

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
CHAMBER HEARING

26th March 2024

MATTERS DEALT WITH ON PAPER

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Case Name: Brit Syndicates Limited
v
Ashley Hanley
[ANUHCVP2024/0009]
(Antigua and Barbuda)

Date: Tuesday, 26th March 2024

On paper:

Applicant: Mr. Kendrickson Kentish

Respondent: No appearance

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

An oral hearing of the application for leave to appeal be fixed by the Chief Registrar for hearing by the Full Court.

Reason: The Court considered rule 62.2(7) of the Civil Procedure Rules (Revised Edition) 2023 and directed that the application for leave to appeal be fixed for an oral hearing before the Full Court.

Case Name:

**Foued Issa
v
Sorrel Consulting Ltd
[DOMHCVAP2024/0003]
(Commonwealth of Dominica)**

Date:

Tuesday, 26th March 2024

On paper:

Applicant: Ms. Singoalla Blomqvist-Williams

Respondent: No appearance

Issues:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

An oral hearing of the application for leave to appeal be fixed by the Chief Registrar for hearing by the Full Court.

Reason:

The Court considered rule 62.2(7) of the Civil Procedure Rules (Revised Edition) 2023 and directed that the application for leave to appeal be fixed for an oral hearing before the Full Court.

Case Name:

**Isaac Hurdle
v
The King
[GDAHCRAP2024/0001]
(Grenada)**

Date: Tuesday, 26th March 2024

On paper:

Applicant: Ms. Singoalla Blomqvist-Williams

Respondent: No appearance

Issue: Leave to appeal against conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. Leave is granted to the applicant to appeal his conviction for the offence of sexual intercourse with a minor and his sentence of 21 years 9 months imprisonment.
2. The notice of application for leave to appeal filed on 8th January 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 on the Office of the Director of Public Prosecutions within 7 days of the date of this order and shall provide proof of service thereof.

Reason: The Court, was satisfied that leave to appeal against conviction and sentence should be granted and having regard to rule 55 of the Eastern Caribbean Supreme Court, Court of Appeal Rules, the Court consequently deemed the leave to appeal application as the notice of appeal.

Case Name: Kellon Andrews
v
The King

[GDAHCRAP2024/0002]
(Grenada)

Date: Tuesday, 26th March 2024

Appearances:

Applicant:

Respondent:

Issues: Leave to appeal against conviction and sentence

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

The notice of application for leave to appeal filed on 9th January 2024 is adjourned to 2nd April 2024 for further consideration.

Reason: N/A

Case Name: Isaac Joseph
v
Matthew Blair

[GDAHCVAP2019/0009]
(Commonwealth of Dominica)

Date: Tuesday, 26th March 2024

Appearances:

Applicant: In person

Respondent: No appearance

Issues: Application for alternative method of service

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

1. The application for permission to serve the respondent by alternative method is dismissed.
2. The Registrar of the High Court shall serve a copy of this order on the applicant within 7 days of the date of this order.

Reason: The Court considered rule 5.13 of the Civil Procedure Rules 2000 which provides the regime for service by alternative methods, however the Court was of the view rule 5.13 was not properly invoked in this matter. Therefore, the Court determined that there was no basis on which an order for service by alternative method as sought by the applicant could be made.

Case Name: Lorrian Williams-Warner
v
The King
[MNIHCRAP2024/0001]
(Montserrat)

Date: Tuesday, 26th March 2024

Appearances:

Applicant: Ms. Lovetta Silcott

Respondent: Mr. Oris Sullivan

Issues: Application for leave to appeal, admit fresh evidence

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

1. The application for leave to admit fresh evidence is refused.
2. Leave is granted to the applicant to appeal against her sentence.
3. The notice of application for leave to appeal in Form 1 filed by the applicant on 21st February 2024 is deemed to be the notice of appeal.
4. The Registrar of the High Court shall serve a copy of this order on the applicant and the respondent within 7 days of the date of this order and provide proof of service thereof.

