

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
CHAMBER HEARING

2nd April 2024

MATTERS DEALT WITH ON PAPER

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

Case Name: Kellon Andrews
v
The King

[GDAHCRAP2024/0002]
(Grenada)

Date: Tuesday, 2nd April 2024

Appearances:

Applicant: In Person

Respondent: No appearance

Issues: 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 non-capital murder and his sentence of life imprisonment with a requirement to serve a minimum of 31 years and 2 months before he is to be considered for release.
2. The notice of application for leave to appeal filed on 9th 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 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: Fleur Byron Cox
v
Nick Ltd.

[SLUHCVAP2023/0003]
(Saint Lucia)

Date: Tuesday, 2nd April 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:

1. The application by the Appellant for a further extension of time to obtain an order for the appointment of a next friend is granted.
2. Unless the Appellant obtains an order for the appointment of a next friend within three (3) months of the date of this order, the application for an extension to obtain an order for the appointment of a next friend shall stand dismissed.
3. The petition of Vincent Adrian Augier filed on 14th February 2024 is dismissed as having been improperly filed in the Court of Appeal, with liberty to refile the petition in the High Court.

Reason: The Court considered section 26 (1) (b) of the Eastern Caribbean Supreme Court (Saint Lucia) Act No. 25 of 2000 which governs the jurisdiction of the Court of Appeal and was of the view that the appointment of a next friend for the Appellant to prosecute her appeal is incidental to the hearing and determination of the appeal and thereby invokes this Court's jurisdiction. The Court was of the view that the Appellant should be provided with a final

opportunity to obtain an order for the appointment of a next friend to pursue her appeal. The Court noted the High Court petition filed on 14th February 2024 for the appointment of a curator, however, the Court was of the view that the petition was mistakenly filed in SLUHCVAP2023/0003, which is an appeal against the decision of Cenac-Phulgence J dated 12th January 2021.

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, 2nd April 2024

Appearances:

Applicants: Sabals Law

Respondents: No appearance

Issues:

Application for Leave to appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal the judgment of Master Cybelle Cenac-Dantes made on 21st June 2023 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 was satisfied that the applicant met the threshold for the grant of leave to appeal having regard to Rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 which states 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.

Case Name:

Vladimir Niyazov

V

AGON Litigation

[BVIHCMAP2024/0005]

(Territory of The Virgin Islands)

Date:

Tuesday, 2nd April 2024

Appearances:

Applicant: In Person

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:

Being mindful of rule 62.2(7) of the Civil Procedure Rules (Revised Edition) 2023 the Court fixed the matter for an oral hearing by the Full Court

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, 2nd April 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:

1. The application for an order that the applicant's time for filing a notice of appeal from Claim No. BVIHCom No. 2022/042 be extended until 4pm BVI time on 26th February 2024 is granted.
2. Costs in the appeal

Reason: The Court considered rule 26.1(2)(k) of the Civil Procedure Rules (Revised Edition) 2023 (the "CPR"), the power of a single judge to extend time pursuant to rule 62.19 1 (c) of the CPR and the principles upon which an extension of time is granted. The Court was satisfied that the application for extension of time should be granted.