

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

CHAMBER HEARING
Tuesday 17th December 2024

MATTERS DEALT WITH ON PAPER

Case Name:

The Attorney General of Anguilla

V

- 1. Romeine Browne**
- 2. Cuthwin Davis**
- 3. Alexis Connor**

[AXAHCVAP2024/0002]
(Anguilla)

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant:

Erica Edwards

Respondent:

Carlyle Rogers

Issues:

**Application for an extension of time; Application
for a stay of proceedings**

Result/ Order:

IT IS HEREBY ORDERED THAT:

- 1. The notice of application for an extension
of time to serve the Notice of Appeal is
granted.**

2. The notice of appeal served on the respondents on 11th October 2024 is deemed properly served.
3. The applicant shall file the affidavit of service evidencing that the notice of appeal has been so served within 7 days of today's date.
4. The respondents shall file its response to the stay application on or before 14th January 2025, with liberty to the Applicant to file any reply thereto on or before 21st January 2025.
5. Until the further consideration and determination of the Stay Application on the papers, or until further Order of this Court, all proceedings in the High Court of Anguilla in relation to AXAHCV2023/0017 are stayed.
6. No order as to costs.

Reason:

The Court considered that the grant of an extension of time is discretionary, and that the court, in exercising its discretion, in giving effect to the overriding objective of ensuring that justice is done between the parties, undertakes an evaluation exercise by weighing all the relevant factors in the scale and these factors would normally include: (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: *Grant and Powell v Tanzil SKBHCVAP2020/0004* (delivered 6th July 2020, Unreported).

The Court was ultimately of the view that there are good reasons for granting the application for an extension but that in relation to the application for

a stay the respondents must be given an opportunity to be heard.

The Court found that the respondent is entitled to be heard on an application for a stay however the Court was not aware whether the respondent had received notice of the application. Consequently, the Court was minded to order that the respondents file its response to the stay application on or before 14th January 2025 and stayed all proceedings in the High Court of Anguilla in relation to AXAHCV2023/0017 until further Order of the Court.

Case Name:

**Clara Edwina Jarvis-Carter
v
Arougoo Neville Adams
[ANUHCVP2024/0024
(Antigua and Barbuda)**

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant:

Leslie Thomas KC

Respondent:

Joanne Massiah

Issues:

Application for stay of proceedings pending appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The order of Byer J in Clara Edwina Jarvis Carter v Arougoo Neville Adams ANUHCV2021/0421 (delivered 25th June,**

unreported) is stayed pending the determination of the appeal.

2. Costs in the appeal.

Reason:

The Court considered the principles governing the grant of a stay of execution elucidated in *C-Mobile Services Ltd. v Huawei Technologies Co. Ltd.* BVIHCMAP2014/0017 (delivered 2nd October 2014, unreported) and was of the view that the threshold for a grant of stay of execution has been satisfied having regard to the said principles especially that the appeal is likely to be stifled or rendered nugatory unless a stay is granted.

Case Name:

**Anthony-Victor Legal Services
Delvia Pierre**

v

[1] Tywana Morris

[2] Tenijah Morris

**[ANUMCVAP2018/0004]
(Antigua and Barbuda)**

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant:

Eunica Anthony-Victor

Respondents:

C. Debra Burnette

Issues:

Application for counsel to be removed from the record

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

The application for an order that Eunica Anthony-Victor be removed from the record as legal practitioner for the appellant in Appeal ANUMCVAP2018/004 is hereby granted.

Reason:

The Court considered rule 63.6(3) of the CPR which states that applications by legal practitioners to be removed from the record “must be supported by evidence on affidavit which must be served on the client but must not be served on any other party to the proceedings” and was of the view that the application should be granted.

