

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

CHAMBER HEARING

22nd October 2024

MATTERS DEALT WITH ON PAPER

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

Case Name: Shaquille Gumbs
v
The King

**[AXAHCRA2022/0001]
(Anguilla)**

Date: 22nd October 2024

On paper:

Appellant:	Mr. Carlyle Rogers
Respondent:	No appearance

Issues: Application to amend grounds of appeal

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application to amend the grounds of appeal is granted.
2. The appellant/applicant is to file and serve the amended notice of appeal within 14 days of the date of this order.

Reason: The Court considered rule 62.5(8) of the Civil Procedure Rules (Revised Edition) 2023 and Section 80 of the Court of Appeal Rules and determined that permission should be granted to amend the notice of appeal.

Case Name: Salim Richardson
v
The King
[AXAHCRA2022/0002]
(Anguilla)

Date: 22nd October 2024

Appearances:
Appellant: Mr. Carlyle Rogers
Respondent: No appearance

Issue: Application to amend grounds of appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application to amend the grounds of appeal is granted.
2. The appellant/applicant is to file the amended notice of appeal within 14 days of the date of this order.

Reason: The Court considered rule 62.5(8) of the Civil Procedure Rules (Revised Edition) 2023 and Section 80 of the Court of Appeal Rules and determined that permission should be granted to amend the notice of appeal.

Case Name: **Paddy Prendergast, trading as Paddy
Predergast Production Services
v
Rayel Stewart**

**[ANUHCVP2024/0023]
(Antigua and Barbuda)**

Date: **22nd October 2024**

Appearances:
Appellant: **E. Ann Henry**
Respondent: **No appearance**

Issues: **Application for stay of execution until final
determination of the appeal**

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

**1. The application for stay of execution until final
determination of the appeal is granted.**
2. Costs of the Application are costs of 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 which include the
following: i) the circumstances of the case, ii) a stay is
the exception rather than the general rule, iii) the party
seeking a stay must provide cogent evidence that the
appeal will be stifled or rendered nugatory unless a
stay is granted, iv) the balance of harm test, and v) the
prospect of the appeal succeeding. Accordingly, the
Court was satisfied that the threshold for the grant of
a stay had been satisfied.**

Case Name: **Debby Looby
v
KFC Antigua Limited**

**[ANUHLTAP2023/0002]
(Antigua and Barbuda)**

Date: 22nd October 2024

Appearances:

Appellant: In Person

Respondent: Ms. Stacy A. Richards (Richards & Co.)

Issues: Application to file and serve notice of opposition - the notice of opposition be deemed properly filed – extension of time to file written submissions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for an extension of time to file the notice of opposition is granted.
2. The notice of opposition filed on 16th August 2024 is deemed properly filed.
3. The respondent /applicant is to file submissions in accordance with rule 62.14 (2) of the Civil Procedure Rules (Revised Edition) 2023.

Reason: The Court was of the view that i) the length of the delay in filing the application for extension of time to file a notice of opposition, written submissions and relief from sanctions was less than a month of service of the notice of appeal and was therefore in the Court's estimation, not inordinately long; ii) there were good reasons proffered for the delay; and iii) there was likely to be no prejudice suffered by appellant if the extension of time was granted. Accordingly having regard to the circumstances of the case, the Court was satisfied that the threshold for the grant of an extension of time had been met.

Case Name: Savita Indira Salisbury
v

Astra Holdings Limited

**[ANUHCVAP2024/0022]
(Antigua and Barbuda)**

Date: 22nd October 2024

Appearances:

Appellant: Mr. Leslie Thomas KC

Respondent: Mr. Kwame L Simon

Issues: Application for stay of execution

Result / Order: IT IS HEREBY ORDERED BY CONSENT THAT:

1. The appellant do have leave to withdraw her application for a stay of execution filed on 11th September 2024.
2. There be no order as to costs.

Reason: Upon reviewing the consent order filed on 21st October 2024, which was duly signed by the attorneys at law for the parties, the Court approved the consent order.

Case Name:

**Trevon Francis
v
The King**

**[ANUHCRAP2019/0027]
(Antigua and Barbuda)**

Date: 22nd October 2024

Appearances:

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 applicant shall complete and file a copy of the form set out in the Schedule to this Order within 14 days of the date of this order.
2. The Waiver Application will be considered and determined upon receipt of the completed Schedule.
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 was of the view that the applicant had failed to provide sufficient evidence to enable the Court to make a determination on his Waiver Application and therefore requested that a statement of financial circumstances be provided.

