

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
CHAMBER HEARING

19th December 2023

MATTERS DEALT WITH ON PAPER

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

Case Name: Leon Riley
v
The King

[ANUHCRA2023/0010]
(Antigua and Barbuda)

Date: Tuesday, 19th December 2023

On paper:

Applicant: Mr. Wendel Alexander

Respondent: Director of Public Prosecutions

Issue: Application for leave to appeal against conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant shall within 14 days of the date of service on him of this order file and serve on the Director of Public Prosecutions an application for an extension of time within which to apply for leave to appeal against conviction and sentence.

2. The applications for an extension of time and for leave to appeal are adjourned for further consideration at the next Chamber Sitting of the Court scheduled for 23rd January 2024.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions within 7 days of the date of this order and provide proof of service thereof.

Reason:

The Court considered that the notice of application for leave to appeal against conviction and sentence was out of time and there was no application for an extension of time to apply for leave to appeal.

Case Name:

**Jennifer George John
v
The King**

**[ANUHCRA2023/0009]
(Antigua and Barbuda)**

Date:

Tuesday, 19th December 2023

On paper:

Applicant: Mr. Wendel Alexander

Respondent: Director of Public Prosecutions

Issues:

Application for leave to appeal against conviction and sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The notice of application for leave to appeal against conviction and sentence is granted.
2. The notice of application filed on 22nd November 2023 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 Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.

Reason: The Court was of the view that the applicant should be granted leave to appeal against conviction and sentence.

Case Name: Antigua and Wireless Ventures Ltd. t/a Digicel
v
Karl Skepple

[ANUHLTAP2023/0008]
(Antigua and Barbuda)

Date: Tuesday, 19th December 2023

On paper:

Applicant: Ms. Jenell Gibson

Respondent: Mr. Kendrickson Kentish

Issue: Application for extension of time to file notice of appeal -
Application to deem Notice of Appeal properly filed –
Application for Stay of Execution – Application for leave
to adduce fresh evidence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The fresh evidence application filed on 27th November 2023 is refused.
2. The applicant is granted an extension of time within which to file its notice of appeal.
3. The notice of appeal filed on 17th November 2023 is deemed properly filed.
4. The application for a stay of the order of the Industrial Court dated 20th October 2023 is refused.
5. The appeal shall proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.

Reason:

The Court considered the principles on which it may exercise its discretion to admit fresh evidence as stated in *Ladd v Marshall* [1974] 1 WLR 1489 and was of the view that the applicant has not met the threshold for the grant of the application to adduce fresh evidence, in particular, that the evidence sought to be admitted could not have been obtained with reasonable diligence for use at the trial, and that the new evidence if given, would have an important influence on the result of the case, though it need not be decisive and, accordingly this application should not be granted.

The Court considered the principles on which an extension of time should be granted as enunciated in *Lindsay F.P Grant et al v Tanzania Tobin Tanzil SKBHCVAP2020/0004* (delivered 6th July 2020, unreported) and was of the view that the applicant met the threshold for the grant of an extension of time to file its notice of appeal.

In relation to the application for a stay, the Court considered the principles upon which a stay pending the determination of the appeal is granted as established by in the case of *C-Mobile Services Ltd v Huawei Technologies Co. Ltd BVIHCMAP2014/0017* (delivered 2nd October 2014, unreported) and was of the view that having regard to all the circumstances of the case, the applicant failed to provide sufficient cogent evidence that the appeal would be stifled or rendered nugatory unless a stay is granted.

Case Name:

**Asarni Thomas
v
Client Communications Services Inc
[ANUHLTAP2023/0009]
(Antigua and Barbuda)**

Date:

Tuesday, 19th December 2023

Appearances:

Applicant: Mr. Wendel Alexander

Respondent: Dr. L Errol Cort

Issues: Application for extension of time to file notice of appeal –
Application to deem notice of appeal properly filed –
Application for relief from sanctions

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

1. The applicant shall provide this Court with a copy of the order of the court dated 16th June 2023 within 7 days of the date of this order.
2. The notice of application filed by the applicant on 27th November 2023 is adjourned to the next Chamber Sitting of the Court scheduled for 23rd January 2024 for further consideration.