Case Name:

**Dylan Simon
v
The King**

**[ANUHCRA2024/0010]
(Antigua and Barbuda)**

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Appellant:

Warren Cassel

Respondents:

Shannon Jones-Gittens

Issues:

Application for extension of time to file notice of appeal; application for leave to appeal against sentence; application for stay of execution; application for order to adduce further evidence

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for (i) an extension of time to file the notice of appeal and (ii) leave to appeal against sentence are hereby granted.**
- 2. The applicant shall file the Notice of Appeal within 21 days from the date this order is served upon him.**
- 3. The application to adduce additional evidence is adjourned for consideration at the same time as the hearing of the appeal.**
- 4. The order of Bakre, J dated 2nd October 2024 in Case No. ANUHCR2023/0081 ordering the applicant to pay the sum of \$50,000.00 in monthly instalments of \$10,000.00 per month commencing November 2024 and in default 2 years imprisonment, is stayed pending the determination of the appeal.**
- 5. 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 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 power of a single judge to extend time pursuant to rule 62.19(c) of the Civil Procedure Rules (Revised) 2023 and was of the view that the applicant had established that an extension of time to file the notice of appeal should be granted in the circumstances.

The Court considered part 62(8) of the Eastern Caribbean Supreme Court 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 Court also considered section 48 of the Eastern Caribbean Supreme Court Act Cap. 143 of the Laws of Antigua and Barbuda which states that where a person convicted desires to appeal under this Act to the Court of Appeal or to obtain the leave of the Court of Appeal, he shall give notice of appeal or notice of his application for leave to appeal in such manner as may be directed by rules of court within fourteen days of the date of conviction and was of the view that the appeal does have a realistic prospect of success.

Case Name:

The Attorney General of Antigua and Barbuda

v

[1] Sherrel Sutherland

[2] Dr. Dane Abbott

**[ANUHCVP2024/0031]
(Antigua and Barbuda)**

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Appellant:

Zachary Phillips

Respondents:

Sherrie-Ann Bradshaw

Issues:

Application for leave to appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The notice of application for leave to appeal against the decision of Drysdale J filed on 7th November 2024 is granted.**
- 2. The applicant shall file and serve a notice of appeal within 21 days of the date of this order.**
- 3. Costs in 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 Court was ultimately of the view that even though it is well accepted that this Court will not readily interfere with the trial judge's exercise of discretion, the Court is satisfied that in the present matter, the intended appeal has a realistic prospect of success having regard to the legislative history of amendments and repeals of the Offences Against the Persons Act between 1962 and 1995 as outlined by the applicant.

Case Name:

**The Barbuda Council
v
PLH (Barbuda) Limited
[ANUHCVP2024/0030]**

(Antigua and Barbuda)

Date: Tuesday 17th December 2024

Before: The Hon. Mr. Trevor M. Ward, Justice of Appeal

On paper:

Applicant: Lenworth Johnson

Respondent: L. Errol Cort

Issues: Application for stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:

The application for stay of the order and judgment rendered in High Court Claim ANUHCV2023/0043 on 26th September 2024 is hereby dismissed.

Reason: The Court considered the principles set out in the decision of C-Mobile Services Limited v Huawei Technologies Co. Limited BVIHCMAP2014/0017 and was of the view that the threshold for the grant of a stay was not met.

Case Name: Nicole D. Martin (Attorney for Nalda Marin a.k.a. Condacey Martin also known as Nolder Clovis Candacey Martin)

v

[1] Ronnie James (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)**

**[ANUHCVAP2024/0008]
(Antigua and Barbuda)**

Date: Tuesday 17th December 2024

Before: The Hon. Mr. Trevor M. Ward, Justice of Appeal

On paper:

Applicant: Asheen Joseph

Respondents: Denise Parillon for the 1st respondent
Michael Archibald for the 2nd respondent
The 3rd respondent in person
Kamilah Roberts for the 4th respondent

Issues: Application for leave to appeal; application for
stay of proceedings; application for extension of
time

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for an extension of time to
file the notice of application for leave to
appeal is granted.**
- 2. The application for leave to appeal is
granted.**
- 3. The applicant shall file the Notice of Appeal
within 21 days of the date of this order.**

4. The respondents shall file its response to the stay application on or before 14th January 2025, with liberty to the applicant to file any reply thereto on or before 21st January 2025.
5. Until the further consideration and determination of the Stay Application on the papers, or until further Order of this Court, the order of the Honourable Justice Jan Drysdale made on the 6th day of November 2023 is hereby stayed.
6. Costs of the application in the appeal.