Case Name: BOI Bank Corporation
v
Sodecorp SA
[ANUHCVP2023/0038]
(Antigua and Barbuda)

Date: 22nd October 2024

Appearances:
Appellant: Mr. Craig L. Jacas
Respondent: No appearance

Issues: Application for counsel to be removed from the record

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application filed by Stapleton Chambers on 25th September 2024 to be removed from the record as acting as counsel for the appellant in this appeal is granted.
2. The applicant shall serve a copy of this order on the appellant within 14 days of the date of this order and shall provide proof of service thereof.
3. The applicant shall also serve a copy of this order on the legal practitioners on record for the respondent within 14 days of the date of this order and shall provide proof of service thereof.

Reason: The Court considered rule 63.6 of the Civil Procedure Rules (Revised Edition) 2023 and was satisfied that the applicant had met the threshold for the grant of the application.

Case Name: BOI Bank Corporation
v
Jose Rafael Padron Salazar
[ANUHCVP2023/0039]
(Antigua and Barbuda)

Date: 22nd October 2024

Appearances:
Appellant: Mr. Craig L Jacas
Respondent: No appearance

Issues: Application for counsel to be removed from the record

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application filed by Stapleton Chambers on 25th September 2024 to be removed from the record as acting as counsel for the appellant in this appeal is granted.
2. The applicant shall serve a copy of this order on the appellant within 14 days of the date of this order and shall provide proof of service thereof.
3. The applicant shall also serve a copy of this order on the legal practitioners on record for the respondent within 14 days of the date of this order and shall provide proof of service thereof.

Reason:

The Court considered rule 63.6 of the Civil Procedure Rules (Revised Edition) 2023 and was satisfied that the applicant had met the threshold for the grant of the application.

Case Name:

[1] Flying Dutchman Overseas Limited
(a Company incorporated in the Territory
of the Virgin Islands)
[2] Vita Felice
(a company incorporated in the Territory
of the Virgin Islands)
v

[1] The Port Authority
[2] The Attorney General

[ANUHCVP2024/0019]
(Antigua and Barbuda)

Date:

22nd October 2024

Appearances:

Appellant:

Mr. Andrew O’Kola

Respondent:

Mrs. Carla Brookes-Harris (Attorney General’s
Chambers)

Issues: Application for an order pursuant to section 31(1)(b) of the Eastern Caribbean Supreme Court Act (powers of Court of Appeal to enforce its own orders)

Result / Order: IT IS HEREBY ORDERED THAT:

1. The respondent is to file and serve submissions in response to the applicants note within 7 days of today's date.
2. The notice of application filed on 19th September 2024 for an order pursuant to section 31(1)(b) of the Eastern Caribbean Supreme Court Act is referred for urgent hearing by the trial judge in the Court below.
3. Costs in the application be costs in the cause.

Reason: The Court noted the case was due to be tried on 19th November to 22nd November 2024 and referred the matter to the trial judge for urgent hearing.

Case Name: Shelton Hunte
v
The King
[ANUHCRA2018/0004]
(Antigua and Barbuda)

Date: 22nd October 2024

Appearances:

Appellant:	In person
Respondent:	No appearance

Issues: Application for extension of time to pay for the transcript of proceedings - waiver of fees for the transcript of proceedings

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for extension of time is granted.
2. The application for the waiver of transcript fees filed on 21st September 2020 is granted.
3. 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 allows the Court to make an order for the provision of the transcript to the appellant free of charge. The Court also considered the principles upon which an extension of time can be granted which are i) the length of the delay; ii) the reasons for delay; iii) the chances of the appeal succeeding if the extension is granted; and iv) the degree of prejudice if the application is granted. Accordingly, the Court granted the extension of time sought and concluded 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, the application to waive transcript fees ought to be granted.

Case Name:

1. Rachel Putman
2. Hilary Ann Lamond nee Anderson
Appellants

v

1. John Christopher Copland
2. Noreen Elizabeth Copland
3. Heather Ann Copland
4. Margaret Berridge nee Copland

Respondents

Shirley Mc Queen

Interested Party

**[GDAHCVAP2024/0012]
(Grenada)**

Date: 22nd October 2024

Appearances:

Appellants: Mr. Henry C Paryag

Respondents: Renwick & Payne

Interested Party: Legal Solutions Inc.