Reason: The Court noted section 49 of the Eastern Caribbean Supreme Court (Saint Christopher and Nevis) Act which provides that the Court of Appeal may receive fresh evidence on the appeal if: (i) it appears to it that the evidence is likely to be credible and would have been

admissible at the trial on an issue which is the subject of the appeal; and (ii) it is satisfied that it was not adduced at the trial, but that there is a reasonable explanation for the failure to adduce it. The Court was of the view that the applicant has not provided a reasonable explanation for the failure to adduce the evidence sought to be admitted on appeal at trial. The Court determined that the applicant had met the threshold for the grant of leave to appeal against sentence. The court considered rule 55 of the Eastern Caribbean Supreme Court, Court of Appeal Rules and consequently deemed the leave to appeal application as the notice of appeal.

Case Name: **Leon Isaac**
v
The Director of Public Prosecutions
[SKBHCRAP2020/0003]
(Saint Kitts and Nevis)

Date: **Tuesday, 26th March 2024**

Appearances:
Applicant: **Ms. Natasha Grey**
Respondent: **No appearance**

Issues: **Application for leave to appeal**

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

1. Leave is granted to the applicant to appeal his conviction and sentence.
2. The notice of application for leave to appeal filed on 14th July 2020 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 the respondent within 7 days of the date of this order and shall provide proof of service thereof.

Reason: **The Court was satisfied that leave to appeal against conviction and sentence should be granted and having regard to rule 55 of the Eastern Caribbean Supreme Court,**

Court of Appeal Rules, the Court consequently deemed the leave to appeal application as the notice of appeal.

Case Name: **Romain Tota**
v
The Director of Public Prosecutions
[SKBHCRAP2020/0004]
(Saint Kitts and Nevis)

Date: **Tuesday, 26th March 2024**

Appearances:
Applicant: **Ms. Natasha Grey**
Respondent: **No appearance**

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

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

- 1. Leave is granted to the applicant to appeal his conviction and sentence.**
- 2. The notice of application for leave to appeal filed on 14th July 2020 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 the respondent within 7 days of the date of this order and shall provide proof of service thereof.**

Reason: **The Court was satisfied that leave to appeal against conviction and sentence should be granted and having regard to rule 55 of the Eastern Caribbean Supreme Court, Court of Appeal Rules, the Court consequently deemed the leave to appeal application as the notice of appeal.**

Case Name:

**Delroy Stapleton
v
The Director of Public Prosecutions**

**[SKBHCRA2020/0001]
(Saint Kitts and Nevis)**

Date:

Tuesday, 26th March 2024

Appearances:

Applicant: In person

Respondent: No appearance

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal against sentence dated 4th June 2020 is granted.**
- 2. The notice of 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 applicant and the respondent within 7 days of the date of this order.**

Reason:

The Court was satisfied that leave to appeal against sentence should be granted and having regard to rule 55 of the Eastern Caribbean Supreme Court, Court of Appeal Rules, the Court consequently deemed the leave to appeal application as the notice of appeal.

Case Name:

**Fleur Byron Cox
v
Nick Ltd.**

**[SLUHC2023/0003]
(Saint Lucia)**

Date:

Tuesday, 26th March 2024

Appearances:

Applicant: Ms. Cynthia Hinkson-Ouhla

Respondent: Diana Thomas

Issues:

Application for a further extension of time to obtain an order for the appointment of a next friend

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

The matter is adjourned for further consideration by this Court on 2nd April, 2024.

Reason:

N/A

Case Name:

**Emti Ltd
Emad Ward
Nadia Ward
v
Republic Bank (EC) Limited
(Qua Successor to the Bank of Nova Scotia)**

**[SLUHCMAP2023/0003]
(Saint Lucia)**

Date:

Tuesday, 26th March 2024

Appearances:

Applicant: Mr. Eghan Modeste

Respondent: Ms. Sadia Cenac Prospere/Mr. Arthur D. Compass

Issues:

Application for an extension of time to serve the notice of appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The notice of application for an extension of time to serve the notice of appeal dated 12th February 2024 is granted.

2. The appellants shall serve the notice of appeal personally on an officer or manager of the respondent company at its registered office situate at First Floor, Meridian Place, Choc, Castries within 14 days of the date of this order.