Reason:

The Court considered the case of *Hyacinth v Joseph* GDAHCVAP2015/0025 (delivered 20th June 2016, unreported) which affirmed that the matters which the court would consider in exercising its discretion to grant an extension of time and was of the view that (i) the length of the delay in filing the application for extension of time is 1 day and is therefore in the Court's estimation, not inordinately long; (ii) there are good reasons proffered for the delay; and (iii) there is likely to be no prejudice suffered by appellant if the extension of time is granted. In the circumstances, the court was of the view that the applicant has satisfied the threshold for the grant of an extension of time.

The Court considered rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 ("the CPR 2023") as well as the principles on leave to appeal elucidated in *Othneil Sylvester v Faelleseje*, A Danish Foundation Civil Appeal No. 5 of 2005 (delivered 20th February 2006, unreported) and was ultimately of the view that that the applicant had met the threshold for the grant of leave to appeal.

The Court also considered the relevant principles which a court should apply when deciding

whether to exercise its discretion to grant a stay adumbrated in *Hammond Suddard Solicitors v Agrichem International Holdings Limited* [2001] EWCA Civ 2065 applied in *C-Mobile Services Limited v Huawei Technologies Co Limited* BVIHCMAP2014/0017 (delivered 2nd October 2014, unreported) and considered it necessary to provide the respondent with an opportunity to respond to the stay application. The Court was therefore of the view that the respondents ought to file its response to the stay application on or before 14th January 2025.

Case Name:

**Ann Scotland
v
Joseph Alain Regis
[DOMMCVAP2023/0007]
(Dominica)**

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant:

Joshua Francis

Respondent:

In Person

Issues:

Application for leave to appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The Registrar of the High Court shall file and serve a copy of the full**

memorandum of reasons on or before 7th January 2024.

2. The application for leave to appeal against the order of the Hon. Magistrate Michael Laudat dated 2nd October 2023 is adjourned to the next Chamber Sitting of this Court scheduled for 21st January 2025.

Reason:

The Court noted that upon the application coming up for hearing the memorandum of reasons of the Hon. Magistrate Michael Laudat as contained in the record of appeal was incomplete. The Court was therefore minded to adjourn the application to allow the Registrar of the High Court to file and serve a copy of the memorandum of reasons on or before 7th January 2024.

Case Name:

**Celestine Morain
v
[1]St. George's University Ltd.
[2]Wesley Lucas
[GDAHCVAP2022/0028]
(Grenada)**

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant:

Hazel Hopkin-La Touche

Respondents:

In Person

Issues:

Application for extension of time to file written submissions and authorities

Result /
Order:

IT IS HEREBY ORDERED THAT:

- 1. The respondents'/applicants' notice of application filed on 14th November 2024 for an order extending time for the filing and serving of their written submissions and authorities to 19th September 2024 is granted.**
- 2. The said written submissions and authorities filed on 19th September 2024 are deemed to be properly filed.**
- 3. The respondents/applicants are relieved from sanctions.**

Reason:

The Court considered 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) and also considered the appellant's notice filed on 14th November 2024 indicating that she consents to the granting of the application.

The Court was ultimately of the view that that even though the Court has firmly and consistently established on previous occasions that administrative oversight is no good excuse for failure to comply with the Court's orders and rules, the Court is nonetheless minded to grant the application having regard to the fact that the delay in filing cannot be said to be inordinately long, and the appellant consents to the application being granted, and therefore, the Court finds that no prejudice would be

occasioned by the respondent if the application is granted.