Issues: Application for stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:

The application seeking a stay of the order of Glasgow J made on 15th July 2024 is dismissed.

Reason:

The Court considered the relevant principles which a court should apply when deciding whether to exercise its discretion to grant a stay which include the following: i) the circumstances of the case, ii) a stay is the exception rather than the general rule, iii) the party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted, iv) the balance of harm test, and v) the prospect of the appeal succeeding. The Court was of the view that the appellants had failed to show that the appeal had good prospects of success and that the appeal would be rendered nugatory unless a stay is granted and accordingly deemed that in all the circumstances a stay ought not to be granted.

Case Name:

**Kevon Antoine
v
The King**

**[GDAHCRAP2024/0011]
(Grenada)**

Date: 22nd October 2024

Appearances:

Appellant: Mr. Anslem Clouden

Respondent: No appearance

Issues: Application for leave to appeal against conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal against sentence filed by the applicant on 14th August 2024 is granted.
2. The application for leave to appeal 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 2.2(3) of the Civil Procedure Rules (Revised Edition) 2023 (the “CPR”) which provides inter alia that Part 62 shall apply to criminal appeals, to the extent that the Court of Appeal Rules 1968 are silent as to procedure in respect of criminal appeals; and rule 62.2(8) of the CPR 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 further noted rule 55 of the Court of Appeal Rules 1968 and was of the view that the applicant had met the threshold for the grant of leave to appeal.

Case Name:

1. Eva Kachelriess-Aban
2. William Aban
3. Palm Trees Immo Ltd

V
1. Hans Paulig
2. Marlen Paulig

[GDAHCVAP2021/0027]
(Grenada)

Date: 22nd October 2024

Appearances:

Appellant: Ms. Navindra Ramnanan

Respondent: Ms. Caryn Adams (Derick F Sylvester & Associates)

Issues: Application for extension of time to file written submissions and authorities

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application by the respondents for an extension of time to file written submissions and authorities is granted.
2. The written submissions filed by the respondents on 7th October 2024 and the authorities filed on 8th October 2024 are deemed to be properly filed.
3. The application by the appellants for an extension of time to file written submissions and authorities is granted.
4. The written submissions filed by the appellants on 2nd September 2024 and authorities filed on 9th September 2024 are deemed to be properly filed.
5. The appellants are at liberty to file and serve written submissions together with authorities in reply (if necessary) on or before 29th October 2024.
6. The appeal shall thereafter proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.

Reason: The Court considered rule 26.1(2)(k) of the Civil Procedure Rules (Revised Edition) 2023 (the “CPR”) and the principles on which an extension of time may be granted 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. The Court was of the view the delay in filing the submissions by either party was not inordinate and neither party would be prejudiced by the grant of the application.

Case Name: Lloyd Rhenford Ryan
v
Neville Blake et al
[MNIHCVAP2022/0003]
(Montserrat)

Date: 22nd October 2024

Appearances:
Appellant: In person
Respondent: Mr. Jean Kelsick

Issues: Application to adduce fresh evidence in the appeal - Application for appointment as representative of the late respondent, Agnes Ryan’s estate in the appeal and that the notice of appeal be struck out as a nullity as no leave had been obtained to file it out of time

Result / Order: IT IS HEREBY ORDERED THAT:

The application by the appellant filed on 18th September 2024 to adduce fresh evidence in the appeal shall be heard together with the application filed by Neville Blake on 19th June 2024 and shall come up for hearing before the Court of Appeal at the sitting of the full Court for Montserrat scheduled for the week commencing Monday 25th November 2024.

Reason: The Court was of the view that it would be in furtherance of the overriding objective to determine, as a preliminary issue, the application filed by Neville Blake before determining the appellant's fresh evidence application.

Case Name: Sheldon Walker
v
Daniel James
[MNIMCVAP2024/0006]
(Montserrat)

Date: 22nd October 2024

Appearances:
Appellant: In person
Respondent: Mr. Jean Kelsick

Issues: Application for extension of time within which to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

The application filed on 3rd September 2024 for an extension of time within which to seek leave to appeal is dismissed.

Reason: The Court considered rule 26.1(2)(k) of the Civil Procedure Rules (Revised Edition) 2023 and the principles on which an extension of time may be granted 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. The Court was of the view that despite the fact that the delay in seeking an extension of time was not inordinate, the reasons provided for the delay are not good reasons and the applicant has

not demonstrated that the appeal has a realistic prospect of success.

