

**EASTERN CARIBBEAN SUPREME COURT**  
**COURT OF APPEAL SITTING**

**CHAMBER HEARING**  
**Tuesday 28<sup>th</sup> May 2024**

**MATTERS DEALT WITH ON PAPER**

Case Name:

[1] Digicel Antigua Limited  
[2] Antigua Wireless Ventures Limited  
[3] Digicel (Antigua) Wireless Ventures  
Antigua Limited t/a Digicel Antigua  
v  
Jennifer Simpson-Edwards  
  
[ANUHCVP2024/0010]  
(Antigua and Barbuda)

Date:

Tuesday 28<sup>th</sup> May 2024

Before:

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

On paper:

Applicants:

Mr. Justin Simon

Respondent:

No appearance

Issues:

Application for a stay of execution

Type of Order:

Decision

Result /  
Order:

IT IS HEREBY ORDERED THAT:

1. The Application is granted.
2. Costs of the Application are reserved.

**Reason:**

The Court considered the relevant principles which a court should apply when deciding whether to exercise its discretion to grant a stay as stated 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 2<sup>nd</sup> October 2014, unreported) and which include the following: -  
“The first is that the court should take into account all the circumstances of the case. Second, a stay is the exception rather than the general rule. Third, the party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted. Fourth, in exercising its discretion, the court applies what is in effect a balance of harm test in which the likely prejudice to the successful party must be carefully considered. The fifth is that the court should also take into account the prospect of the appeal succeeding, but only where strong grounds of appeal or a strong likelihood the appeal will succeed is shown (which would usually enable a stay to be granted).”

The Court therefore determined that taking into consideration the totality of circumstances, the justice of this application demands that a stay of the Industrial Court’s judgment be granted pending the hearing and determination of the appeal.

**Case Name:**

**Shelton Hunte**

**v**

**The King**

**[ANUHCRA2018/0004]  
(Antigua and Barbuda)**

**Date:**

**Tuesday 28<sup>th</sup> May 2024**

|                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Before:</b>         | <b>The Hon. Mde. Vicki Ann Ellis, Justice of Appeal</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>On paper:</b>       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Applicant:</b>      | <b>No appearance</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Respondent:</b>     | <b>No appearance</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Issues:</b>         | <b>Application for a waiver of fees for the transcript of proceedings, advanced by Sandra Hunte the mother of appellant, filed on 21<sup>st</sup> September – Application for an extension of time to pay for the transcript of proceedings filed on 27<sup>th</sup> November 2020</b>                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Type of Order:</b>  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Result / Order:</b> | <b>IT IS HEREBY ORDERED THAT:</b> <ol style="list-style-type: none"> <li><b>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.</b></li> <li><b>2. The Waiver Application will be considered and determined (on paper) upon receipt of the completed Schedule.</b></li> <li><b>3. The Extension of Time Application is adjourned pending the hearing and determination of the Waiver Application.</b></li> <li><b>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.</b></li> </ol> |
| <b>Reason:</b>         | <b>The Court noted section 48(10) of the Eastern Caribbean Supreme Court, Court of Appeal Rules 1968 which states 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 the appellant or by his counsel or solicitor. The Court also</b>                                                                                                                                                                                                                               |

considered rule 62.15(3) of the Civil Procedure Rules (Revised Edition) 2023 mandates that within 42 days of receipt of the High Court Notice the applicant must prepare and file with the court office the transcript or other record of the evidence in the court below. The Court found that the applicant was now in breach of rule 62.15(3).

The Court further had regard to the principles upon which an extension of time is granted as enunciated in *Carleen Pemberton v Mark Brantley* SKBHCVAP2011/0009 (delivered 14<sup>th</sup> October 2011, unreported) and *John Cecil Rose v Anne Marie Uralis Rose* SLUHCVAP2011/0013 (delivered 22<sup>nd</sup> September 2003, unreported) which are the length of the delay; the reasons for delay; the chances of the appeal succeeding if the extension is granted; and the degree of prejudice if the application is granted and that the respondent has not opposed the Applications.

