:

The Barbuda Council
v
PLH (Barbuda) Limited
[ANUHCVP2024/0030]
ANTIGUA AND BARBUDA

Date:

Wednesday, 4th June 2025

Coram:

The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]
The Hon. Mde. Cadie St. Rose Albertini, Justice of Appeal [Ag.]

Appearances:

Appellant:

Ms. E Ann Henry KC with her Mr. Lenworth Johnson

Respondent:

Mr. Anthony Astaphan SC, with him Dr. Errol Cort,
Ms. Claneisha Gomes and Mr. Alketz Joseph

Issue:

Civil appeal - Appeal against order dismissing claim for breach of lease agreement - Whether the learned judge erred in finding that the testimony on behalf of the appellants was of no assistance in the analysis of the evidence - Whether the learned judge failed to reach a proper interpretation of the meaning of the covenant to pay rent in the 425 lease - Whether the learned judge erred in finding that there was a conflict between the covenant to pay rent in the 425 lease and the terms of the clause 5.8 of the memorandum of agreement having due regard to the terms of the 174 lease which was simultaneously executed with the 425 lease - Whether the learned judge failed to recognise the applicability of the principle in *Rainy Sky SA v Kookmin Bank* [2011] UKSC 50 - Whether the learned judge failed to interpret the 425 lease having regard to the principles applicable to commercial contracts

Type of order:

N/A

Result/order:

IT IS HEREBY ORDERED THAT:

1. Judgment is reserved

Reason:

N/A

Case name:

[1] Digicel Antigua Limited
[2] Antigua Wireless Ventures Limited
[3] Digicel (Antigua) Wireless Ventures Antigua Limited t/a Digicel Antigua
v

Jennifer Simpson-Edwards
[ANUHCVP2024/0010]

ANTIGUA AND BARBUDA

Date: Thursday, 5th June 2025

Coram: The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Paula Gilford, Justice of Appeal [Ag.]

Appearances:

Appellants: Mr. Justin L. Simon KC

Respondent: Mr. Warren Cassell

Issue: Civil appeal - Unfair dismissal - Section C18 Antigua and Barbuda Labour Code Cap. 27 of the Laws of Antigua and Barbuda -Whether the Industrial Court erred in law by concluding that the respondent, a line employee, was entitled to annual vacation leave at a rate exceeding the minimum prescribed under section C18, despite the absence of a collective agreement or employment contract providing for a higher rate - Whether the Industrial Court erred in finding that the respondent was entitled to vacation pay for six years at a rate of 15 days per year, despite the absence of evidence that the appellant was owed unpaid vacation for that period - Whether the Industrial Court erred in failing to set-off the sum of \$11, 916.66 awarded to the respondent for immediate loss against the sum of \$71,078.65, paid by the appellant to the respondent as severance pay, and which sum included an ex gratia payment of \$34, 218.65. - Whether the total award of \$36,666.66 ordered to be paid to the respondent for unfair dismissal should be set aside

Type of order: N/A

Result/order: IT IS HEREBY ORDERED THAT:

1. Judgment is reserved.

Reason: N/A

Case name: Director of ONDCP
v
Michael G. Archibald
[ANUHCVP2024/0011]
ANTIGUA AND BARBUDA

Date: Thursday, 5th June 2025

Coram: The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Paula Gilford, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Curtis Bird

Respondent: Mr. Andrew O’Kola

Issue: Civil appeal - Statutory interpretation - Section 15 (ii) of the Money Laundering (Prevention) Act 1996 (“the Act”) - Production order – Money Laundering (Prevention) Regulations 2007 (“the Regulations”) - CPR 2023- Applicability to an application for a production order made pursuant to section 15(ii) of the Act - Jurisdiction – Whether a judge of coordinate jurisdiction has jurisdiction to vary or discharge the order of another judge who has

granted, *ex parte*, a production order pursuant to section 15(ii) of the Act - Whether the second judge erred in directing that the application and affidavit evidence in support of the *ex parte* application be disclosed to the respondent, contrary to the order of non-disclosure of said material made by the first judge – Whether the second judge erred in staying the production order granted by the first judge and in directing that CPR 2023 required that an inter partes hearing be held upon the grant of a production order - Whether the learned judge failed to adopt a purposive construction approach when applying the CPR 2023 to an application for a production order made pursuant to section 15(ii) of the Act - Legal professional privilege - Whether the respondent could assert legal professional privilege over the material ordered to be produced –Whether the second judge failed to appreciate that the production order was directed at the respondent in his capacity as a Financial Institution and that he was not a suspect or defendant in the underlying criminal investigation

