

**THE EASTERN CARIBBEAN SUPREME
COURT
COURT OF APPEAL**

CHAMBER HEARING

30th July 2024

MATTERS DEALT WITH ON PAPER

Before: The Hon. Mr. Gerard St.C Farara, Justice of Appeal
[Ag.]

Case Name: Trevor Santos

and

Horizon Construction

**[ANUHCVP2023/0036]
Antigua and Barbuda**

Date: Tuesday, 30th July 2024

On paper:

Applicant: Ms. E. Ann Henry KC

Respondent: No appearance

Issues: Application for extension of time to file amended notice of appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The appellant's notice of application for an extension of time filed on 8th May 2023 is granted.
2. The amended notice of appeal filed on 8th May 2023 is deemed to be properly filed.

Reason: The Court considered that the length of the delay in filing the amended notice of appeal was not inordinately long; that there were good reasons proffered for the delay; and that there was likely to be no prejudice suffered by respondent if the extension of time was granted. In the circumstances the Court was of the view that the applicant had met the threshold for the grant of an extension of time.

Case Name: Charmaine Ephraim
and
Ed Meyer
[ANUHC VAP2020/0035]
Antigua and Barbuda

Date: Tuesday, 30th July 2024

On paper:
Applicant: Mrs. Andrea Smithen- Henry
Respondent: No appearance

Issues: Application for an extension of time to file notice of appeal and submissions

Result / Order: IT IS HEREBY ORDERED THAT:
1. The application for an extension of time filed on 16th October 2020 is granted.
2. The notice of appeal and the written submissions of the applicant filed on 16th October 2020 are deemed properly filed.

Reason: Notwithstanding that the delay by the applicant in filing the notice of appeal and written submissions was inordinate and there were no good or justifiable reasons for the delay; the Court was of the view that the applicant had satisfied the threshold for the grant of an extension of time in that the notice of appeal and written submissions were in fact filed on 16th October 2020 (albeit out of time) and the respondent was not likely to suffer any prejudice if time was extended to 16th October 2020 to regularize the late filing of the notice of appeal and written submissions.

Case Name: The Director of Public Prosecution

v

Desbones James St.John

**[ANUHCRA PAP2020/0009]
Antigua and Barbuda**

Date: Tuesday, 30th July 2024

On paper:

Applicant: Mr. Wendel Alexander

Respondent: No appearance

Issues: Application for leave to appeal against conviction

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The notice of application for leave to appeal against conviction filed on 1st August 2023 is treated as an application for extension of time to file and application for leave to appeal.
2. Time is extended to 1st August 2023 for the applicant to apply for leave to appeal his conviction and the notice of application for leave to appeal filed on said date is deemed

properly filed.

3. The application for leave to appeal against his conviction is granted.
4. The notice of application filed on 1st August 2023 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 provide proof of service within 7 days of the date of this order.

Reason:

The Court treated the application for leave to appeal as an application for an extension of time within which to apply for leave to appeal and was of the view that an extension of time should be granted to the applicant to apply for leave to appeal his conviction. Accordingly the applicant was granted leave to appeal.

Case Name:

George Kaersenhout

and

Domitilia James

**[ANUHLTAP2018/0010]
Antigua and Barbuda**

Date:

Tuesday, 30th July 2024

On paper:

Applicant: Ms. Latoya A. Letlow

Respondent: No appearance

Issues:

**Application for Solicitor to be removed from record;
Application for Alternative Service**

Result / Order:

IT IS HEREBY ORDERED THAT:

6. The application filed on 22nd March 2023 to serve the appellant with the application to be removed as counsel on record through email correspondence is granted.

7. The matter is adjourned to the next Chamber Hearing of the Court fixed for 24th September 2024.

Reason:

The Court had regard to the requirement in CPR 63.6 that an application by a legal practitioner to be removed from the record must be served on the client. The Court also noted that in the circumstances, personal service was impractical as the appellant resides outside the jurisdiction and his exact whereabouts were unknown and the only form of communication had been via email correspondence.