Notwithstanding the foregoing, the Court was of the view that the applicant has failed to provide sufficient evidence to enable the Court to make a determination on his Waiver Application. The Court further determined that pending the hearing and determination of the Waiver Application, the Extension of Time Application should be adjourned.

**Case Name:**

**Director of the ONDCP**

**v**

**Michael G. Archibald**

**[ANUMCVAP2023/0010]  
(Antigua and Barbuda)**

**Date:**

**Tuesday 28<sup>th</sup> May 2024**

**Before:**

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

**On paper:**

**Appellant/Applicant:** Mr. Ian Bird  
**Respondent:** Mr. Andrew O’Kola

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

**Type of Order:** Decision

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

1. The Stay Application is granted.
2. Costs of the Stay Application are reserved.

**Reason:** The Court considered the relevant principles which a court should apply when deciding whether to exercise its discretion to grant a stay as stated 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 2<sup>nd</sup> October 2014, unreported) and which include the following: - “The first is that the court should take into account all the circumstances of the case. Second, a stay is the exception rather than the general rule. Third, the party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted. Fourth, in exercising its discretion, the court applies what is in effect a balance of harm test in which the likely prejudice to the successful party must be carefully considered. The fifth is that the court should also take into account the prospect of the appeal succeeding, but only where strong grounds of appeal or a strong likelihood the appeal will succeed is shown (which would usually enable a stay to be granted).”

The Court noted that the nature of the order of Smith, J was such that it required the appellant to serve documents on the respondent containing sensitive information which, if made available to the respondent, could irrevocably compromise the functions and duties of the appellant. The Court therefore determined that taking into consideration the totality of circumstances, the justice of this application demanded that a stay of the order of Smith, J be granted pending the hearing and determination of the appeal.

**Case Name:**

**BOI Bank Corporation**

**v**

**Sordecorp SA**

**[ANUHCVP2023/0038]**

**(Antigua and Barbuda)**

**Date:**

**Tuesday 28<sup>th</sup> May 2024**

**Before:**

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

**On paper:**

**Respondent/Appellant:**

**Mr. Craig Jacas**

**Applicant/Respondent:**

**Mr. Adlai David Dorsett**

**Issues:**

**Application for security for costs**

**Type of Order:**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

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

**Reason:** The Court was of the view that the parties' written submissions do not sufficiently address (i) how the balancing exercise as to whether or not security for costs ought to be ordered is to be undertaken in the context where it is alleged that sanctions designated under a prescribed sanctions regime will prevent the respondents from complying with an adverse costs order and satisfying an order for security for costs; (ii) whether it would be just to make an order for security of costs in these circumstances; and (iii) if so, what form of security would be appropriate in the circumstances. The Court therefore determined that the Application should be the subject of an oral hearing before the Full Court.

**Case Name:** Ian Hughes  
v  
The King  
[ANUHCRA2018/0003]  
(Antigua and Barbuda)

**Date:** Tuesday 28<sup>th</sup> May 2024

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

**On paper:** Applicant: No appearance

Respondent: No appearance

**Issues:** Application for a variation of the terms of bail pending the determination of the appeal – Application to amend the notice of appeal

**Type of Order:**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

1. The Variation Application is refused.
2. The applicant is granted leave to amend his notice of appeal consistent with the terms set out in the draft amended notice of appeal exhibited as “IM- 4” to his affidavit in support.
3. The applicant will file and serve the Amended Notice of Appeal within 14 days of the date of this order.
4. Thereafter, the appeal will be set down for case management which must include directions for filing the record of appeal, skeleton submissions and hearing bundles and for fixing a date for the hearing 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 14 days of the date of this order.

**Reason:**

The Court determined that the evidence filed in support of the Variation Application does not satisfy the legal principles and criteria that a court would consider when deciding whether to vary bail conditions. The Court further determined that despite the significant delay in advancing the Amending Application, the applicant should have leave to amend his notice of appeal. The Court therefore ruled that the applicant’s appeal should be robustly managed consistent with the provisions of rule 62.17 of the Civil Procedure Rules (Revised Edition) 2023.