Type of order:

N/A

Result/order:

IT IS HEREBY ORDERED THAT:

1. Judgment is reserved.

Reason:

N/A

Case name:

Nicole D. Martin
(Attorney for Nalda C. Martin
also known as Condacey Martin also known as
Nolder Clovis Candacey Martin)

v

**[1] Ronnie James et al
(as sole surviving Executor of the Estate
of Ethel Geraldine Martin, deceased)
[2] Eldridge Martin
[3] The Estate of Eldena Martin Wade, deceased
(represented by Joseph Pinder)
[4] Geraldine Pamela Dickenson
(nee Martin) (as sole surviving executrix of the
Estate of George Martin)**

**[ANUHCVP2024/0008]
ANTIGUA AND BARBUDA**

Date: Thursday, 5th June 2025

**Coram: The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Paula Gilford, Justice of Appeal [Ag.]**

Appearances:

Appellants: Ms. Rose-Mary Reynolds

**Respondent: Ms. Denise Parrillon for the 1st respondent
Mr. Lawrence Daniels holding a watching brief for
the 3rd respondent and holding for Mr. Michael G.
Archibald for the 2nd respondent
Ms. Kamilah Roberts for the 4th respondent**

Issue:	Interlocutory Appeal - Refusal of judge to grant extension of time application - Refusal of judge to allow the affidavit of the appellant to be deemed properly filed - Exercise of judge's discretion - Whether judge erred in finding that the appellant's conduct caused a protracted delay in the matter – CPR Part 26.8 - Whether the judge failed to consider the value of the appellant's affidavit - Costs order - Whether the award of \$1,500.00 costs against the appellant was disproportionate in light of the costs order of \$750.00 made against the 2nd and 4th respondents whose applications were also dismissed
Type of order:	Oral Judgment
Result/order:	IT IS HEREBY ORDERED THAT: 1. The interlocutory appeal is allowed limited to the refusal to extend time to file the appellant's affidavit. 2. The order of the learned judge refusing the application for extension to file the appellant's affidavit is set aside. 3. The appellant is granted relief from sanctions and an extension of time to file and serve the appellant's affidavit which was filed on 11th July 2023 and is therefore deemed properly filed. 4. The award of \$1,500.00 costs made by the learned trial judge against the appellant is affirmed. 5. The appellant shall pay the costs of this appeal to be assessed within 21 days, that is, on or before 27th June 2025, if not agreed.

Reason:

This was an interlocutory appeal filed on 1st January 2025 against an order of the learned judge dated 13th November 2023 in which she refused to grant an application made by the appellant for an extension of time within which to file an affidavit of the appellant and for relief from sanctions and awarded costs against the appellant in the sum of \$1,500.00.

The appellant challenged the costs award on the ground that the amount was disproportionate having regard to the costs of \$750.00 imposed on the 2nd and 4th respondents in a similar application heard and determined at the same time. Leave to appeal was granted on 19th December 2024. The appellant raised several grounds of appeal including that the learned judge failed to consider the overriding objective of the Civil Procedure Rules (“CPR”); that no prejudice would be occasioned to the other parties since no trial date had yet been fixed; and that the learned judge did not accord enough consideration to all of the prevailing circumstances.

Citing *Baird v Goldgard* SKBHCVAP2008/0005 (delivered 15th August 2008, unreported), the appellant contended further that the 15 day time period during which she was required to file her affidavit included an unscheduled public holiday during which they were faced with printing issues that contributed to the delay in filing of the affidavit while working on another affidavit which colluded to constrain the completion of the appellant’s affidavit.

The appellant submitted further that the learned judge did not consider the interest of the administration of justice or the value of the appellant’s comprehensive affidavit and the substantial exhibits annexed to it which would have assisted the court; that no trial date had been fixed and that the next hearing date which was scheduled

for the pre-trial review was several months away in October that year and was not imperilled by the tardy filing of the affidavit.