Reason:

Having considered rule 5.7(c) of the CPR which provides that service on a limited company may be by service on an officer or manager of the company at any place of business of the company which has a real connection with the claim, the Court was of the view that service of the notice of appeal upon Yasmin Joseph at Republic Bank (EC) Limited on 14th November 2023 was not proper service. The Court also considered rule 26.1(2)(k) of the Civil Procedure Rules (Revised Edition) 2023 (the “CPR”) which provides that the court may extend or shorten the time for compliance with any rule, practice direction, order or direction of the court even if the application for an extension is made after the time for compliance has passed. The Court also considered the principles upon which an extension of time is granted, and that the respondent does not object to the appellants being granted an extension of time within which to serve their notice of appeal. The Court was of the view that (i) the delay in serving the notice of appeal and ancillary documents was not inordinate, ii) the applicant has shown good chances of the appeal succeeding and (iii) there is likely to be little to no prejudice to the respondent if the application was granted and no relief from sanctions was required.

Case Name:

David Regis

v

Water and Sewerage Company Inc

[SLUHCVAP2024/0004]

(Saint Lucia)

Date:

Tuesday, 26th March 2024

Appearances:

Applicant:

Mr. V. Dexter Theodore KC and Ms. Donna Jacobie

Respondent: Mr. Andie George

Issues: Application for an extension of time to serve the notice of appeal and for relief from sanctions

Result / Order: IT IS HEREBY ORDERED THAT:

The notice of application filed on 12th January 2024 for an extension of time to serve the notice of appeal and for relief from sanctions is denied.

Reason: The Court considered the principles upon which an extension of time is granted to file court documents, including the length of the delay, the reasons for the delay, the chances of the appeal succeeding if the extension is granted, and the degree of prejudice if the application is granted or not granted. The Court was of the view that (i) the applicant's delay in filing the notice of appeal was inordinate, (ii) the applicant has not provided any good reason for the delay and (iii) the applicant has not established to the satisfaction of the court that there exists a realistic prospect of success.

Case Name:

**1. Terrentia N. Toussaint-Carroll as
Representative for and on Behalf of The
Executors of The Estate of Thelma
Toussaint
2. Linda Toussaint**

**v
1. Brian Leonce
2. Glen Joseph
3. Melvin Felicien
4. Sylvienne Joseph
5. One Theodore
6. Lucy Jn Charles
7. Does 1-lv (Whose Names Are
Unascertained)**

**[SLUHCVP2022/0020]
(Saint Lucia)**

Date: Tuesday, 26th March 2024

Appearances:

Appellants: In Person

Respondent: No appearance

Issues: Application for default judgment

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

The notice of application for default filed by the appellants on 15th February 2024 is dismissed.

Reason: The Court considered Part 12 of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which governs the grant of default judgment and was of the view that there are no grounds upon which the appellant can apply to the court for the grant of an order of default on appeal.

Case Name: Maria St. Clair
v

Jacques Chretien

[SLUHCVP2024/0002]
(Saint Lucia)

Date: Tuesday, 26th March 2024

Appearances:

Applicant: Mr. Horace Fraser

Respondents: No appearance

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

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

1. The notice of application filed on 5th January 2024 for an extension of time to file the notice of appeal is granted.
2. The applicant shall file and serve the notice of appeal within 14 days of the date of this order.

Reason:

The Court considered rule 26.1(2)(k) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 (the “CPR”). The Court considered the principles upon which an extension of time is granted and noted that there was no evidence that the respondent has filed any objection to the applicant being granted an extension of time within which to file the notice of appeal. The Court was of the view although the delay in serving the notice of appeal and ancillary documents was inordinate, the applicant has provided a good reason for the delay, (ii) the applicant has shown good chances of the appeal succeeding and (iii) there was likely to be little to no prejudice to the respondent if the application was granted.

Case Name:

**Cassel Lavia
v
The King**

**[SVGHCRA2022/0012]
(Saint Vincent & the Grenadines)**

Date:

Tuesday, 26th March 2024

Appearances:

Applicant: In Person

Respondents: The Director of Public Prosecutions

Issues:

Application for bail pending appeal, legal aid

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The application for bail pending appeal is refused.
2. The application by way of letter seeking legal aid is dismissed.

3. The Registrar of the High Court shall serve a copy of this order on the appellant and the Office of the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.