Case Name:

**José Luis Rocafort
v
[1]Ana Maria Steen (nee Rocafort)
[2]Manuel Jose Rocafort
[GDAHCVAP2024/0019]
(Grenada)**

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant:

Rena Banfield

Respondents:

Ruggles Ferguson

Issues:

Application for leave to appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal against the Order of Justice Agnes Actie dated the 7th day of November 2024 is granted.**
- 2. The applicants shall file and serve their 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. 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 Part 62.2(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised) 2023 and determined that the applicant had met the threshold for the grant of leave to appeal as the appeal has a realistic prospect of success.

Case Name:

Gane Grenada Ltd.

v

Garvey Louison

**[GDAHCVAP2024/0022]
(Grenada)**

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant:

Dia Forrester

Respondent:

Benjamin Hood

Issues:

Application for stay of proceedings

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The application for a stay of the proceedings in the lower court is granted.

2. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.

Reason:

The Court considered the principles on which a stay is granted and was mindful that cogent evidence was provided in support of a stay and that there would be a risk of injustice to the applicant if the stay is not granted. The Court was ultimately of the view that the risk of injustice to the applicant is greater if a stay is refused thereby determining that the application should be granted.

Case Name:

Providence Estate Limited

v

**[1] Joel Osbourne
[2] Ingrid Osborne
[3] Warren Cassell
(d.b.a. Cassell & Lewis)
[4] Meredith Lynch
[5] Amelia H. Daley
[6] David Brandt**

**[MNIHCVAP2024/0007]
(Montserrat)**

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicants:

Khamaal Collymore

Respondent:

The respondents in person

Issues: Application for rectification of the interlocutory appeal bundle

Result /
Order: IT IS HEREBY ORDERED THAT:

1. The interlocutory appeal bundle filed on 22nd November 2024 is deemed to be properly filed.
2. The appeal shall proceed in accordance with the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023.

Reason: The Court considered rule 62.13(1) of the CPR and considered that only the index to the interlocutory appeal bundle was filed on 21st November 2024 and the interlocutory appeal bundle comprising the index and the bundle of documents was submitted on 21st November 2024 at 4:08 pm and thus deemed to be filed on 22nd November 2024. The Court also noted its powers of rectification under rule 26.9 of the CPR.

The Court, upon considering that the respondent has not objected to the grant of the application for rectification was ultimately of the view that the threshold had been met for the grant of an order to put matters right under rule 26.9 of the CPR.

Case Name: James Bretney
v
The King

[SLUHCRA2024/0006]
(Saint Lucia)

Date: Tuesday 17th December 2024

Before:	The Hon. Mr. Trevor M. Ward, Justice of Appeal
On paper:	
Applicant:	In Person
Respondent:	Crown Prosecution Service
Issues:	Application for extension of time to appeal; application for leave to appeal against conviction and sentence
Result Order:	/ IT IS HEREBY ORDERED THAT: 1. The Extension of Time Application filed on 10th October 2024 is granted. 2. The Leave Application filed on 10th October 2024 is granted and deemed properly filed. 3. The Criminal Form 1- Notice of Application for leave to appeal is deemed to be the notice of appeal. 4. The transcript fees in respect of SLUCRD2010/1157,1157A and 1157B are waived. 5. The Registrar of the High Court shall provide a copy of the transcript in SLUCRD2010/1157,1157A and 1157B to counsel for the applicant. 6. 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. 7. The parties shall comply with the practice and procedures prescribed by the Court of Appeal Rules as well as the

relevant Practice Directions in advancing this appeal.

Reason:

The Court considered rules 9 and 55 of the Eastern Caribbean Supreme Court, Court of Appeal Rules 1968 (“the Court of Appeal Rules”). The Court also considered that the applicant’s notice of application for leave to appeal against conviction and sentence though filed 4 years out of time, that it is unlikely that prejudice will be caused to the respondent if the application for an extension of time is granted and that in all the circumstances in particular that the applicant is a litigant in person incarcerated at the Bordelais Correctional Facility. The Court final considered that as the extension of time application is not opposed, 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:

Adrienne Denise Kearney

v

**Michael Leslie Winter
(Acting herein and represented by his
Reciever/Curator Lolita Sergio Winter)**

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

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant: Fidel Michel

Respondent: Wauneen Louis-Harris

Issues:

Application to appoint a representative on behalf of the respondent

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

The applicant Lolita Sergio Winter is hereby appointed to represent the estate of the respondent herein Michael Leslie Winter also known as Michael Winter in these proceedings.