Case Name:

Brenda Gillian Furlonge

and

[1] The Honourable Minister of Public Safety
[2] The Attorney General

[ANUHCVAP2020/0009]
Antigua and Barbuda

Date:

Tuesday, 30th July 2024

On paper:

Appellant/ Respondent:	In person
Respondents/	Ms. Alicia Aska, Attorney General’s Chambers

Applicants:

Issues:

Application for an extension of time to file supplemental submissions and affidavit in support

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for an extension of time to file supplemental submissions filed on 27th May 2024, is granted.**
- 2. The respondents shall file their supplemental submissions within two weeks of the date of this order.**

Reason:

The Court was of the view that the respondents had provided good reasons for the delay; that the delay was not inordinate and that the appellant was unlikely to suffer any prejudice.

Case Name:

**[1] JSN Development Group Limited
[2] HBC1 Proprietors Limited**

v

**[1] Global Bank of Commerce Ltd
[2] Brian Stuart - Young**

**[ANUHC VAP2022/0025]
Antigua and Barbuda**

Date:

Tuesday, 30th July 2024

On paper:

Applicant:

Ms. Jan Peltier for Christopher and Associates

Respondents:

No appearance

Issues:

**Application for Solicitor to be removed from record
for 1st respondent**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application by Christopher and Associates to be removed from the record as acting as legal practitioners for the first respondent in this appeal is granted.**
- 2. Christopher and Associates is removed from the record as acting for the first respondent in this appeal.**
- 3. The applicant shall serve a copy of this order personally on the first respondent within 14 days of the date of this order and shall provide proof of service thereof.**
- 4. The applicant shall also serve a copy of this order on OMO Law, legal practitioners on record for the appellants, and Wason & Co, legal practitioners on record for the second respondent within 14 days of the date of this order and shall provide proof of service thereof.**

Reason:

The Court was satisfied that the applicant had met the threshold for the grant of the application.

Case Name:

[1] Andrew Mills

Applicant

[2] Jacqueline Douglas

**as Executrix of the Contested Will of Florentine
Magloire, deceased**

First Defendant

and

Vans Leblanc

Respondent

[DOMMCVAP2024/0011]

Commonwealth of Dominica

Date: Tuesday, 30th July 2024

On paper:

Applicant: Mrs. Gina Dyer- Munro

Respondent: No appearance

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant shall within 21 days of this order obtain a copy of the order of Williams J dated 17th June 2024 and shall immediately file same upon the Order becoming available.
2. The application for leave to appeal is adjourned for further consideration at the next Chamber sitting of this Court scheduled for 24th September 2024.

Reason: The applicant had not provided a copy of the decision being appealed against.

Case Name:

[1] Peter Ducreay
[2] Maria LeBlanc Ducreay

and

[1] Tracy Louisy
[2] Cassia Wiltshire
[3] Keri-Ann Jno Baptiste George
[4] Jonell Degalerie Charles

[5] Annia Peters

**[DOMHCVAP2024/0010]
Commonwealth of Dominica**

Date: Tuesday, 30th July 2024

On paper:

Applicants: In person

Respondents: No appearance

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application for leave to appeal is adjourned to be heard by the Full Court at the next sitting of the Court for the Commonwealth of Dominica during the week commencing 9th December 2024.

Reason: The Court had regard to the provisions of CPR62.2(7) whereby if a single judge of the Court is minded to refuse the application for leave to appeal, 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.

Case Name: Carol Strachan
and
Ian James

[GDAHCVAP2024/0004]
Grenada

Date: Tuesday, 30th July 2024

On paper:

Applicant: Mr. Kristopher-Ross Fields

Respondent: No appearance

Issues: Application for an extension of time to serve notice of appeal, submissions and authorization code

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for an extension of time within which to serve the notice of appeal, submissions in support of the appeal (together with authorities) and authorization code is granted.
2. The notice of appeal, submissions in support of the appeal (together with authorities) and authorization code served on the respondent on 3rd May 2024 are deemed properly served.
3. The affidavit of service of Dwalon Bayne filed on 31st May 2024 is deemed as properly filed.
4. The respondent shall file and serve submissions together with authorities on or before 13th August 2024.
5. The appellant shall be at liberty to file and serve written submissions in reply (if necessary) on or before 27th August 2024.
6. Thereafter the appeal shall proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.
7. No order as to costs.

