

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

CHAMBER HEARING

MATTERS DEALT WITH ON PAPER

Case Name:

Gweneth P. Williams

v

Alton Alcender

**[ANUMCVAP2025/0002]
(Antigua and Barbuda)**

Date:

Tuesday 27th May 2025

Before:

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

On paper:

Appellant/Applicant:

Mr. Wayne B. Marsh

Respondent:

Mr. Lawrence Daniels

Issues:

**Application for extension of time, notice of appeal
be deemed properly filed, relief from sanctions**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The appeal will stand discontinued and dismissed.**
- 2. The application filed on 2nd April 2025 seeking (i) an extension of time to file the notice of appeal (ii) the notice of appeal filed by the applicant on 2nd April 2025 be deemed properly filed, and (iii) relief from sanctions consequently falls away.**
- 3. The appellant will serve a copy of the notice of discontinuance and a copy of this order on the respondent within 2 days of today's date.**
- 4. The respondent has liberty to apply in relation to the cost liability on the discontinuance.**

Reason: The appellant filed a notice of discontinuance on 20th May 2025 in which he wholly discontinued the appeal against the respondents, however there was no evidence that the notice of discontinuance had been served on the respondent in accordance with CPR Part 62.29.

Case Name: Ultramarine (Antigua) Ltd.
v
Sunsail (Antigua) Ltd.
[ANUHCVP2025/0005]
(Antigua and Barbuda)

Date: Tuesday 27th May 2025

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

On paper:

Applicant: Dr. David Dorsett

Respondent: Mr. Septimus Rhudd

Issues: Application for an extension of time, relief from sanctions, extension of time for filing respondent's notice

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application filed on 20th May 2025 is granted.
2. The respondent's notice filed on 19th May 2025 be deemed to be properly filed notwithstanding that it was filed outside the time originally requested of the Court by the Applicant for the said filing.

Reason:

The Court considered section 62.19(1)(c) of Civil Procedure Rules (Revised Edition) 2023 (“CPR”), which empowers a single judge to extend or abridge any time limit prescribed in Part 62; and ii. the overriding objective of the CPR to enable the court to deal with cases justly. The Court also considered the principles on which an extension of time should be granted as enunciated in *Lindsay F.P Grant et al v Tanzania Tobin Tanzil SKBHCVAP2020/0004* (delivered 6th July 2020, unreported) and the factors to be considered by the court namely: (i) the nature of the failure and the consequential effect; (ii) the length of the delay and whether any good explanation has been put forward for excusing it; (iii) weighing the prejudice to the parties in the context of the failure and the delay; and (iv) whether the appeal has a realistic prospect of success.

The Court was of the view that the applicants had met the threshold for the grant of an extension of time and having regard to all the circumstances that the application should be granted.

Case Name:

**Antigua Hangers Inc.
v
SFS Antigua Operations Ltd.
[ANUHCVAP2023/0026]
(Antigua and Barbuda)**

Date:

Tuesday 27th May 2025

Before:

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

On paper:

**Appellant/Respondent: Ms. C. Kamilah Roberts
Respondent/ Applicant: Mr. Harold Lovell**

Issues: Application for stay of execution, Application for adjournment

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application is adjourned for report at the next Chamber sitting of the Court scheduled for 29th July 2025.
2. The parties are to file and serve affidavit evidence updating the Court on any developments as well as their respective positions no less than 7 days before the next adjourned date.

Reason: The Court noted that i. the Applicant had filed no legal submissions in support by the application but instead had, by Notice of Application filed on 23rd May 2025, sought an adjournment of the hearing of the Application and for an extension of time for compliance with the order pending the finalisation of the sale of land described as Block No. 541292A Parcel 151 or the conclusion of negotiations for the monetisation of real estate assets owned by the applicant whichever is earlier (“the Adjournment Application”). ii. That the Adjournment Application was not opposed.

Consequently the Court adjourned the consideration of the application to the July Chamber Hearing.

Case Name: Dante Tagliaventi
v
The Supervisory Authority
[ANUHC VAP2024/0040]
(Antigua and Barbuda)

Date: Tuesday 27th May 2025

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

On paper:

Applicant: Mr. Hugh C. Marshall

Respondent: N/A

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

The Application is adjourned for an oral hearing to be conducted before the Full Court on a date to be fixed by the Chief Registrar.