Reason:

The Court was cognizant of rules 21.7 (2), 21.7 (3) and 21.8 of the Civil Procedure Rules Revised Edition 2023 and the powers of a single judge of the court described in rule 62.19 and was of the view that the application should be granted.

Case Name:

**The Estate of Cecil Toussaint
(Represented by his legal representative
Victoria Toussaint)**

v

**[1] Troy Lamontagne Detective Sergeant
[2] The Attorney General**

**[SLUHCVP2024/0009]
(Saint Lucia)**

Date:

Tuesday, 17th December 2024

Before:

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

On paper:

Applicants: David Francis

Respondent: George Charlemagne

Issues: Application for leave to appeal; application for extension of time within which to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

The applications for leave to appeal and extension of time to file the notice of appeal are set down for hearing before the Court of Appeal sitting in Saint Lucia scheduled for the week commencing 13th January 2025.

Reason: The Court 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 power of a single judge to extend time pursuant to rule 26.1(2) (k) of the Civil Procedure Rules, 2023. The Court also considered rules 62.2(8) and 62.2(5) of the Civil Procedure Rules (Revised Edition) 2023 (“the CPR 2023”) and was minded to schedule an oral hearing so that the issues raised in the appeal on whether the extension of time and leave to appeal ought to be granted could be fully developed and ventilated before the Full Court.

Case Name: Richard Frederick
v
Minerva Ward

[SLUHCVP2024/0021]
(Saint Lucia)

Date: Tuesday, 17th December 2024

Before: The Hon. Mr. Trevor M. Ward, Justice of Appeal

On paper:

Applicant: Jared Jagroo

Respondent: In person

Issues: Application for extension of time to serve notice of appeal; Application for leave to serve the respondent via registered post

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted an extension of time to serve the notice of appeal within 21 days of the date of this order.
2. Permission is granted to the applicant to serve the respondent via registered post at her usual or last known place of residence at Esplanade Lane, Grimsby, ON, L3M 0G9, Canada with a copy of the notice of appeal and a sealed copy of this order.

Reason: The Court considered rule 26.1(2)(k) of the Civil Procedure Rules (Revised Edition) 2023 (“CPR”) as well as the principles upon which an extension of time is granted as set out 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). The Court determined that the applicant had met the threshold for the grant of an extension of time to serve the notice of appeal within 21 days of the date of this order.

The Court also considered rule 62.9 (1) and rule 7.3(4) of the CPR, the latter of which states that “the Court process may be served out of the jurisdiction if a claim in tort is made and the act causing the damage was committed within the jurisdiction or the damage was sustained within the jurisdiction.” The Court was ultimately of the view that permission should be granted to the

applicant to serve the respondent via registered post.

Case Name:

Kawanie Williams

v

The King

[SVGHCRA2021/0005]

(Saint Vincent and the Grenadines)

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant:

In Person

Respondent:

Office of the Director of Public Prosecutions

Issues:

Application for bail

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for bail is refused.**
- 2. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.**

Reason:

The Court considered the sentence imposed on the applicant, the length of time the appellant has served in custody and that it is not likely that the applicant would have served his sentence before the hearing of the appeal. The Court was ultimately of the view that the applicant had not provided the Court with any evidence which, on

the authority of *The State v Lynette Scantlebury* (1976) 27 WIR 103, reveals any exceptional circumstances which have arisen for granting bail pending the hearing and determination of the appeal.

