

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
CHAMBER HEARING

28th May 2024

MATTERS DEALT WITH ON PAPER

Before:

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

Case Name:

[1] Michelle Fife
[2] Bansyl Kennedy

v

Marvin Mulcare

[SVGHCVAP2019/0008]
(Saint Vincent and the Grenadines)

CONSOLIDATED WITH

[1] Michelle Fife
[2] Bansyl Kennedy

v

Marvin Mulcare

[SVGHCVAP2019/0009]
(Saint Vincent and the Grenadines)

Date:

Tuesday, 28th May 2024

On paper:

Applicant:

Ms. Michelle Fife in person

Ms. Kay Bacchus Baptiste for the second applicant

Respondent:

Ms. Suzanne Commissiong

Issues: Application for an extension of time to file appeal bundle

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall serve a copy of the application for an extension of time to file the record of appeal on the respondent within 7 days of this order and provide proof of service thereafter.
2. The application for an extension of time to file the record of appeal is adjourned for further consideration at the next Chamber Hearing of the Court scheduled for 25th June 2024

Reason: The Court noted that there was no evidence of service of the application for an extension of time to file the record of appeal on the respondent. Accordingly, the Court adjourned the matter to facilitate service.

Case Name: Kawanie Williams
v
The King
[SVGHCRA2021/0005]
(Saint Vincent and the Grenadines)

Date: Tuesday, 28th May 2024

On paper:
Applicant: In person
Respondent: No appearance

Issues: Application for bail pending appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for bail pending the hearing and determination of the appeal filed on 5th March 2024 is refused.
2. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions and shall provide proof of service within 7 days of the date of this order.

Reason:

The Court considered the application for bail pending appeal filed by the applicant on 5th March 2024 and determined that the applicant had not provided any evidence which on the authority of *The State v Lynette Scantlebury (1976) 27 WIR 103*, reveals any exceptional circumstances which have arisen for granting bail pending the hearing and determination of the appeal.

Case Name:

**Charlotte Brodie
v
Henry Brodie**

**[BVIHCVAP2024/0006]
Territory of the Virgin Islands**

Date:

Tuesday, 28th May 2024

On paper:

Applicant: Ms. Marie Lou Creque

Respondent: Mrs. Asha Johnson-Willins

Issues:

Applications for stay of execution pending appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for a stay of execution pending the hearing and determination of the appeal is granted.
2. The costs of this application shall be costs in the appeal.

Reason:

The Court considered the principles upon which a stay pending the determination of the appeal is granted as established by this Court in the case of *C-Mobile Services Ltd v Huawei Technologies Co. Ltd* BVIHCMAP2014/0017 (delivered 2nd October 2014, unreported) including all the circumstances of the case, that a stay is the exception rather than the general rule, that the party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted, the likely prejudice to the successful party, the prospect of the appeal succeeding where strong grounds of appeal or strong likelihood the appeal will succeed is shown.

The Court was of the view that although the appeal is unlikely to be stifled or rendered nugatory unless a stay is granted, on the balance of harm particularly with regard to the relocation and possible further relocation of the children, a stay should be granted. Accordingly, the Court granted the application.