The appeal was initially opposed by the 1st and 4th respondents, however the 4th respondent indicated in their written submissions and at the hearing that the application was not resisted save in relation to them indicating that in respect of the award of costs, the differentiation with respect thereto was explained by the learned trial judge. The 4th respondent tendered strenuously that the appellant was habitually non-compliant with the court's orders and that the learned judge did not err in the exercise of the case management discretion by refusing the application for an extension of time in that she considered all the relevant factors outlined in the CPR rule 26.8 and further that the \$1,500 award of costs should not be interfered with because it was fair in the circumstances.

The Court considered the notice of interlocutory appeal, the written and oral submissions of the appellant and the 1st and 4th respondents. The Court noted that the appeal concerned a decision made by the learned judge in the exercise of her judicial discretion in relation to managing the case. The Court reminded itself that it is settled law that an appellate court would not likely interfere with a decision of a judge in the lower court arrived at in the exercise of a discretion unless the determination was plainly wrong in that the judge erred in principle in failing to consider the relevant factors or considered irrelevant matters and as a result of such error, exceeded the generous ambit within which reasonable disagreement was possible. The Court remained mindful that it is settled law that an application for an extension of time filed after the deadline for compliance with a court order is to be treated as an application for relief from sanctions under CPR rule 26.8 as stated in the case of Adam

**Bilzerian v Gerald Lou Weiner et al
SKBHCVAP2015/0015 (delivered 27th January 2016,
unreported).**

Upon considering the criteria set out in rule 26.8 of the CPR that must be taken into account by the court on an application for relief from sanctions namely, the effect which the granting relief or the refusal of relief would have on each party; the interest of the administration of justice; whether the failure to comply has been or can be remedied in a reasonable time; whether the failure to comply was due to the party/parties legal practitioner; whether the trial date or any likely trial date can still be met if relief is granted; whether there is a good reason for the failure; whether the party in default has generally complied with all other relevant rules practice directions or orders; and whether the application for relief from sanctions was made promptly.

The Court assessed those several factors against the submissions made by the respective parties and importantly the determination rendered by the learned judge. With respect to the effect which the granting of leave would or would not have on each party, the Court was not persuaded that the learned trial judge properly evaluated that factor and she made no finding, importantly, that the appellant would be denied the opportunity of putting her full case while the other parties would have all of their evidence before the Court. In the Court's estimation, the judge's failure to consider this factor and to explore it adequately was an error on her part.

With respect to the delay in applying for an extension of time, the Court noted that it was only four days, and the learned trial judge appeared to accept this as she did with respect to the fact that the failure to make the deadline was attributable to the appellant and legal practitioner. The parties all agreed that the trial date could have been met and

any likely trial date which had not been set would also have been within the ability of the parties and the court to meet. The Court was satisfied that the learned trial judge did not effectively investigate this aspect of the factors which are set out in CPR 26.8. In the Court's respectful opinion, the judge erred by failing to take into account or assigning sufficient weight to what the Court considered as a highly relevant factor and she thereby committed an error in principle which resulted in her making a decision which was blatantly wrong.

As to whether the learned trial judge considered the prejudice to the other parties and to the appellant depending on the determination that she made, the Court's examination of the judgment revealed that the judge did not condescend to assessing what prejudice would be occasioned to the appellant or the other parties. Depending on the determination that she arrived at and in this regard, she thereby further erred in principle. As to the appellant's explanation for the delay, the learned trial judge was of the view that it was not a good explanation and this Court also found that it was not a good explanation however the Court considered it to be one of the factors that has to be weighed in the balance with the other considerations listed under CPR 26.8. The appellant conceded that the learned judge was correct in finding that she had not been fully compliant with all of the directions and orders issued by the court. She argued however that she was not the only party in default with respect to compliance with practice directions, orders and directions. The Court was of the view that the learned trial judge failed to weigh the reality that the other parties had also been non-compliant with timelines set in the court's orders as evidenced by the fact that two other applications for extension of time were granted on the same occasion on which

the learned trial judge was considering the application which is the subject to this appeal.