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); iii) CPR rule 62.2(7) which states that if the judge considering an application under rule 62.2(5) is minded to refuse the application for leave, the judge must direct (a) that an oral hearing be fixed and (b) whether that oral hearing is to be by a single judge or the court.

The Court was minded to refuse the amended leave to appeal application and therefore adjourned for an oral hearing to be conducted before the Full Court.

Case Name: Jenoure Craig
v
The King

**[ANUHCRA2024/0013]
(Antigua and Barbuda)**

Date: Tuesday 27th May 2025

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

On paper:

Applicant: Mr. W. G. Alexander

Respondent: Office of the Director of Public Prosecutions

Issues: Application for leave to appeal conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall serve a copy of the order of 29th April 2025 as well as a copy of this order on the applicant and the respondent within 7 days and shall provide proof of service thereof.
2. The applicant shall file and serve on the Director of Public Prosecutions a notice of application for an extension of the time within which to apply for leave to appeal within 14 days of today's date.
3. The applications for an extension of time and for leave to appeal sentence are adjourned to the next Chamber Sitting of the Court scheduled for 24th June 2025.

Reason: The Court noted that the applicant had failed to comply with the order dated 29th April 2025 by failing to file and serve an application for an extension of time and has advanced no information to explain such failure; and further noted that there was no proof that the applicant

was served with a copy of the order of 29th April 2025.

Case Name:

Alexander Grant Enterprises Limited

v

Antigua Isle Company Ltd.

[ANUHC VAP2025/0008]

(Antigua and Barbuda)

Date:

Tuesday 27th May 2025

Before:

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

On paper:

Appellant:

Mr. Justin L. Simon KC

Respondent:

Ms. Kema Benjamin

Issues:

Application for stay of execution pending the determination of the appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application filed on 16th April 2025 for a stay of execution of the order of Drysdale, J dated 20th February 2025, is granted.**
- 2. Costs of the application shall be in the appeal.**

Reason:

The Court considered the relevant principles which a court should apply when deciding whether to exercise its discretion to grant a stay adumbrated in Hammond Suddard Solicitors v Agrichem International Holdings Limited [2001] EWCA Civ 2065 applied in C-Mobile Services Limited v Huawei Technologies Co Limited BVIH CMAP2014/0017 (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 succeed is shown (which would usually enable a stay to be granted)'.

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.

Case Name:

Dalon Warren

v

The King

**[GDAHCRAP2024/0012]
(Grenada)**

Date:

Tuesday 27th May 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 extension of time to appeal,
application for leave to appeal against sentence**

Result / Order:

1. IT IS HEREBY ORDERED THAT:

**2. The application for an extension of time
filed on 14th August 2024 is granted.**

3. The application for leave to appeal filed on 14th August 2024 is granted and deemed properly filed.
4. The Criminal Form 1- Notice of Application for leave to appeal is deemed to be the notice of appeal.
5. 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.
6. 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 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 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:

Keron Chitan

v

The King

**[GDAHCRAP2024/0015]
(Grenada)**

Date:

Tuesday 27th May 2025

Before:

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

On paper:

Applicant:

Mr. Anslem B. Clouden

Respondents:

Office of the Director of Public Prosecutions

Issues:

Application for leave to appeal against conviction and sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal filed on 18th November 2024 is granted.**
- 2. The Notice of Application for leave to appeal is deemed to be the notice of appeal.**
- 3. The parties shall comply with the practice and procedure prescribed by the Court of Appeal Rules as well as the relevant Practice Directions in advancing this appeal.**
- 4. The Registrar of the High Court shall serve a copy of this order on the applicant and the respondent within 7 days and shall provide proof of service thereof.**

Reason:

The Court was of the view that the applicant had

met the threshold for leave to appeal.

Case Name:

Temon Rodgers

v

The King

**[GDAHCRAP2024/0013]
(Grenada)**

Date:

Tuesday 27th May 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 an extension of time to file leave to appeal and Criminal Form 1, application for leave to appeal sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for an extension of time filed on 11th September 2024 is granted.**
- 2. The application for leave to appeal filed on 11th September 2024 is granted.**
- 3. The Criminal Form 1-Notice of Application for leave to appeal is deemed to be the notice of appeal.**
- 4. The parties shall comply with the practice and procedure prescribed by the Court of Appeal Rules as well as the relevant Practice Directions in advancing this appeal.**
- 5. The Registrar of the High Court shall serve a copy of this order on the applicant and the respondent within 7 days and shall provide proof of service thereof.**

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. 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 determined that the applicant had met the threshold to be granted leave to appeal.