**Case Name:**

**Marc Wanis  
v  
The Commissioner of Police**

**[ANUMCRAP2023/0008]  
(Antigua and Barbuda)**

**Date:** Tuesday 28<sup>th</sup> May 2024

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

**On paper:**

**Applicant:** Ms. Gail Christian

**Respondent:** Ms. Shannon Jones-Gittens

**Issues:** Application for leave to appeal out of time

**Type of Order:** Decision

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

1. The Application is granted.
2. The Second Notice is deemed to have been properly filed.
3. The applicant shall serve the Director of Public Prosecutions with the Second Notice within 14 days of the date of this order and provide proof of the service of the same.
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 noted that (i) the notice of appeal filed on 19<sup>th</sup> December 2023 (“the First Notice”) was filed within the time prescribed albeit in the incorrect form; (ii) the notice of appeal filed on 9<sup>th</sup> May 2024 (“the Second Notice”) is in substance essentially the same as that set out in the First Notice; (iii) the respondent has filed no evidence and no submissions in opposition to the

Application; and (iv) there is no evidence that the respondent will be in any way prejudiced by the grant of this Application.

The Court therefore determined that in all the circumstances of the case, and consistent with the overriding objective, it is in the interest of justice to extend the time for appealing the decision of the Magistrate and that the Second Notice should stand to be deemed to have been properly filed.

**Case Name:**

**[1] Public Works Corporation**

**[2] Edward Darwton**

**v**

**Mathew Nelson**

**[DOMHCVAP2020/0001]**

**(Commonwealth of Dominica)**

**Date:**

**Tuesday 28<sup>th</sup> May 2024**

**Before:**

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

**On paper:**

**Applicants:**

**No appearance**

**Respondent:**

**No appearance**

**Issues:**

**Application for an extension of time to amend the notice of appeal filed on 17<sup>th</sup> January 2020 to add an additional ground of appeal – Application that the amended notice of appeal filed on 7<sup>th</sup> July 2023 be deemed properly filed – Application for relief from sanctions**

**Type of Order:**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

1. The Application is granted.
2. The amended notice of appeal filed on 7<sup>th</sup> July 2023 is deemed to be properly filed.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 21 days of the date of this order.

**Reason:**

The Court considered rule 62.5 (7) of the Civil Procedure Rules (Revised Edition) 2023 which provides that the appellant may amend the grounds of appeal once without permission at any time within 28 days from receiving notice under rule 62.12(1)(a), (b) or (c) that a transcript of the evidence and the judgment have been prepared. The Court noted the factors to be considered by the Court on an application for extension of time, 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 to either side if the application is granted or refused. The Court therefore determined that the applicants ought to be allowed to amend the notice of appeal to include the additional grounds of appeal and that there are no prescribed sanctions which operate in the circumstances of this case.

**Case Name:**

[1] Shawn Ganness  
[2] Wendel Sylvester  
[3] Roddy Felix  
[4] Edward Gibson

v

The King

[GDAHCRAP2024/0003]  
(Grenada)

**Date:**

Tuesday 28<sup>th</sup> May 2024

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

**On paper:**

**Applicants:** Mr. Francis Alexis

**Respondent:** No appearance

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

**Type of Order:** Adjournment

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

The hearing of the Application is adjourned to the next Chamber Hearing of the Court scheduled for 25<sup>th</sup> June 2024 to allow the applicants to regularize service.

**Reason:** The Court noted that service of the proceedings on the respondent had not been satisfactorily proven by the applicants and so the application was adjourned for the applicants to regularize service.

**Case Name:** Kert Brizan  
v  
The Commissioner of Police  
[GDAMCRAP2024/0001]  
(Grenada)

**Date:** Tuesday 28<sup>th</sup> May 2024

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

**On paper:**

**Applicant:** Mr. Anselm Clouden

**Respondent:** Mr. Jordan Marshall

**Issues:** Application for bail pending appeal

**Type of Order:** Decision

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

The Application is refused.