Reason: The Court was of the view that the length of the delay in serving the notice of appeal and supporting documents was inordinate, the delay in seeking the extension of time was also inordinate, the reasons provided for the delay were not good reasons but the appeal had good prospects of success and the respondent had not objected to the application and was unlikely to be prejudiced by the grant of the application.

Case Name: [1] Shawn Ganness
[2] Wendel Sylvester
[3] Roddy Felix
[4] Edward Gibson
v
The King
[GDAHCRAP2024/0003]
Grenada

Date: Tuesday, 30th July 2024

On paper:
Applicants: Mr. Francis Alexis
Respondent: No appearance

Issues: Application for permission to serve authorization code out of time – Relief from sanctions

Result / Order: IT IS HEREBY ORDERED THAT:
1. The application for permission to serve the authorization code on the respondent out of time is granted.

2. The authorization code served on the respondent on 9th February 2024 is deemed duly served.
3. The appeal shall hereafter proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.

Reason:

The Court was of the view that the delay in serving the authorization code was not inordinate, the appeal had good prospects of success and the respondent was unlikely to be prejudiced by the grant of the application. Additionally, there was no sanction specified for failure to comply with rule 13(3)(b) of SRO No. 24 of 2021 so the question of relief from sanctions did not arise.

Case Name:

Celestine Morain

and

[1] St. George's University Ltd

[2] Wesley Lucas

[GDAHCVAP2022/0028]

Grenada

Date:

Tuesday, 30th July 2024

On paper:

Applicant: Ms. Hazel B. Hopkin

Respondent: No appearance

Issues: Application for an extension of time to file and serve the record of appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for an extension of time to file and serve the record of appeal is granted.
2. The record of appeal filed and served on 4th July 2024 is deemed properly filed and served.
3. The appellant shall file and serve submissions together with authorities on or before 13th August 2024.
4. The respondents shall file and serve submissions together with authorities on or before 13th September 2024.
5. The appellant is at liberty to file and serve submission in reply (if necessary) on or before 27th September 2024.

Reason: The Court was of the view that the delay in filing the record of appeal was not inordinate, the applicant had provided cogent reasons for the delay, the appeal had good prospects of success and the respondents had not objected to the grant of the application and were unlikely to be prejudiced by the granting of the application.

Case Name:

Albian Modeste

v

The King

**[GDAHCRAP2024/0010]
Grenada**

Date: **Tuesday, 30th July 2024**

On paper:

Applicant: **In person**

Respondent: **No appearance**

Issues: **Application for an extension of time within which to appeal – Application for leave to appeal against sentence**

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

- 1. The application filed by the applicant for an extension of time within which to seek leave to appeal against his sentence is dismissed.**
- 2. The application for an extension of time having been dismissed, the leave to appeal application consequently falls away.**

Reason: **The Court refused the application on the grounds that the delay was inordinate and that the reason provided by the applicant was a bare assertion and was not a good reason. Furthermore, the extension of time application having been denied, the leave to appeal application fell away.**

Case Name: **Clarivel Vargas Mateo**

and

[1] Geron Philips

[2] Clinton Lindsey

[MNIHCVAP2024/0001]
Montserrat

Date: Tuesday, 30th July 2024

On paper:

Applicant: Mr. Sylvester Carrott

Respondent: No appearance

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application for leave to appeal the judgment of Fitzpatrick J [Ag.] dated 1st January 2024 is set down for hearing before the Full Court at the next sitting of the Court of Appeal for the Territory of Montserrat the week commencing 25th November 2024.

Reason: The Court had regard to the provisions of CPR62.2(7) whereby if a single judge of the Court is minded to refuse the application for leave to appeal, 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.

Case Name: [1] Raschief Griffiths
[2] Kaschief Griffiths

v

The King
[MNIHCRAP2024/0002]

Montserrat

Date: Tuesday, 30th July 2024

On paper:

Applicants: In person

Respondent: Mr. Oris Sullivan, Director of Public Prosecutions

Issues: Application for extension of time within which to appeal – Stay of order for payment of compensation

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for extension of time is granted.
2. The application for leave to appeal against conviction and sentence is granted.
3. The applicants shall file and serve their notice of appeal within 14 days of the date of this order.
4. The application for a stay of the compensation order against the 2nd applicant is granted.
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 this order.