Reason: The Court was not provided with a copy of the order being appealed.

Case Name: O'Neil Mighty
v
The King

[GDAHCRAP2023/0020]
(Grenada)

Date: Tuesday, 19th December 2023

Appearances:

Applicant: Mr. Jerry Edwin

Respondent: Director of Public Prosecutions

Issues: Leave to appeal against sentence

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

1. The applicant shall furnish the Court with a copy of the minute of conviction and sentence within 14 days of the date of this order.

2. The application for leave to appeal against sentence is adjourned for further consideration at the next Chamber Sitting of the Court scheduled for 23rd January 2024.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions within 7 days of the date of this order and provide proof of service thereof.

Reason: The Court was not provided with a copy of the minute of conviction and sentence of the applicant.

Case Name: [1]Anderson Peters
[2]Kiddon Peters

v

**MV Harbor Master and the Owners of and Parties
interested in the Motor Vessel 'Harbour Master'**

**[GDAHCVAP2023/0036]
(Grenada)**

Date: Tuesday, 19th December 2023

Appearances:

Applicants: Mr. Ruggles Ferguson

Respondent: No appearance

Issues: Application for leave to appeal

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

1. The application for leave to appeal against the decision of Actie J filed by the applicants on 21st November 2023 is granted.
2. The applicants shall file and serve the notice of appeal on the respondents within 21 days of the date of this order.
3. The appeal shall proceed in accordance with the Civil Procedure Rules 2023 (Revised Edition).

Reason: The Court was satisfied that leave should be granted to the applicant to appeal.

Case Name: Levi Maximea
v
The Dominica Agricultural Industrial and
Development Bank
[DOMHCVAP2023/0012]
(Commonwealth of Dominica)

Date: Tuesday, 19th December 2023

Appearances:
Applicant: In person
Respondent: No appearance

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED:

1. The applicant shall furnish the Court with a copy of the decision of Josiah-Graham J within 14 days of the date of this order.
2. The application for leave to appeal is adjourned to the next Chamber Hearing of this Court scheduled for 24th January 2024 for further consideration.

Reason: The Court was not furnished with a copy of the decision being appealed.

Case Name: Alexander Sebastien Bellot Beaupierre
v
The State
[DOMMCRAP2019/0009]
(Commonwealth of Dominica)

Date: Tuesday, 19th December 2023

Appearances:

Applicant: Mr. Wayne Norde

Respondent: Director of Public Prosecutions

Issues: Application to argue additional grounds of appeal

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

1. Permission is granted to the appellant to amend his notice of appeal filed 23rd May 2019 to include and argue at the hearing of the appeal the additional ground of appeal as follows:
 - a. That the learned magistrate erred when he sentenced the appellant to serve a sentence of seven (7) years hard labour in default of a fine of \$15,000.00.
2. An amended notice of appeal setting out the additional ground of appeal shall be filed by the appellant and served on the Director of Public Prosecutions within 14 days of this order.

Reason: The Court noted that there was no objection to the application and was satisfied that the application ought to be granted.

Case Name: [1]Digital Security Services Limited
[2]Michael Peets
v

Nevis International Bank and Trust Limited
(formerly Hamilton Reserve Bank Limited)

[NEVHCVAP2023/0014]
(Saint Kitts and Nevis)

Date: Tuesday, 19th December 2023

Appearances:

Applicants: Ms. Angela Cozier

Respondent: No appearance

Issues: Application for leave to appeal

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

The application for leave to appeal against the order of Thompson J delivered 12th October 2023, is set down for hearing before the Full Court at the next sitting of the Court of Appeal in Saint Christopher and Nevis scheduled for the week commencing 26th February 2024.