**Reason:** The Court had regard to the following:

- (i) the principles which would guide an appellate court when considering an application for bail pending appeal where a person has been found guilty of a criminal offence and has been sentenced to a term of imprisonment;
- (ii) the judgment of this Court in *Warren Cassell v The King* MNIHCRA2022/0003 (delivered 20<sup>th</sup> December 2022, unreported) which reiterated that bail is granted to a person who is serving a sentence, having been convicted, only in exceptional circumstances and which further observed that “[t]he two most common examples of exceptional circumstances are where the convicted person is likely to serve his sentence before the appeal is heard, or where the grounds of appeal are so strong that prima facie the appeal is likely to succeed.”
- (iii) the judgment in *The State v Lynette Scantlebury* (1976) 27 WIR 103 which states that an exceptional circumstance for granting bail pending appeal would include the case where the sentence is a short one and it is administratively impossible to hear the appeal or there is

- not much hope of doing so before the appellant's sentence terminates; and
- (iv) the fact that the sentence imposed on the applicant which is a relatively short one

The Court therefore noted and determined that the next sitting of the Court of Appeal for the state of Grenada is scheduled for the week commencing 22<sup>nd</sup> July 2024 and that it cannot be said that it will be administratively impossible to hear the appeal before the applicant's sentence terminates and in any event, the likelihood of the appeal succeeding is not such that it would create an exceptional circumstance that would drive the court to conclude that justice can only be done by granting bail to the applicant.

**Case Name:**

[1] Kenneth Kryss  
[2] Greig Mitchell (Joint Liquidators)  
v  
Financial Services Commissioner  
[MNIHCVAP2020/0020]  
(Montserrat)

**Date:**

Tuesday 28<sup>th</sup> May 2024

**Before:**

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

**On paper:**

**Appellants/Respondents:** Mr. Tim Prudhoe

**Respondent/Applicant:** Ms. Renee Morgan

**Issues:**

Application for an order that the affidavit of Dulcie James and the exhibited correspondence of 26<sup>th</sup> August 2020 be included as part of the record of the evidence given in the court below in MNIHCV2018/0014 and MNIHCV2018/0026 for the

purposes of the appeal herein as an exhibit put in evidence below

Type of Order:

Decision

Result /  
Order:

IT IS HEREBY ORDERED THAT:

1. The affidavit of Dulcie James and the exhibited correspondence of 26<sup>th</sup> August 2020 be included as part of the record de bene esse.
2. The appellants/respondents are at liberty to renew their objections during the hearing of the substantive appeal before the Full Court.

Reason:

The Court had regard to the skeleton arguments filed by both parties and determined that the affidavit of Dulcie James and the exhibited correspondence of 26<sup>th</sup> August 2020 ought to be included as part of the record de bene esse subject to the objections by the appellants/respondents being renewed before the Full Court.

Case Name:

**Ervin Rudolph Allen**  
**v**  
**The Director of Public Prosecutions**  
  
**[NEVHCRA2024/0001]**  
**(Saint Christopher and Nevis)**

Date:

Tuesday 28<sup>th</sup> May 2024

Before:

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

On paper:

Applicant:

No appearance

**Respondent:** No appearance

**Issues:** Application for leave to appeal against conviction and sentence – Application for legal aid

**Type of Order:** Decision

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

1. The notice of application filed on 28<sup>th</sup> February 2024 for leave to appeal against conviction and sentence is granted.
2. The notice of application for leave to appeal is deemed to be the notice of appeal.
3. The applicant shall formally submit an application to be assigned legal aid which provides comprehensive details as to his financial means by completing and filing a copy of the form set out in the Schedule to this order within 14 days of the date of this order.
4. The application for legal aid will be determined on papers by a single judge of the Court.
5. The Registrar of the High Court shall serve a copy of this order along with the Schedule on the appellant and provide this Court with proof of service.

**Reason:** The Court considered that the applicant had met the threshold for the grant of leave to appeal and the Court was satisfied that it was empowered under section 50(2) of the Eastern Caribbean Supreme Court (Saint Christopher and Nevis) Act to assign legal aid.