Reason:

Upon considering i.) section 51 of the Eastern Caribbean Supreme Court (Saint Vincent and the Grenadines Act) Cap. 24; ii) that the appellant had previously made an application seeking legal aid and that by Order dated 25th October 2022 he was ordered to provide this Court with an affidavit evidencing his financial means within 14 days of the date of that order and iii.) there was no evidence that the appellant complied with the Order dated 25th October 2022, the Court was of the view that the appellant had not provided any evidence which revealed any exceptional circumstances which have arisen for granting bail. The Court was also satisfied that the appellant had failed to provide evidence that he does not have sufficient means to enable him to obtain legal representation.

Case Name:

Kirth Stapelton

v

The King

[SVGHCRA2024/0004]

(Saint Vincent & the Grenadines)

Date:

Tuesday, 26th March 2024

Appearances:

Applicant: In Person

Respondent: Director of Public Prosecutions

Issues:

Application for leave to appeal, extension of time

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall provide this Court with a copy of the minute of conviction and sentence within 21 days of the date of this order.
2. The Registrar of the High Court shall serve the minute of conviction and sentence on the appellant

and the respondent and shall provide this Court with proof of service within 21 days of the date of this order.

3. The applications for extension of time and leave to appeal are adjourned for further consideration at the next Chamber Sitting of this Court scheduled for 23rd April 2024.

Reason: There was no evidence that the minute of conviction and sentence had been filed nor was it received by the Court.

Case Name: Bahari Dopwell
v
The King

[SVGHCRA2023/0019]
(Saint Vincent & the Grenadines)

Date: Tuesday, 26th March 2024

Appearances:

Applicant: Mr. Grant Connell

Respondent: The Director of Public Prosecutions

Issues: Application for bail pending appeal

Result / Order: IT IS HEREBY ORDERED THAT:

The application for bail pending appeal is adjourned for determination at the same time as the hearing of the application for leave to appeal against conviction and sentence on a date to be fixed by the Chief Registrar.

Reason: The application for leave to appeal has not been determined and consequently there is no appeal pending before the court.

Case Name: Okqueto Jones
v
The King

**[SVGHCRAP2024/0006]
(Saint Vincent and The Grenadines)**

Date: Tuesday, 26th March 2024

Appearances:

Applicant: In Person

Respondent: The Director of Public Prosecutions

Issues: Application for extension within which to appeal

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

1. The application for extension of time within which to appeal is granted.
2. The applicant is to file and serve an application for leave to appeal within 14 days of the date of this order.

Reason: The Court was of the view that the applicant had satisfied the requirements for the grant of an extension of time to appeal.

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

v

[1]King Bun Limited
[2]Kency Ltd.
[3]Kar Kwong Development Limited (Trading As
Kai Kwong Trading Company)
[4]Khi Capital Limited
[5]Kenttrue 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, 26th March 2024

Appearances:

Applicants: Mr. Iain Tucker and Ms. Yegâne Güley

Respondents: Mr. Jerry Samuel and Ms. Alecia Johns for the 1st to 6th respondents

Issues: Application for security for costs, stay of appeal

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

1. The appeal and the application for security for costs are stayed pending the hearing and determination of the set aside application in the Commercial Division of the High Court in BVIHC(COM) 86 of 2017.
2. The parties are to inform this court of the final decision of the court below in the set aside application within 14 days of the date of the order.
3. If necessary, the security for costs application will be listed for hearing upon receipt of the final order in the set aside application on a date to be fixed by the Chief Registrar.
4. Costs in the cause.
5. Liberty to apply.

Reason: The Court considered rule 62.21 (1) of the Civil Procedure Rules (Revised Edition) 2023 (“CPR”), the principles on which an application for security for costs should be granted as set out in rule 62.21 (3) of the CPR and CPR 62.21 (2) which provides that an application for security for costs may not be made unless the applicant has made a prior written request for such security. The Court noted that on 10th January 2024 the legal practitioners for the 1st to 6th respondents requested security for costs from the legal

practitioners for the appellants and further noted that the legal practitioners for the appellants responded to the request for security for costs on 29th January 2024 and on 21st February 2024, wherein they indicated that to reduce the potential for wasted costs and court time, the appeal and consequentially the security for costs application should not be heard until the set aside application scheduled for hearing in the Commercial Division of the High Court on 30th April 2024 had been finally determined. The Court further considered the principles on which a stay may be granted and was of the view that, in furtherance of the overriding objective, a stay of the appeal should be granted until the hearing and determination of the set aside application in the Commercial Division of the High Court.