Case Name:

Atiba Hamilton

v

The King

[SVGHCRA2024/0024]

(Saint Vincent and the Grenadines)

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant:

In Person

Respondent:

Maria Jackson

Issues:

Application for leave to appeal against conviction and sentence

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal is granted.**
- 2. The application for leave to appeal against conviction and sentence filed on 22nd November 2024 is deemed to be the Notice of Appeal.**
- 3. The Registrar of the High Court shall serve a copy of this order on the parties within 14 days of the date of this order and shall provide proof of service thereafter.**

Reason: The Court considered rule 55 of the 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 and was ultimately of the view that the applicant had met the threshold for the grant of leave to appeal.

Case Name: **Javiss Chance**
v
[1] The King
[SVGHCRA2019/0008]
(Saint Vincent and the Grenadines)

Date: Tuesday 17th December 2024

Before: The Hon. Mr. Trevor M. Ward, Justice of Appeal

On paper:

Applicant: In Person

Respondents: Maria Jackson-Richards

Issues: Application for bail

Result /
Order: IT IS HEREBY ORDERED THAT:

1. The application for bail is refused.
2. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.

Reason: The Court considered the sentence imposed on the applicant, the length of time the appellant has served in custody and that it is not likely that the

applicant would have served his sentence before the hearing of the appeal. The Court was therefore of the view that the applicant has not provided the Court with any evidence which, on the authority of *The State v Lynette Scantlebury* (1976) 27 WIR 103, reveals any exceptional circumstances which have arisen for granting bail pending the hearing and determination of the appeal.

Case Name:

Allan Wilson

v

The King

**[SVGHCRAP2019/0004]
(Saint Vincent and the Grenadines)**

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant:

In Person

Respondent:

Maria Jackson-Richards

Issues:

Application for bail

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for bail pending appeal filed on 15th July 2024 is refused.**
- 2. 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.

Reason:

The Court considered that the applicant had applied for bail on two prior occasions (28th May 2019 and then 25th August 2023) and on each occasion his application was refused by a single judge in chambers. The Court was of the view that the applicant had not furnished any exceptional circumstances for the grant of bail pending the hearing and determination of the appeal in this third bail application, in accordance with the authorities of *R v Watton* (1979) 68 Cr. App.R. 293 and *Scantlebury v The State* (1976) 27 WIR 103, and consequently the threshold for the grant of bail had not been met.

Case Name:

**[1] Levona Holdings Ltd
[2] Tropical Island International Ltd
v
[1] Eletson Corporation
[2] Eletson Gas LLC

[BVIHCVAP2024/0016]
(Territory of the Virgin Islands)**

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant:

Jevgenija Fedotova for the 1st and 2nd applicants

Respondent:

**Isaac Freckleton for the 1st respondent
Kimberly Crabbe-Adams for the 2nd respondent**

Issues:

Application for leave to appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The notice of application for leave to appeal filed on 31st October 2024 is granted.**
- 2. The applicant shall file and serve a notice of appeal within 21 days of the date of this order.**
- 3. Costs in the appeal.**

Reason:

The Court considered rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 (the “CPR”) 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 Court was of the view that the intended appeal has a realistic prospect of success.

Case Name:

**[1] NMH
[2] ATG
v
NKT**

**[BVIHCMAP2024/0031]
(Territory of the Virgin Islands)**

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicants:

Isobel McNaught

Respondent: Jevaughn Rhymer and Christopher McCarthy

Issues: Application for leave to appeal

Type of Order:

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal is granted.
2. The applicants shall file and serve their notice of appeal by 31st January 2025.
3. Thereafter, the appeal shall proceed in accordance with Part 62 of the Civil Procedure Rules (Revised Edition) 2023.
4. The Registrar of the High Court shall serve a copy of this order on the respondent and provide proof of service within 7 days of the date of this order.

Reason: The Court considered rule 62.2 (8) of the Eastern Caribbean Supreme Court 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 and was of the view that the appeal does have a realistic prospect of success.