Case Name:

**Ross University School Veterinary Medicine
(St.Kitts) Limited
v
Nalini Bhup**

**[SKBHCVAP2023/0003]
(St Kitts and Nevis)**

Date:

22nd October 2024

Appearances:

Appellant: Mr. Johnathan Rattan

Respondent: Mr. Brian J Barnes

Issues:

Application that (i) the transcript of the High Court proceedings in this matter be dispensed with; (ii) the Judge's Notes from the High Court proceedings be produced if available; and (iii) this matter be heard at the same time as Civil Appeal 2023/0002 Nalini Bhup v the Ross University School of Veterinary Medicine (St Kitts)

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The need for the transcript of the High Court proceedings in the court below to be included in the record of appeal is dispensed with.**
- 2. The Registrar of the High Court shall take all reasonable steps to have the Judge's Notes from the High Court proceedings be produced (if available).**
- 3. This matter shall be heard together with SKBHCVAP2023/0002 before the full Court on a date to be set by the Chief Registrar.**
- 4. Thereafter the appeal shall proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.**

Reason: The Court was of the view that the issues on the appeal are not extensive or complex and it would be in furtherance of the progression of the appeal and in the interest of the overriding objective that the transcript of proceedings be dispensed with.

Case Name: Pinneys Hotel Development Limited
v
St.Kitts Nevis and Anguilla National Bank
Limited
[SKBHCVAP2024/0008]
(St Kitts and Nevis)

Date: 22nd October 2024

Appearances:
Appellant: M. Angela Cozier
Respondent: No appearance

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal filed on 15th August 2024 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.

Reason: The Court considered rule 62.2(8) of the 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 satisfied that the applicant had shown good prospects of success on appeal, therefore leave to appeal was granted.

Case Name: **SKN Choice Times Limited et al**
v
Josephine Huggins
[SKBHCVAP2024/0009]
(St Kitts and Nevis)

Date: **22nd October 2024**

Appearances:
Appellant: **M. Angela Cozier**
Respondent: **D. Victor C. Elliott-Hamilton**

Issues: **Application for stay of execution of judgment**

Result / Order: **IT IS HEREBY ORDERED THAT:**
The application for a stay of execution of the judgment of Gill J made on 8th July 2024 is dismissed.

Reason: **The Court considered rule 26.1(2)(q) of the Civil Procedure Rules (Revised Edition) 2023 and the principles for the grant of a stay which include i) all the circumstances of the case, ii) that a stay is the exception rather than the general rule, iii) that a party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted, iv) that 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, and v) the court should also take into account the prospect of the appeal**

succeeding. The Court was of the view that the appellants had failed to provide cogent evidence that the appeal would be rendered nugatory unless a stay is granted and that in all the circumstances a stay ought not to be granted.

Case Name:

**Shaquiel Liburd
v
The Director of Public Prosecutions**

**[SKBHCRAP2024/0008]
(St Kitts and Nevis)**

Date:

22nd October 2024

Appearances:

Appellant: In Person

Respondent: No appearance

Issues:

Application for leave to appeal against sentence and conviction

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal against sentence and conviction is granted.**
- 2. The application for leave to appeal is deemed to be the notice of appeal.**
- 3. The Registrar 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 the relevant rules which include rule 2.2(3) and rule 62.2(8) of the Civil Procedure Rules and rule 55 of the Court of Appeal Rules 1968. The Court was therefore satisfied that the applicant had met the threshold for the grant of leave to appeal.

Case Name: **Mohammad Sadek Atassi et al**
v
Raghed Murtada et al
[SKBHCVAP2024/0010]
(St Kitts and Nevis)

Date: **22nd October 2024**

Appearances:
Appellant: **M. Angela Cozier**
Respondent: **No appearance**

Issues: **Application for leave to appeal**

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

The application for leave to appeal shall be set down for hearing before the Full Court on a date to be fixed by the Chief Registrar.

Reason: **The Court considered rule 62.2 8(a) and 62.2 (7) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 and the principles on which leave to appeal ought to be granted. The Court was 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.**

Case Name: **Denzil Stevens**
v
The Director of Public Prosecutions

[SKBHCRA2024/0007]

(St Kitts and Nevis)

Date: 22nd October 2024

Appearances:

Appellant: In Person

Respondent: No appearance

Issues: Application for leave to appeal against conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal against conviction and sentence filed on 8th August 2024 is granted.
2. The application for leave to appeal is deemed to be the notice of appeal.
3. The registrar shall serve a copy of this order on the parties within 7 days of the date of this order and provide proof of service thereafter.