As to whether the application for relief was made promptly, it was evident that it was, and this was adequately addressed by the learned trial judge.

In the round, after weighing all of the factors that the Court must consider, the Court was persuaded that the learned trial judge erred in principle in two important respects. She failed to consider relevant factors namely the prejudice which would have been occasioned to the appellant by the refusal of the application for an extension of time and that the trial date would have been within reasonable reach of the parties even if she had granted an extension of time to the appellant to file her affidavit. As a result, the learned trial judge made a decision which was blatantly wrong and justified interference by this Court with respect to the application for relief from sanctions.

In relation to the award of costs the learned judge did not really condescend to any explanation as to the differentiation between the costs awards against the 2nd and 4th respondent on the one hand, of \$750.00 as opposed to the \$1,500.00 awarded against the appellant, she was required by the rules to do so. It was clear that the application by the appellant contained no less than four limbs while the other applications for an extension of time were all limited to one. Looking at those factual indicia in the round, the Court was satisfied that the costs award of \$1,500.00 was just and that the learned judge was entitled to make a different award of costs as against the appellant when considering and arriving at her determination.

The Court was therefore satisfied that the costs award should not be disturbed. Accordingly, the appeal was allowed in part. The appeal against the

judge's refusal to grant the appellant's extension of time application was granted however with respect to the challenge to cost order of \$1,500.00, this limb was refused.

Case name: Kenisha Whyte-Challenger
v
The King

**[ANUHCRA2022/0011]
ANTIGUA AND BARBUDA**

Date: Thursday, 5th June 2025

Coram: The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Paula Gilford, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Lawrence Daniels

Respondent: Ms. Rashida Jonas

Issue: Criminal appeal - Appeal against sentence - Sentence of 14 years imposed for the offence of aggravated robbery - Section 20 of the Offences against the Person Act Cap. 300 of the Laws of Antigua and Barbuda- Section 33(1)(a) Larceny Act Cap 241 of the Laws of Antigua and Barbuda - Whether the sentence imposed was grossly excessive in all of the circumstances - Whether the sentence was too severe for a first time offender

Type of order: Oral Judgment

Result/order:

IT IS HEREBY ORDERED THAT:

- 1. The appeal is allowed in part.**
- 2. The sentence is varied by deducting the 819 days spent on remand by the appellant, which would yield a sentence of 11 years and 11 months.**
- 3. The Court shall provide a written decision setting out the reasons for allowing the appeal.**

Reason:

Upon reading the written submissions and hearing oral submissions from counsel for the appellant and respondent, the Court was minded allowing the appeal in part and vary the sentence. However, the Court noted that there are some aspects of the matter which ought to be properly addressed in a written decision setting out in full, the reasons for allowing the appeal in part and varying the sentence.

Case name:

**David Brandt
v
The King
[MNIHCRAP2021/0004]
MONTSEERRAT**

Date:

Friday, 6th June 2025

Coram:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Reginald T.A. Armour, Justice of Appeal [Ag.]
The Hon. Mde. Paula Gilford, Justice of Appeal [Ag.]**

Appearances:

Appellant:

Dr. David Dorsett

Respondent:

Ms. Anesta Weekes KC

Issue:	Criminal appeal - Appeal against conviction - Convicted of six counts of sexual exploitation contrary to section 141 (1) of the Penal Code Cap. 4.02 of the Laws of Montserrat and perverting the course of justice - Whether the learned judge erred in ruling that the search of the appellant's telephone was not illegal and unconstitutional although the search warrant did not expressly authorise a search of its contents and thereby erred in failing to exclude the WhatsApp messages retrieved as a result of the search - Whether the learned judge erred in failing to give proper directions to the jury on how to treat with the transcript of interviews, having permitted the jury to retire with them – Proof of age - Whether there was any admissible evidence establishing the age of the alleged victims at the time of the alleged commission of the sexual exploitation offences - Whether, in the absence of such evidence, an essential element of the offence of sexual exploitation was not proven - Application to add additional grounds of appeal - Whether in the interest of justice the appellant should be granted leave to add the proposed additional grounds of appeal
Type of order:	N/A
Result/order:	IT IS HEREBY ORDERED THAT: 1. Judgment is reserved.
Reason:	N/A