**Case Name:**

**Kevin A Horstwood  
v  
Adam Bilzerian  
[SKBHCVAP2023/0005]  
(Saint Christopher and Nevis)**

**Date:**

**Tuesday 28<sup>th</sup> May 2024**

**Before:**

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

**On paper:**

**Applicant:**

**Ms. Michelle Slack**

**Respondent:**

**Ms. Derrian Charles**

**Issues:**

**Application for a stay of execution**

**Type of Order:**

**Decision**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The Application is granted.**
- 2. Costs are reserved.**

**Reason:**

**The Court had regard to the principles for the grant of a stay pending appeal as outlined in the authorities Wenden Engineering Service Co. Ltd v Lee Shing UEY Construction Co Ltd HCCT No. 90 of 1999, C-Mobile Services Limited v Huawei Technologies Co. Limited BVIHCMAP2014/0017 (delivered 2<sup>nd</sup> October 2014, unreported) and Michael James v Tasman Gaming Inc et al Civil Appeal No. 6 of 2006 (delivered 8<sup>th</sup> February 2007, unreported) and determined that the balance of**

harm and risk of injustice favoured the grant of a stay pending the determination of the appeal.

Case Name:

**Derrick Hazel  
v  
The Chief of Police  
[SKBMCRAP2024/0002]  
(Saint Christopher and Nevis)**

Date:

**Tuesday 28<sup>th</sup> May 2024**

Before:

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

On paper:

**Applicant:**

**No appearance**

**Respondent:**

**No appearance**

Issues:

**Application for leave to appeal**

Type of Order:

**Decision**

Result /  
Order:

**IT IS HEREBY ORDERED THAT:**

- 1. The notice of Application filed on 22<sup>nd</sup> March 2024 for leave to appeal is deemed to be the notice of appeal.**
- 2. The appellant shall enter into a recognizance before a Magistrate with or without sureties, as the Magistrate may direct.**
- 3. The parties shall comply with the practice and procedures prescribed by the Court of Appeal Rules and the Magistrate's Code of**

**Procedure as well as the relevant Practice Directions in advancing this appeal.**

**Reason:**

**The Court considered section 164(2) of the Magistrate's Code of Procedure Act, Cap 3.17 of the Revised Laws of Saint Christopher and Nevis 2009, which provides that where a Magistrate records a conviction, the party against whom the conviction is made may appeal to the Court of Appeal against the decision without leave of the Court of Appeal. The Court therefore was of the view that in the circumstances, leave to appeal the decision of the Magistrate Karen Hill-Hector was not necessary.**

**Case Name:**

**Hamilton Reserve Bank Limited**

**v**

**[1] Greyridge Iron Holdings Incorporated**

**[2] Redhunt Enterprises Limited**

**[3] Socratis Christofi**

**[NEVHCVAP2024/0005]**

**(Saint Christopher and Nevis)**

**Date:**

**Tuesday 28<sup>th</sup> May 2024**

**Before:**

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

**On paper:**

**Appellant/Applicant:**

**Ms. Kurlyn Merchant**

**Respondent:**

**No appearance**

**Issues:**

**Application for leave to appeal**

**Type of Order:**

**Decision**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

1. The applicant is granted leave to appeal the order of Thompson Jr J dated 21<sup>st</sup> March 2024.
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 be costs in the appeal.

**Reason:**

The Court considered rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 and the principles for the grant of leave to appeal as stated in Othneil Sylvester v Faellleseje Civil Appeal No. 5 of 2005 (delivered 20<sup>th</sup> February 2006, unreported) and in Cage St. Lucia Limited v Treasure Bay (St. Lucia) Limited Saint Lucia Civil Appeal No. 45 of 2011 (delivered 23<sup>rd</sup> January 2012, unreported). The Court was satisfied that the applicant had met the threshold test for the grant of leave to appeal.