Case Name:

Hicklyn Nyack
(Executor and Trustee of the Estate of the
late Randolph Forrester) By his lawful
appointed attorney Daunice Swann
v
1. Peter Alexander
2. Benedict Charles
3. Hilary Charles

4. Kellon Charles

**[GDAHCVAP2025/0007]
(Grenada)**

Date: Tuesday 27th May 2025

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

On paper:

Appellant/Applicant: Mr. Anslem B. Clouden

Respondent: No appearance

Issues: Application for stay of execution pending the determination of the appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Application filed on 24th March 2025 for a stay of execution of the order of Glasgow J dated 10th March 2025 is granted.
2. Costs of the Application will be in the appeal.

Reason: The Court considered the relevant principles which a court should apply when deciding whether to exercise its discretion to grant a stay adumbrated in *Hammond Suddard Solicitors v Agrichem International Holdings Limited* [2001] EWCA Civ 2065 applied in *C-Mobile Services Limited v Huawei Technologies Co Limited* BVIHCMAP2014/0017 (delivered 2nd October 2014, unreported) and 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)'.

The Court determined that the applicant had demonstrated strong grounds of appeal and that having regard to the totality of the circumstances that the interests of justice demands that the stay of execution be granted pending the hearing and determination of the appeal.

Case Name:

**Kathleen Raye
v
Capital Bank International Ltd. (in
Receivership)**

**[GDAHCVAP2017/0017]
(Grenada)**

Date:

Tuesday 27th May 2025

Before:

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

On paper:

Appellant/Respondent: Ms. McKaeda Augustine

Respondent/Applicant: Mr. Trevon A. St. Bernard

Issues:

Application for assessment of costs

Result / Order:

IT IS HEREBY ORDERED THAT:

Costs are awarded to the applicant/respondent in the sum of \$3500.00 to be paid by the respondent/appellant within 21 days of the date of this order.

Reason:

The Court noted that Rules 65.2 and 65.12(4) of the CPR stipulate that the sum allowed for costs is that which the court deems reasonable were the

work to be carried out by a legal practitioner of reasonable competence and which appears to be fair to the person paying and the person receiving costs; that the court must have regard among other factors to the time reasonably spent on the case, the novelty, weight and complexity of the case and that the applicant must supply information to the court as to how the requested sum is calculate.

The Court further noted that the appeal was against an order following default judgment ordering the appellant to pay to the respondent the sum of \$41,191.91 and that notwithstanding the time elapsed between the filing of the appeal and the withdrawal of the appeal, the appeal was withdrawn without a hearing and no submissions were filed in the appeal itself.

The Court was satisfied that in all the circumstances the sum claimed is in all the circumstances disproportionate having regards factors listed at Part 65.2 of the CPR, therefore the Court assessed the costs of the appeal in the amount of \$3000.00 and having summarily assessed the costs, assessed the costs of the application in the sum of \$500.00.

Case Name:

**Mabel Venzen
v
Hughward Daniel**

**[MNIHCVAP2025/0007]
(Montserrat)**

Date:

Tuesday 27th May 2025

Before:

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

On paper:

Applicant:

Dr. David Dorsett

Respondents: N/A

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Application filed on 22nd April 2025 for leave to appeal against the order of Cottle J (Ag.) made on 31st March 2025 is granted.
2. The applicant shall file and serve his notice of appeal within 21 days of the date of this order.
3. Thereafter, the appeal shall proceed in accordance with Part 62 of the Civil Procedure Rules (Revised Edition) 2023.
4. Costs of the Application be costs of the appeal.

Reason: The Court considered 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; 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.

Case Name: Clem Sylvester
v
The King

[SLUHCRA2024/0001]
(Saint Lucia)

Date: Tuesday 27th May 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 conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Applicant shall file and serve an affidavit setting out the grounds of his application for extension of time which addresses the length of the delay, the reasons for delay; the chances of the appeal succeeding if extension is granted and the degree of prejudice if the application is granted.
2. Unless the applicant provides 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 the application for legal aid and for the provision of the transcripts will stand dismissed.
3. The court's office in Saint Lucia will assist the applicant and facilitate the said affidavit evidence within the time prescribed.
4. The Applications are adjourned to the next Chamber Hearing of the Court of Appeal scheduled for 24th June 2025.
5. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions within 7 days of the date of this order and provide proof of service thereof.