Case Name: The Federal Republic of Nigeria
v
Process & Development Industrial Limited

[BVIHCMAP2024/0033]

(Territory of the Virgin Islands)

Date: Tuesday 17th December 2024

Before: The Hon. Mr. Trevor M. Ward, Justice of Appeal

On paper:

Applicant: Mark Wells

Respondent: Misha Walters

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted leave to appeal against the decision and order of Wallbank J (Ag.) dated 19th September 2024.
2. The applicant shall file and serve the 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.

Reason: The Court considered rule 62.2 (8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which provides 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 Court was therefore satisfied that the applicant satisfied the relevant threshold for the grant of leave to appeal.

Case Name:

PT Ventures, SGPS, S.A

v

Vitadel Limited

[BVIHCMAP2024/0013]

(Territory of the Virgin Islands)

Date:

Tuesday 17th December 2024

Before:

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

On paper:

Applicant:

Yegâne Güley

Respondent:

Matthew Freeman

Issues:

Application for expedition; application for directions

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The reconsideration application shall be heard and determined by the Court of Appeal on an expedited basis on a date to be fixed by the Chief Registrar.**
- 2. The respondent/appellant shall file and serve written submissions with authorities in the substantive appeal within 21 days of any order made in respect of the reconsideration application following an expedited hearing thereof.**
- 3. The applicant/respondent shall file and serve written submissions with authorities in the substantive appeal within 28 days of the date of service of the**

respondent/appellant's written submissions.

- 4. The respondent/appellant is at liberty to file and serve reply submissions with authorities, if necessary, within 14 days of the date of service of the respondent/appellant's written submissions.**
- 5. 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 service.**

Reason:

The Court considered rule 62.19(1) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which states that a single judge may make orders on any interlocutory application in the course of an appeal. The Court also considered rule 1.1(2) (d) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which states that the just dealing of cases includes that they are dealt with expeditiously and was mindful that a delay of the substantive appeal due to the reconsideration application by the respondent/appellant creates the risk of injustice to the applicant/respondent in the expeditious dispensation of the proceedings. The Court ultimately determined that the application should be granted with directions for the filing and serving of written submissions.

Case Name:

**Marble Point Energy Limited
v
[1] Multiperils International Inc.
[2] Stonecroft Resources Inc.**

Rheal Bougie and William Ballachey

**[BVIHCVAP2007/0026]
(Territory of the Virgin Islands)**

Date: Tuesday 17th December 2024

Before: The Hon. Mr. Trevor M. Ward, Justice of Appeal

On paper:

Applicant: Jonathan Addo

Respondents: No appearance

Issues: Application for leave to appeal

Result / Order: **IT IS HEREBY ORDERED THAT:**

1. The ex-parte application filed on 20th November 2024 seeking leave to inspect the court file is granted.
2. The applicant, MBS Software Solutions Limited, is permitted to inspect the court file in these proceedings and take copies of the following documents only:
 - i. The transcripts of the hearing in these proceedings on (i) 25th September 2008; and (ii) 11th December 2008; and
 - ii. Any written submissions filed by the parties in respect of the hearings in these proceedings on 25th September 2008 and 11th December 2008;
3. The applicant shall use any documents so inspected or copied pursuant to this order

for the sole purpose of prosecuting its appeal in BVIHCMAP2024/0012;

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 service of this order.

Reason:

The Court considered rule 3.13 (1) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which states that any person, on payment of the prescribed fee and during office hours, is entitled to inspect and take a copy of any of the documents filed in the court office, namely: (i) a claim form or statement of case, (ii) a notice of appeal, (iii) a judgment or order given or made in court or (iv) any other document with leave of the Court granted on an application which may be made without notice. The Court was also cognizant of rule 3.13 (5) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which prescribes circumstances in which rule 3.13(1) shall not apply. The Court was ultimately of the view that the documents which are the subject of the application are not barred from inspection pursuant to rule 3.13 (5) and was satisfied that the application is appropriate for determination on the papers without a hearing.