**Case Name:**

**[1] SKN Choice Times Limited**

**[2] Dwight Cozier**

**v**

**Josephine Huggins**

**[SKBHCVAP2024/0005]**

**(Saint Christopher and Nevis)**

**Date:**

**Tuesday 28<sup>th</sup> May 2024**

**Before:**

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

**On paper:**

**Applicants:** Ms. Maria Angela Cozier

**Respondent:** Ms. Chauntelle Hobson

**Issues:** Application for leave to appeal – Application for a stay of execution

**Type of Order:**

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

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

**Reason:** The Court noted that the order of Gill J dated 25<sup>th</sup> March 2024 did not accompany the Leave Application; no draft notice of appeal accompanied the Leave Application; and that no submissions in support of the Leave or Stay Applications had been provided to the Court by the applicants. The Court was therefore of the view that (i) before determining the Stay Application (ordinarily heard on an inter partes hearing) the Leave Application ought to be determined; (ii) the documents before the Court did not disclose that the appeal had a realistic prospect of success or that there was some other compelling reason why the appeal should be heard; and (iii) the Court was minded to refuse leave.

Having noted the provisions of CPR Part 62.2 (7) which mandate that where a judge is minded to refuse leave the judge must direct that an oral hearing be fixed before a single judge of the Full Court, the Court made the appropriate order for the applications to be heard before the Full Court.

**Case Name:** [1] Hilary Estanio  
[2] Danis Estanio  
v

**Christopher Edward**

**[SLUHCVAP2024/0010]  
(Saint Lucia)**

**Date:** Tuesday 28<sup>th</sup> May 2024

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

**On paper:**

**Applicants:** Mr. Gerard Williams

**Respondent:** No appearance

**Issues:** Application for leave to appeal

**Type of Order:** Decision

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

1. The Application for leave to appeal against the order of Pariagsingh J dated 18<sup>th</sup> March 2024 is granted.
2. The applicants shall file and serve a notice of appeal within 21 days of the date of this order.
3. Thereafter, the appeal shall proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.

**Reason:** The Court considered rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 (“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 was thus of the view that the applicants had shown that the appeal would have a realistic

prospect of success for the grant of leave to appeal.

**Case Name:**

**Mondesir Estates Limited  
v  
[1] Development Control Authority  
[2] The Attorney General  
[SLUHCVAP2024/0008]  
(Saint Lucia)**

**Date:**

**Tuesday 28<sup>th</sup> May 2024**

**Before:**

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

**On paper:**

**Applicant:**

**Ms. Tianah Foster**

**Respondents:**

**No appearance**

**Issues:**

**Application for leave to appeal**

**Type of Order:**

**Decision**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The Application 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 (“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 was thus of the view that the applicant had shown that the appeal would have a realistic prospect of success for the grant of leave to appeal.

**Case Name:**

**[1] Electrical Associates Limited  
[2] Marcellinus Stephen trading as MS  
Stephen Tiling  
v  
Sunrod Property Inc.  
  
[SLUHCMA2024/0001]  
(Saint Lucia)**

**Date:**

**Tuesday 28<sup>th</sup> May 2024**

**Before:**

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

**On paper:**

**Applicants:**

**Ms. Wauneen Louis-Harris**

**Respondent:**

**Ms. Vanessa Pinnock**

**Issues:**

**Application for leave to appeal – Application for an extension of time within which to seek leave to appeal – Application for a stay of execution – Application for directions in the appeal**

**Type of Order:**

**Decision**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The Application for leave to appeal against the order of St. Rose-Albertini J delivered on 21<sup>st</sup> December 2023 is granted.**
- 2. The applicants shall file and serve a notice of appeal within 21 days of the date of this order.**

3. Thereafter, the appeal shall proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.
4. The application for a stay of the order of St. Rose-Albertini J delivered on 21<sup>st</sup> December 2023 pending the determination of this appeal is granted.
5. Costs are reserved.