Reason: The Court considered the grounds in the application which concern matters of mixed fact and law; and was of the view that the application had met the threshold for the grant of leave to appeal.

Case Name: Richard Frederick

v

Minerva Ward

[SLUHC2024/0021]

(St Lucia)

Date: 22nd October 2024

Appearances:

Appellant: Mr. Jared Jagroo

Respondent: No appearance

Issues:

Result / Order: IT IS HEREBY ORDERED THAT:

1. The notice of application for leave to appeal against the decision of Saunders M filed on 29th August 2024 is granted.
2. The appellant shall file the notice of appeal within 21 days of the date hereof in accordance with rule 62.6(1)(b) of the CPR.

Reason:

The Court considered rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 and the principles on which leave to appeal ought to be granted. The Court was therefore of the view that the applicant had met the threshold for the grant of leave to appeal.

Case Name:

Vincent Adrian Augier

v

Fleur Bryon Cox also known as Fleur Odlum

**[SLUHCVAP2024/0020]
(St Lucia)**

Date: 22nd October 2024

Appearances:

Appellant: Mrs. Cynthia Hinkson-Ouhla

Respondent: No appearance

Issues: Application for an extension of time to file an application for leave to appeal, leave to appeal, expedited hearing of the appeal, relief from sanctions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for an extension of time to file an application for leave to appeal filed on 26th August 2024 is dismissed.
2. The application for an extension of time being dismissed, all the other applications filed on 26th August 2024 fall away.

Reason: The Court considered rule 62.1(3)(a) of the Civil Procedure Rules (Revision Edition) 2023 and was of the view that in applying the application test, the order of Pariagsingh J dated 4th July 2024 is not a final decision and the applicant was required to apply for leave to appeal to this Court within 21 days of the said order but has not done so, being approximately 1 month out of time.

The Court also considered the principles upon which an extension of time can be granted and these 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) importantly where an extension is sought to seek leave to appeal, whether the appeal has a realistic prospect of success.

The Court was of the view that the applicant had highlighted the necessity and urgency of safeguarding the interests of the respondent given primarily, her age and medical condition, however, the applicant had not acted with sufficient promptitude in filing the application for leave to appeal, and though the delay is not inordinately long being approximately one month,

the applicant had not in the Court's view proffered a good explanation for excusing it;

Further the Court determined that the applicant was given ample opportunity to remedy the defects in second petition by way of the conditional order, however the applicant failed to comply with clause 1 of the order, which required the applicant to file a "supplemental affidavit" with the necessary exhibits, however, instead, the applicant filed, without more, the exhibits themselves on 24th June 2024, then four days later an unsigned affidavit, and finally, a signed affidavit on 18th July 2024 which is beyond the deadline for filing as stipulated in the conditional order.

Thus, according to clause 4 of the conditional order, the consequence of the failure of the applicant to comply with clause 1 was that the petition would stand dismissed with no order as to costs. The Court was therefore satisfied that having regard to the foregoing, the intended appeal did not have a realistic prospect of success.

Case Name:

Kelroy Richards

v

The King

[SVGHCRA2024/0011]

(St Vincent and The Grenadines)

Date:

22nd October 2024

Appearances:

Appellant:

In person

Respondent:

No appearance

Issues:

Application for extension of time within which to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for an extension of time within which to appeal filed on 10th September 2024 is dismissed.
2. The registrar 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 noted that the applicant had previously made an extension of time application filed on 9th May 2024 which was dismissed by the court. The Court further determined that the applicant had not provided any cogent reason in this second extension of time application that meets the threshold for the grant of an extension of time. Accordingly, the Court was of the view that the applicant's second extension of time application ought to be dismissed.

Case Name:

Calbert Toney

v

The King

[SVGHCRA2024/0017]

(St Vincent and the Grenadines)

Date:

22nd October 2024

Appearances:

Appellant:

In Person

Respondent:

No appearance

Issues:

Application for leave to appeal against conviction and sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

The notice of appeal filed on 12th August 2024 is valid and properly filed and the matter shall proceed in accordance with the applicable rules of court.