Reason: The Court was of the view that the delay was not inordinate; that the applicants had provided good reasons for the delay; that the appeal had a realistic prospect of success; and that it was in the interests of justice that the applicants ought to be granted an extension of time to pursue their appeal.

Case Name:

Kevin Daly

and

[1] Alexis Jeffers

(in his personal capacity and in his capacity as a member of the Federal Parliament of St. Kitts and Nevis and a former Minister of the Nevis Island Administration until 12th December 2022 when he lost his seat)

[2] Mark Brantley

(in his capacity as Minister of Finance and Economic Affairs etc. in the Nevis Island Administration (NIA) and in his personal capacity having acted ultra vires the Nevis Tenders Board Ordinance 2007, in awarding government contracts to the 1st and 3rd Defendants in a manner contrary to the Ordinance)

**[3] Grandsons Trucking Services
Limited**

**[NEVHCVAP2024/0012]
Saint Christopher and Nevis**

Date:

Tuesday, 30th July 2024

On paper:

Applicant: Ms. Angela Cozier

Respondents: No appearance

Issues:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall file written submissions in support of its application for leave to appeal within 14 days of the date of this order.**
- 2. The application for leave to appeal is set down for further consideration at the next chamber sitting of this Court scheduled for 24th September 2024.**

Reason:

The Court was of the view that the applicant should file written submissions in support of the application in order for the Court to properly consider and determine whether leave to appeal should be granted.

Case Name:

Malvern Walwyn

and

The Attorney General of Saint Kitts and Nevis

**[NEVHCVAP2024/0013]
Saint Christopher and Nevis**

Date:

Tuesday, 30th July 2024

On paper:

Applicant: Mr. Eustace D. Nisbett

Respondent: No appearance

Issues:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant shall serve a copy of the application for stay pending the determination of the appeal and supporting documents on the respondent and provide proof of service thereof within 7 days of the date of this order.
2. The notice of application for leave to appeal against the order of Thompson Jr. J and a stay pending the determination of the appeal shall be fixed for hearing at the next sitting of the Court of Appeal of St. Christopher and Nevis scheduled for the week commencing Monday 11th November 2024 on a date to be fixed by the Chief Registrar.

Reason:

The Court noted that application for leave to appeal contained an application for a stay which is an inter partes application and there was no evidence of service of the application as it relates to the stay of proceedings on the respondent. In addition, the Court had regard to CPR 62.2(7) and set the matter down for a hearing before the Full Court.

Case Name:

Dr. Eric Frank Jacob

and

Hamilton Reserve Bank Limited

[SKBHCVAP2024/0003]

Saint Christopher and Nevis

Date:

Tuesday, 30th July 2024

On paper:

Applicant:

Ms. Angela Cozier

Respondent: No appearance

Issues: Application for leave to appeal – Application for a stay pending the hearing and determination of the appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The notice of application for leave to appeal the order of Thompson Jr J dated 12th February 2024 and an interim stay is dismissed.

Reason: The Court noted that a Tomlin order had been signed whereby the parties agreed that all further proceedings would be stayed. The Court therefore was satisfied that that the application for leave to appeal had been taken over by the settlement agreement made by consent between the parties and that the application for an interim stay had been rendered nugatory upon all further proceedings having been stayed by the said order.

Case Name: Nalini Bhup
and
The Ross University School of Veterinary
Medicine
[SKBHCVAP2023/0002]
Saint Christopher and Nevis

Date: Tuesday, 30th July 2024

On paper:
Applicant: Mr. Daniel Brantley

Respondent: Mr. Johnathan Rattan

Issues: Application to dispense with transcript

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application filed by the applicant on 11th July 2024 is granted.
2. The need for the transcript of the proceedings in the court below to be included in the record of appeal is dispensed with in whole.
3. Thereafter the appeal shall proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.

Reason: The Court was satisfied that the issues on the appeal were not extensive or complex; that the progression of the appeal would be stifled and that in all the circumstances the transcript of proceedings should be dispensed with.

