

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

CHAMBER HEARING

19th November 2024

MATTERS DEALT WITH ON PAPER

Before: The Hon. Mde. Margaret Price Findlay, Justice of Appeal

Case Name: Trevon Francis
v
The King

[ANUHCRA2019/0027]

(Antigua and Barbuda)

Date: 19th November 2024

On paper:

Appellant: Mr. Lawrence Daniels

Respondent: No appearance

Issues: Application that the administrative fees for the transcript in this matter be waived

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application for the waiver of transcript fees filed on 13th September 2024 is granted.

2. The Registrar of the High Court is to provide the appellant with the transcript of proceedings within 14 days of the date of this order.

Reason:

The Court considered Section 48(10) of the Eastern Caribbean Supreme Court, Court of Appeal Rules which provides that “A transcript of the shorthand notes taken of the proceedings at the trial (or a copy of the Judge’s notes of the trial) of any appellant shall not be supplied free of charge except by an order of the Court or a Judge thereof, upon an application made by an appellant or by his counselor solicitor assigned to him under the Act.”.

The Court was satisfied that having regard to the appellant’s schedule of financial circumstances which indicates that the appellant does not have the financial means to purchase the transcript of proceedings and therefore, the application to waive transcript fees ought to be granted.

Case Name:

**China National Gold Group Hong Kong
Limited**

v

**[1] Global Mining Development LP
[2] Gerald Metals LLC Respondents
[3] Soremi Investments Limited
[4] Societe de Recherche et d’exploitation
Miniere SA Defendants in the Court below**

**[BVIHCMAP2024/0027]
(Territory of the Virgin Islands)**

Date:

19th November 2024

Appearances:

Appellant: Walkers

Respondent: Harney Westwood & Riegels

Issues:

Application for leave to appeal - stay of the hearing of the contempt and rectification applications pending the granting of leave to appeal and (if granted) pending the hearing of that appeal - the applicant be permitted to rely on the affidavit filed in support of this application - costs of the application be costs in the appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal shall be set down for urgent hearing before the Full Court on a date to be fixed by the Chief Registrar.**
- 2. The Contempt and Rectification Applications in the matter BVIHCOM2023/0070 are stayed pending the hearing and determination by the Full Court of the application for leave and a stay filed by the applicant on 11th October 2024.**

Reason:

The Court considered rule 62.2 8(a) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 (“the CPR”), which establishes 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 considered the principles on leave to appeal which provides that (i) the applicant must show that the intended appeal has a real prospect of success, which is a heavier burden than showing only that he has an arguable appeal; and (ii) in appealing against the exercise of a judicial discretion, the applicant must show a real prospect that he would be able to persuade the appellate court that the judge’s/master’s decision was clearly or blatantly wrong.

The Court considered rule 62.2(7) of the CPR 2023 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 therefore minded at this stage to schedule an oral hearing so that the issues raised in the appeal on whether leave ought to be granted could be fully developed and ventilated before the Full Court.

The Court also considered rule 26.1(2)(q) of the CPR 2023 which provides that the Court may stay the whole or part of any proceedings generally or until a specified date or event and accordingly granted a temporary stay until the hearing and determination of the application by the Full Court.