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) 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 further 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 has not been provided as of today's date, thus 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.

Case Name:

**Mario Perez
v
The King
[SLUHCRA2025/0001]
(Saint Lucia)**

Date: Tuesday 27th May 2025

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

On paper:

Applicant: Mr. Tiyani Behanzin

Respondent: Office of the Director of Public Prosecutions

Issues: Application for leave to appeal sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal out of time is granted.
2. The applicant is to file an application for leave to appeal/notice of appeal within 21 days of the date of this order.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions within 7 days of the date of this order and provide proof of service thereof.

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) the Extension of time Application is not opposed;

The Court 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:

Kevin Horstwood

v

Adam Bilzerian

**[SKBHCVAP2025/0005]
(Saint Christopher and Nevis)**

Date:

Tuesday 27th May 2025

Before:

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

On paper:

Appellant/Applicant: Mr. Kevin Horstwood

Respondents: N/A

Issues:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

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

Reason:

The Court was 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 principles of the grant of leave to appeal as stated in Othneil Sylvester v Faellleseje Civil Appeal No. 5 of 2005 (delivered 20th February 2006, unreported) and in Cage St. Lucia Limited v Treasure Bay (St. Lucia) Limited Saint Lucia Civil Appeal No. 45 of 2011 (delivered on 23rd January 2012, unreported).

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

Case Name:

**Camille Kelly
v
Winston Cooke**

**[NEVHCVAP2025/0008]
(Saint Kitts and Nevis)**

Date:

Tuesday 27th May 2025

Before:

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

On paper:

Applicant:

Ms. M. Angela Cozier

Respondents:

N/A

Issues:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

The Application is adjourned for an oral hearing to be conducted before the Full Court on a date to be fixed by the Chief Registrar.

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; The principles of the grant of leave to appeal as stated in Othneil Sylvester v Faellleseje 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), most notable that - The applicant must show that the intended appeal has a realistic prospect of success, which is a heavier burden than showing only that he has an arguable appeal; iii. CPR rule 62.2(7) which states that if the judge considering an application under rule 62.2(5) is minded to refuse the application for leave, the judge must direct (a) that an oral hearing be fixed and (b) whether that oral hearing is to be by a single judge or the court.

The Court was minded to refuse the application and therefore directed an oral hearing be scheduled.

Case Name:

**Janice Daniel-Hodge
v
Adam Daniel**

**[NEVHCVAP2025/0005]
(Saint Kitts and Nevis)**

Date:

Tuesday 27th May 2025

Before:

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

On paper:

Appellant:

Mr. Terence Byron

Respondent:

N/A

Issues:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

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

Reason:

The Court 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 principles of the grant of leave to appeal as stated in *Othneil Sylvester v Faellleseje* 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), most notable that - a. The applicant must show that the intended appeal has a realistic prospect of success, which is a heavier burden than showing only that he has an arguable appeal.

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

Case Name:

Lincoln Pemberton
v
St Kitts Nevis Anguilla National Bank
Limited

[SKBHCVAP2025/0004]
(Saint Christopher and Nevis)

Date: Tuesday 27th May 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 pending the determination of the appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Applicant shall file and serve evidence which supports the Application which addresses or informs the factors which this Court must consider.
2. The Application is adjourned to the next Chamber sitting of the Court scheduled for 24th June 2025.

Reason: The Court determined that the applicants had not advanced cogent evidence which supports the application and which informs the factors which this court must consider in exercising the discretion to grant leave to appeal or a stay of execution.

Case Name:

Dwight Berry
v
Mauricetine Benjamin

[SKBMCVAP2024/0004]
(Saint Christopher and Nevis)

Date: Tuesday 27th May 2025

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

On paper:

Applicant: Mr. E. Anthony Ross

Respondent: Elliott Macclure

Issues: Application for order to correct record of appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant shall file an amended application which clarifies the interlocutory relief sought in this Application.
2. The Application is adjourned for further consideration at the next Chamber Sitting of this Court scheduled for 24th June 2025.
3. The Registrar of the High Court shall serve a copy of this order on the parties and provide proof of service within 7 days of the date of this order.

Reason: The Court noted that there was inconsistency in the application in that the notice of application complains that the Record of Appeal filed on 22nd October 2024 wrongfully omits certain documents whilst the affidavit in support claims that the record of appeal filed on 22nd October 2024 does not include certain other documents.