**Reason:**

The Court considered rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 (“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 also had regard to the principles for the grant of a stay pending appeal as outlined in the authorities *Wenden Engineering Service Co. Ltd v Lee Shing UEY Construction Co Ltd* HCCT No. 90 of 1999, *C-Mobile Services Limited v Huawei Technologies Co. Limited* BVIHCP2014/0017 (delivered 2<sup>nd</sup> October 2014, unreported) and *Michael James v Tasman Gaming Inc et al* Civil Appeal No. 6 of 2006 (delivered 8<sup>th</sup> February 2007, unreported). The Court was satisfied that the application had been served and there was no response/objection by the respondents. In the circumstances, the Court was of the view that to the extent that the Application sought leave to appeal the interlocutory order of St. Rose-Albertini J delivered on 21<sup>st</sup> December 2023, the Application was filed within the time prescribed by CPR Part 62.2; that the applicants had shown that the appeal would have a realistic prospect of success for the grant of leave to appeal; and that the balance of harm and risk of injustice favoured the grant of a stay pending the determination of the appeal.

**Case Name:**

**Glenroy Glasgow  
v  
The King**

**[SVGHCRA2024/0005]  
(Saint Vincent and the Grenadines)**

**Date:** Tuesday 28<sup>th</sup> May 2024

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

**On paper:**

|                    |               |
|--------------------|---------------|
| <b>Applicant:</b>  | No appearance |
| <b>Respondent:</b> | No appearance |

**Issues:** Application for leave to appeal against sentence –  
Application for legal aid

**Type of Order:**

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

1. The Registrar of the High Court shall serve on the parties a copy of the minute of conviction and sentence of the applicant within 7 days of the date of this order and shall provide proof of service thereafter.
2. The appellant shall formally submit an application to be assigned legal aid which provides comprehensive details as to his financial means by completing and filing a copy of the form set out in the Schedule to this order within 14 days of the date of this order.
3. The Registrar of the High Court shall serve a copy of this order on the parties within 7 days of the date of this order and shall provide proof of service thereafter.
4. The Application is adjourned for further consideration at the next Chamber hearing of this Court scheduled for 25<sup>th</sup> June 2024.

**Reason:** The Court noted that the minute of conviction and sentence of the applicant was not served on the parties. The Court also had regard to section 46(2) of the Eastern Caribbean Supreme Court (Saint Vincent and the Grenadines) Act which empowers a single judge of the Court to assign legal aid. The Court however noted that although the applicant had requested that he be assigned legal aid he had not provided the Court with the evidence needed to assess his financial position and means. The application therefore was adjourned pending the provision of such evidence by the applicant.

**Case Name:** Sunal Ashton  
v  
The King  
[SVGHCRA2024/0008]  
(Saint Vincent and the Grenadines)

**Date:** Tuesday 28<sup>th</sup> May 2024

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

**On paper:** Applicant: No appearance

Respondent: No appearance

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

**Type of Order:** Decision

**Result /**  
**Order:**

**IT IS HEREBY ORDERED THAT:**

**The Applications are dismissed.**

**Reason:**

**The Court noted that the Extension of Time Application failed to state any grounds upon which the extension was sought and that the Leave Application also failed to specify any grounds of appeal against sentence. Consequently, both applications were dismissed.**

**Case Name:**

**Jada Hopkins**

**v**

**Alithia Adams**

**[BVIHCVAP2024/0009]  
(Territory of the Virgin Islands)**

**Date:**

**Tuesday 28<sup>th</sup> May 2024**

**Before:**

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

**On paper:**

**Applicant:**

**Ms. Giselle Jackman Lumy**

**Respondent:**

**Ms. Monique Peters**

**Issues:**

**Application for a stay of execution**

**Type of Order:**

**Result /**  
**Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The application for a stay of execution of the costs order pending the hearing and determination of the appeal is granted.**
- 2. Costs are reserved.**

**Reason:**

The Court considered the principles for the grant of a stay pending appeal as outlined in the authorities *Wenden Engineering Service Co. Ltd v Lee Shing UEY Construction Co Ltd* HCCT No. 90 of 1999, *C-Mobile Services Limited v Huawei Technologies Co. Limited* BVIHCMAP2014/0017 (delivered 2<sup>nd</sup> October 2014, unreported) and *Michael James v Tasman Gaming Inc et al* Civil Appeal No. 6 of 2006 (delivered 8<sup>th</sup> February 2007, unreported) and that the balance of harm and risk of injustice favours the grant of a stay pending the determination of the appeal.