Reason:

The Court considered the oral decision of the Court in Brandt v The King [MNIHCRAP2021/0004] (delivered 26th January 2023, unreported and was satisfied that the notice of appeal filed is valid and subsisting.

Case Name:

Jerome Ollivierre

v

The King

[SVGHCRAP2024/0019]

(St Vincent and the Grenadines)

Date:

22nd October 2024

Appearances:

Appellant:

In Person

Respondent:

No appearance

Issues:

Application for leave to appeal sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal against sentence is refused.**
- 2. The registrar shall serve a copy of this order on the parties within 7 days of the date of this order and provide proof of service thereafter.**

Reason:

The Court was of the view that the application for leave must be refused as the applicant had not proffered any grounds in support of his application and therefore there was no basis upon which to grant leave to appeal.

Case Name:

Kristin Scott

v

The King

[SVGHCRAP2024/0021]

(St Vincent and the Grenadines)

Date:

22nd October 2024

Appearances:

Appellant:

In Person

Respondent:

No appearance

Issues:

Application for extension of time within which to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The notice of application for extension of time within which to appeal filed on 12th August 2024 is granted.**
- 2. The notice of appeal filed on 12th August 2024 is deemed properly filed.**
- 3. The registrar shall serve a copy of this order on the parties within 7 days of the date of this order and provide proof of service thereafter.**

Reason:

The Court considered the relevant factors in exercising its discretion to grant an extension of time and was satisfied that that the applicant has satisfied the threshold for the grant of an extension of time, especially having regard to – (i) the short length of the delay; (ii) the reasons proffered for the delay; and (iii) that there would be no prejudice if the extension of time was granted.

Case Name:

Andrey Titarenko (aka Prognostor)

v

[1] Emmerson International Corp

[2] Messrs. Forbes Hare (all former and current partners, and all apparent or purported partners of the partnership in the material times, in their personal capacities), including but not limited to:

2.1 Robert Nader

2.2 Mungo Lowe

2.3 Gareth Timms

2.4 William Hare

2.5 Alistair Abbott

2.6 Glenroy Forbes

2.7 Jose Santos

2.8 Cristopher Young

2.9 Sonia Starvis

2.10 Ben Hobden

[3] Ben Giblin (in his personal capacity)

[4] Robert Nader (in his personal capacity)

[5] Mungo Lowe (in his personal capacity)

[6] Christopher Phillip Bromilow (in his personal capacity)

[BVIHCMAP2024/0026]

(Territory of the Virgin Islands)

Date:

22nd October 2024

Appearances:

Appellant: In person
Respondent: No appearance

Issues: Application for permission to file appeal

Result / Order: IT IS HEREBY ORDERED THAT:

Permission to make the application to appeal and the application for case management orders and directions filed on 11th October 2024 is dismissed.

Reason:

The Court considered the Civil Restraint Order dated 11th June 2024, currently in force against the applicant which states so far as is relevant that, “The applicant, Mr. Andrey Titarenko, is hereby restrained from issuing any claim or making any application in any Court without first obtaining the permission of the Court... The applicant may apply for an amendment or discharge of this Order provided that he has first obtained the permission of the Court.”

The Court was of the view that the applications which the applicant seek permission to make are totally without merit and thereby bound to fail in the sense that there was no rational basis on which they could succeed and consequently, the Court was not persuaded that permission 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: 22nd October 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 Contempt and Rectification Applications in the matter BVIHCOM2023/0070 are stayed pending the hearing and determination by this Court of the application for leave and a stay filed by the applicant on 11th October 2024.
2. The applicant shall file and serve the sealed copy of the order dated 2nd October 2024 by Wallbank J [Ag.] or the transcript of the court's proceedings on that date within 14 days of the date of this order.
3. The hearing of the application for leave and a stay filed by the applicant on 11th October 2024 is adjourned for further consideration at the next Chamber sitting of this Court scheduled for 19th November 2024.

Reason: The Court considered rule 26.1(2)(q) of the Civil Procedure Rules (Revised Edition) 2023 and was cognisant of the principles for the grant of a stay which include i) all the circumstances of the case, ii) a stay is the exception rather than the general rule, iii) a party

seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted, iv) 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, and v) that the court should also take into account the prospect of the appeal succeeding.

The court was of the view that the proceedings in the lower court ought to be stayed pending the determination of the leave and stay application before this Court.