Case Name: Stanford N. Williams
v
The Director of Public Prosecutions
[SKBHCRAP2025/0003]
(Saint Christopher and Nevis)

Date: Tuesday 27th May 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 against sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal against sentence is granted.**
- 2. The notice of application filed on 13th February 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.**

Reason:

The Court considered that: i. rule 62.2(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (2023) which states that leave to appeal may be given only where (1) the court considers that the appeal would have a realistic prospect of success or (2) there is some other compelling reason why the appeal should be heard; 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 a judge of this Court is empowered under section 55 of the Eastern Caribbean Supreme Court (Saint Christopher and Nevis) Act Cap. 3:11 of the Laws of Saint Christopher and Nevis to assign legal aid to an appellant.

The Court was of the view that: i. the applicant had met the threshold test for the grant of leave to appeal; ii. the schedule filed by the applicant on

7th May 2025 had satisfied the Court that he does not in fact have the means to fund his legal representation and that it appeared desirable in the interest of justice that the appellant should have legal aid.

Case Name:

Jonathan Rawlins

v

The Director of Public Prosecutions

[SKBHCRAP2025/0009]

(Saint Christopher and Nevis)

Date:

Tuesday 27th May 2025

Before:

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

On paper:

Applicant:

In Person

Respondent:

No appearance

Issues:

Application for leave to appeal against sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal against sentence and for the assignment of legal aid is adjourned for consideration by a single judge of the Court of Appeal in Chambers.**
- 2. The applicant shall provide this Court with proof of service of the notice of application and the authorization code on the respondent within 14 days of the date of this order.**
- 3. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.**

Reason: The Court considered that 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 a judge of this Court is empowered to assign legal aid to an appellant.

The Court noted there was no evidence of service of the notice of application and authorisation code on the respondent and was of the view that the notice of application and authorization code ought to be served on the respondent.

Case Name: Calbert Toney
v
The King

[SVGHCRA2024/0017]
(Saint Vincent and the Grenadines)

Date: Tuesday 27th May 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 Registrar of the High Court shall serve a copy of the order of 29th April 2025 and a copy of this order on the applicant and provide proof of service within 7 days of this order.
2. The time prescribed in the order of 29th April 2025 is extended for a further 14 days from the date of this Order.
3. The application for legal aid is adjourned for further consideration at the next chamber

sitting of this Court scheduled for 24th June 2025.

Reason: The Court noted there was no proof of service of the Chamber Order dated 29th April 2025 on the applicant and that it ought to be served on the applicant to allow for compliance with the said order.

Case Name: Zakeem Bess
v
The King

[SVGHCRA2024/0001]
(Saint Vincent and the Grenadines)

Date: Tuesday 27th May 2025

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

On paper:

Applicant: In Person

Respondent: No appearance

Issues: Application for legal aid

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall serve a copy of the order of 29th April 2025 and a copy of this order on the applicant and provide proof of service within 7 days of this order.
2. The time prescribed in the order of 29th April 2025 is extended for a further 14 days from the date of this Order.
3. The application for legal aid is adjourned for further consideration at the next chamber sitting of this Court scheduled for 24th June 2025.

Reason: The Court noted i. the order of Ventose JA of 23rd January 2024 granting leave to appeal against conviction and sentence; ii. the Order of Price-Findlay JA dated 29th April 2025 where the Court, inter alia, ordered that the applicant provide this Court with detailed evidence which makes clear and sets out his financial means within 14 days of the date of the Order; iii. that there is no affidavit proving that the order of 29th April 2025 was served on the Applicant and that it ought to be served on the applicant to allow for compliance with the said order.

Case Name: NKT
v
NMH
ATG
[BVIHCMAP2024/0031]
(Tortola)

Date: Tuesday 27th May 2025

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

On paper:

Appellant/Respondent: Mr. Christopher McCarthy, Carey Olsen

Respondent/Applicant: Ms. Claire Goldstein, Harney Westwood & Riegels (BVI) LP

Issues: Application for security for costs

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Security for Costs Application be withdrawn by consent between the parties.
2. The Appellant shall pay the Applicants' costs on the withdrawal of this Security for Costs Application summarily assessed in the sum of US\$2500.00.

Reason:

The Court determined that the sole outstanding issue in dispute between the Parties was the costs liability arising from the withdrawal and discontinuance of the Application for security for costs and after considering the submissions of the Parties as well as the provisions of CPR Part 64 .6 (5) and (6) and 65.2 which stipulates that the sum allowed for costs is that which the court deems reasonable were the work to be carried out by a legal practitioner of reasonable competence and which appears to be fair to the person paying and the person receiving costs; that the court must have regard among other factors to the time reasonably spent on the case, the novelty, weight and complexity of the case.