**Case Name:**

**Jose Arturo Faulkner Ramirez  
v  
The Commissioner of Police**

**[BVIMCRAP2023/0002]  
(Territory of the Virgin Islands)**

**Date:**

**Tuesday 28<sup>th</sup> May 2024**

**Before:**

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

**On paper:**

**Applicant:**

**Ms. Marie-Lou Creque**

**Respondent:**

**No appearance**

**Issues:**

**Application for leave to correct the record –  
Application for an extension of time within which  
to file the record**

**Type of Order:**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

1. The application filed on 23<sup>rd</sup> April 2024 seeking to correct the record and for an extension of time within which to file the record is granted.
2. The applicant shall file the corrected record within 21 days of this Order.
3. The parties shall thereafter comply with the practice and procedures prescribed by the Court of Appeal Rules and the Magistrate's Code of Procedure as well as the relevant Practice Directions in advancing this appeal.

**Reason:**

The Court considered section 27(e) of the Eastern Caribbean Supreme Court, Court of Appeal Rules 1968 which empowers the court to extend the time in any cause or matter pending before a single judge of the Court. The Court also considered that the correction of the record will not prejudice the respondent as there is no hearing date set. The Court was therefore of the view that the applicant had met the threshold for the grant of an extension of time.

**Case Name:**

**Culgoa Limited  
v  
Basement Investments Limited  
[BVIHCMAP2024/0011]  
(Territory of the Virgin Islands)**

**Date:**

**Tuesday 28<sup>th</sup> May 2024**

**Before:**

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

**On paper:**

**Applicant:**

**Mr. Litrow Hickson**

**Respondent:**

**No appearance**

**Issues:** Application for leave to appeal

**Type of Order:**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

1. The notice of application filed on 3<sup>rd</sup> May 2024 by the applicant seeking leave to appeal to the Court of Appeal against the decision contained in the ex tempore judgment of Wallbank J [Ag.] dated 18<sup>th</sup> April 2024 is granted.
2. The applicant shall file and serve on the respondent a notice of appeal within 21 days of the date of this order.
3. Costs of this application will be costs in the appeal.
4. 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 considered rule 62.2 (8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which provides that leave to appeal may only be given 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 threshold for the grant of leave to appeal had been met.

**Case Name:** Vitadel Limited  
v  
PT Ventures, SGPS, S.A.

[BVIHCMAP2024/0013]  
(Territory of the Virgin Islands)

|                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                      |  |
|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|--|
| <b>Date:</b>               | <b>Tuesday 28<sup>th</sup> May 2024</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                      |  |
| <b>Before:</b>             | <b>The Hon. Mde. Vicki Ann Ellis, Justice of Appeal</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                      |  |
| <b>On paper:</b>           | <b>Applicant:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>No appearance</b> |  |
|                            | <b>Respondent:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>No appearance</b> |  |
| <b>Issues:</b>             | <b>Application for a stay of execution</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                      |  |
| <b>Type of Order:</b>      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                      |  |
| <b>Result /<br/>Order:</b> | <b>IT IS HEREBY ORDERED THAT:</b> <ol style="list-style-type: none"> <li>1. The applicant is at liberty to file and serve any submissions in reply (if necessary) within 14 days of the date of this Order.</li> <li>2. The Stay Application is adjourned for an oral hearing before a single judge on a date to be fixed by the Chief Registrar.</li> </ol>                                                                                                                                                        |                      |  |
| <b>Reason:</b>             | <p>The Court was of the view that the reasons provided by the applicant as to why the Stay Application ought to be determined on an urgent basis were not cogent or persuasive. The Court also noted that owing to the late filing of the respondent's submissions and supplemental hearing bundle, it would be in the interest of justice to provide the applicant with an opportunity to review same to determine whether or not a reply would be necessary before the Court determines the Stay Application.</p> |                      |  |