Case Name:

Flavia Cherry

and

Ezekiel Mason

**[SLUMCVAP2021/0004]
Saint Lucia**

Date: Tuesday, 30th July 2024

On paper:

Applicant: Mr. Dexter Theodore KC

Respondent: No appearance

Issues: Application to deem skeleton arguments validly filed

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application filed by the applicant on 11th November 2022 for the skeleton arguments to be deemed properly filed is granted.
2. The skeleton arguments filed by the applicant on 29th August 2022 are deemed properly filed.
3. The appeal shall proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.

Reason: The Court was satisfied that the applicant had met the threshold for the grant of an extension of time.

Case Name: Jaranza Howe

v

The King

**[SVGHCRA2020/0006]
Saint Vincent and the Grenadines**

Date: Tuesday, 30th July 2024

Applicant:	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 is granted.
2. The notice of application filed on 29th May 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 applicant and provide proof of service within 14 days of the date of this order.

Reason: The Court was satisfied that the applicant had met the threshold for the grant of leave to appeal his conviction and sentence.

Case Name:

[1] Lau Man Sang, James
[2] Lung Hung Cheuk
[3] Cheung Wing Sum, Albert
[4] Ngai Hin Kwan, Albert
[5] Yeung Yiu Chong
[6] Zhang Guo Wei

and

[1] King Bun Limited
[2] Kency Ltd
[3] Kar Kwong Development Limited
(trading as Kai Kwong Trading Company)
[4] Khi Capital Limited
[5] Kentrue Company Limited
[6] Hui Pak Kong (suing in the

**name and on behalf of themselves
and all other shareholders in
Vanway International Group
Limited, except the First and
Second Defendants)
[7] Chau Cheuk Wah, Angus
[8] Vanway International Group
Limited**

**[BVIHCMAP2023/0031]
Territory of the Virgin Islands**

Date: **Tuesday, 30th July 2024**

On paper:

Applicants: **Mr. Iain Tucker**

Respondents: **Mr. Jern- Fei Ng KC, Mr. Jerry Samuel, Ms. Alecia Jones and Mr. James Bailey for the 1st – 6th respondents**

Issues: **Application for stay of appeal**

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

- 1. The notice of application for a stay of execution filed on 21st June 2024 (the second stay application) is refused.**
- 2. The respondents shall have their costs of the second application for a stay, such costs to be assessed by a judge of the Commercial Division if not agreed by the parties within 14 days.**

Reason:

The Court was not satisfied that the threshold for the grant of a stay had been met having regard to all the circumstances of the case including that the lower court was yet to determine the leave application, and that the Court was not convinced that the extant appeal would be stifled or rendered nugatory unless a stay was granted.

Case Name:

**[1] Liao Hwang Hsiang
[2] Liao Wentoh**

and

Liao Chen Toh

**[BVIHCVAP2024/0011]
Territory of the Virgin Islands**

Date:

Tuesday, 30th July 2024

On paper:

Applicants: Mrs. Nadine Whyte Laing

Respondent: No appearance

Issues:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal paragraphs 1 and 2 of the Order and the judgment of Master Cenac-Dantes dated 6th June 2024 and 11th June 2024 respectively 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. Costs of the application to be costs in the appeal.

Reason:

The Court was satisfied that the applicants had met the threshold for the grant of leave to appeal in that the Court considered the appeal had a realistic prospect of success.

Case Name:

Elmo Connor

and

Anyelina Mejia Villa

**[BVIHCVAP2022/0014]
Territory of the Virgin Islands**

Date:

Tuesday, 30th July 2024

On paper:

Applicant: Mr. Daniel Fligelstone Davies

Respondent: Ms. Nellien Bute

Issues:

Application for notice of appeal to be deemed duly served – Application for an extension of time to file a record of appeal – Application to strike out the affidavit in support of the application to strike out the appeal – Application for an order setting aside default judgment

Result / Order:

IT IS HEREBY ORDERED THAT:

The application filed by the applicant on 5th July 2024 shall be listed before the Full Court for further consideration at the next sitting of the Court of Appeal in the Territory of the Virgin Islands scheduled for the week commencing Monday 28th October 2024 on a date to be determined by the Chief Registrar.

Reason:

The Court had regard to the interconnectivity of the current application with an application made by the respondent to strike out the appeal which had been part heard and was of the view that the orders sought in the applicant's application ought to be heard before the Full Court.