The Court determined that although the applicant had enjoyed success in securing its costs of the appeal, the Court was not satisfied that the costs incurred following 7th March 2025, when the appellant agreed to pay \$150,000 as security for costs to be held in the client account of Carey Olsen were reasonably incurred.

Case Name:

1. Wayne O'Neal
2. Carolyn O'Neal Morton
3. Jacquelyn Antoinnette O'Neal
v
Davindra O'Neal
[BVIHCVAP2025/0012]
(Tortola)

Date:

Tuesday 27th May 2025

Before:

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

On paper:

Applicant:

Ms. Karlene Thomas-Lucien

Respondent:

Mr. John Carrington, KC

Issues: Application seeking permission to advance a new argument on appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The respondent shall file submissions in response to the application within 14 days of the date of this order.
2. The applicant shall file submissions in reply (if necessary) within 14 days thereafter.
3. The application to advance a new argument filed on 16th April 2025 is adjourned for an oral hearing to be conducted before the Full Court on a date to be fixed by the Chief Registrar.

Reason: The Court noted that there is no opposition filed by the respondent to the notice of application and determined that the Application which essentially seeks to raise fresh arguments for the first time on appeal should be determined by the Full Court.

Case Name:

1. Wilbert Owen Smith
2. Eleanor Melvina Smith
3. Creighton Antonio Smith
4. Dave Brubeck Smith
5. Shaina Mary Ann Smith
6. Oraal Dwayne Smith
v
Omar Hurst (dba best Cup/Omar Fusion)
[BVIHCVAP2025/0014]
(Tortola)

Date: Tuesday 27th May 2025

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

On paper:

Applicant: Mr. Michael Fay

Respondent: N/A

Issues:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

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

Reason:

The Court 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 principles of the grant of leave to appeal as stated in Othneil Sylvester v Faelleseje Civil Appeal No. 5 of 2005 (delivered 20th February 2006, unreported) and in Cage St. Lucia Limited v Treasure Bay (St. Lucia) Limited Saint Lucia Civil Appeal No. 45 of 2011 (delivered on 23rd January 2012, unreported), most notable that - a. The applicant must show that the intended appeal has a realistic prospect of success, which is a heavier burden than showing only that he has an arguable appeal.

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

Case Name:

**Harris Walters
v
The Commissioner of Police**

**[BVIMCRAP2025/0002]
(Tortola)**

Date: Tuesday 27th May 2025

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

On paper:

Applicant: Mr. Israel R. Bruce

Respondent: Office of the Director of Public Prosecutions

Issues: Application for

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is to file a copy of the decision being sought to be appealed.
2. The applicant will also 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.
3. The application is adjourned for further consideration at the next Chamber Hearing scheduled for 24th June 2025.

Reason: The Court noted that: i. the order of the Magistrate which is intended to be the subject of the appeal had not been filed with this court and thus gave directions for the filing of the same.

Case Name:

Culgoa Limited
v
Basement Investments Limited

[BVIHCMAP2024/0011]
(Tortola)

Date: Tuesday 27th May 2025

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

On paper:

Applicant:

Respondent:

Issues: Application for orders that the applicant be permitted to amend its claim form and statement of claim, adduce fresh evidence on appeal, amend its notice of appeal filed on 9th July 2024 and rely on supplemental submissions on appeal

Result / Order: IT IS HEREBY ORDERED THAT:

The application filed on 8th April 2025 for an order that the applicant be permitted to amend its claim form and statement of claim, adduce fresh evidence on appeal, amend its notice of appeal and rely on supplemental submissions is adjourned for an oral hearing to be conducted before the Full Court at the same time as the hearing of the substantive appeal.

Reason: The Court noted that the powers of a single judge of the Court pursuant to rule 62.19 of the Eastern Caribbean Supreme Court Civil Procedure Rule (Revised Edition) 2023 (“the CPR”);

The Court also considered (i) the principles on which the Court may exercise its discretion to admit fresh evidence as stated in *Ladd v Marshall* [1974] 1 WLR 1489; (ii) the application raises complex issues of fact and law which will impact the conduct and outcome of the substantive appeal; (ii) that the substantive appeal is ready for listing.

The Court was of the view that the application should be heard before the Full Court.