Case Name:

**1. Sancus Financial Holdings Limited
2. Carson Wen
3. Julia Yuet Shan Fung**

v

Chad Christopher Holm

**[BVIHCMAP2023/0025]
(Territory of The Virgin Islands)**

Date:

Tuesday, 26th March 2024

Appearances:

Applicant: Mr. Alex Hall Taylor KC

Respondent: Ms. Yegâne Güley

Issues:

Application for extension of time to file submissions and record of appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The appellant is granted an extension of time until 23rd February 2024 to file written submissions in support of his appeal and to file the record of appeal.**
- 2. The skeleton arguments, authorities bundle and record of appeal filed by the appellants on 23rd February 2024 are deemed validly filed.**

Reason: The Court considered rule 26.1(2)(k) of the Civil Procedure Rules (Revised Edition) 2023 (the “CPR”) and was cognisant of the power of a single judge to extend time, pursuant to rule 62.19 1 (c) of CPR. The Court considered the principles upon which an extension of time is granted and noted that there is no sanction imposed by the rules or by an order of the court for failure to file submissions.

Case Name: Darwin Blyden
and
Benedicta Samuels Administratrix of the Estate of
Abraham Blyden, deceased
Estelle Wheatley
[BVIHCVAP2023/0005]
(Territory of The Virgin Islands)

Date: Tuesday, 26th March 2024

Appearances:
Applicants: Sabals Law
Respondents: No appearance

Issues: Application for Leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The matter is adjourned for further consideration by this Court on 2nd April 2024.

Reason: N/A

Case Name: Vladimir Niyazov
v
AGON Litigation
[BVIHCMAP2024/0005]

(Territory of The Virgin Islands)

Date: Tuesday, 26th March 2024

Appearances:

Applicant: In Person

Respondent: No appearance

Issues: Application for Leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

The matter is adjourned for further consideration by this Court on 2nd April 2024.

Reason: N/A

Case Name: Elmo Conner Jr.
v

Anyelina Mejiya Villa

[BVIHCVAP2022/0014]
(Territory of The Virgin Islands)

Date: Tuesday, 26th March 2024

Appearances:

Applicant: Ms. Akilah Anderson

Respondent: No appearance

Issues: Application for Solicitor to be removed from the record

Result / Order: IT IS HEREBY ORDERED THAT:

The application by the Law Firm HP Anderson to be removed from the record as the legal practitioner for the appellant is granted.

Reason: The Court was of the view that the applicant had met the requirements of rule 63.6 of The Civil Procedure Rules (Revised Edition) 2023

Case Name: [1]Greater Sail Limited
[2]Li Jianping (also known as Gigi Lee)
[3]Mai Fan

V

[1]Nam Tai Property Inc.
[2]Nam Tai Group Limited
[3]Nam Tai Investment (Shenzhen) Co Ltd.

**BVIHCMAP2024/0006
(Territory of The Virgin Islands)**

Date: Tuesday, 26th March 2024

Appearances:

Applicants: Mr. Andrew Emery

Respondent: Mr. Nicholas Burkill and Mr. Rondelle Keller

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

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

The matter is adjourned for further consideration by this Court on 2nd April 2024.

Reason: N/A

Case Name: AO Alfa Bank

V
Kipford Ventures Limited

BVIHCMAP2024/0007
(Territory of The Virgin Islands)

Date: Tuesday, 26th March 2024

Appearances:

Applicants: Mr. Andrew Willins

Respondent: Ms. Claire Goldstein and Ms. Jhneil Stewart

Issues: Application for Leave to appeal, Stay pending appeal

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

1. The applications for leave to appeal and stay of the decision of Mangatal J (Ag.) dated 29th February 2024 are adjourned for oral hearing before the Full Court on an urgent basis on a date to be fixed by the Chief Registrar.
2. The interim injunction granted by Farara JA(Ag.) on 7th March 2024 is extended until the applications for leave to appeal and stay are heard and determined.
3. The interim stay granted by Farara JA(Ag.) on 7th March 2024 is continued until the applications for leave to appeal and stay are heard and determined.
4. Costs in the cause.

Reason: Having considered rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 (“CPR”) and rule 62.2(7) of the CPR the Court was of the view that the matter be fixed for oral hearing before the Full Court.