Reason: The Court noted that the application for leave to appeal had not met the threshold for the grant of leave to appeal and in accordance with rule 62.2(7) of the Civil Procedure Rules (Revised Edition) 2023, directed that a hearing be fixed.

Case Name:

Peter Scotland

v

Chief of Police

**[SKBMCRAP2023/0009]
(Saint Kitts and Nevis)**

Date: Tuesday, 19th December 2023

Appearances:

Applicant: In person

Respondent: Director of Public Prosecutions

Issues: Application for leave to appeal against sentence

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

1. The Registrar shall provide to the applicant and to this Court, a copy of the applicant's minute of conviction and sentence within 14 days of the date of this order.
2. The Registrar shall provide to this Court an affidavit evidencing service of the applicant's notice of application and the authorization code generated by the ECSC's E-Litigation Portal within 14 days of the date of this order.
3. The application for leave to appeal against sentence is adjourned to the next Chamber Hearing of the Court scheduled for 23rd January 2024.

Reason:

The Court was not provided with a copy of the applicant's minute of conviction and sentence. There was also no evidence of service of the application and the authorization code on the respondent.

Case Name:

**Mikey Mills
v
Director of Public Prosecutions**

**[NEVHCRA2023/0001]
(Saint Kitts and Nevis)**

Date:

Tuesday, 19th December 2023

Appearances:

Applicant:	In person
Respondent:	No appearance

Issues:

Application for leave to appeal against sentence

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The Registrar shall provide to this Court an affidavit evidencing service of the applicant's notice of application and the authorization code generated by

the ECSC's E-Litigation Portal within 14 days of the date of this order.

2. The application for leave to appeal against sentence is adjourned to the next Chamber Hearing of the Court scheduled for 23rd January 2024.

Reason: There was no evidence of service of the notice of application or E-Litigation Portal authorization code on the respondent.

Case Name: Patrice Monzack
v
Director of Public Prosecutions
[NEVHCRA2023/0001]
(Saint Kitts and Nevis)

Date: Tuesday, 19th December 2023

Appearances:
Applicant: In person
Respondents: No appearance

Issues: Application for leave to appeal against sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar shall provide to this Court an affidavit evidencing service of the applicant's notice of application and the authorization code generated by the ECSC's E-Litigation Portal within 14 days of the date of this order.
2. The application for leave to appeal against sentence is adjourned to the next Chamber Hearing of the Court scheduled for 23rd January 2024.

Reason: There was no evidence of service of the notice of application or E-Litigation Portal authorization code on the respondent.

Case Name: **Hamilton Reserve Bank Limited**
v
Greyridge Iron Holdings Incorporated

[NEVHCVAP2023/0015]
(Saint Kitts and Nevis)

Date: **Tuesday, 19th December 2023**

Appearances:
Applicant: **Mr. Gerard Williams**
Respondent: **No appearance**

Issues: **Application for leave to appeal**

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

1. The application for leave to appeal against paragraphs 32, 33, 34, 35, 36, 37, 38, 39, 40 (save that the clause is inoperative in so far as it relates to arbitration), 41 & 42 the decision of Pariagsingh M delivered 16th October 2023 is granted.
2. The application to stay the proceedings in the court below is refused.

Reason: **The Court was satisfied that the applicants met the threshold for the grant of leave to appeal. The Court was also mindful that cogent evidence was not provided in support of a stay and that there would be a risk of injustice to the applicant if the stay is not granted.**

Case Name: **Yourne Emmanuel**
v
The Director of Public Prosecutions

[SLUHCRA2023/0002]
(Saint Lucia)

Date: **Tuesday, 19th December 2023**

Appearances:

Applicant: Mr. Alberton Richelieu
Respondent: Director of Public Prosecutions

Issues: Application for leave to appeal against sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal against sentence is granted.
2. The applicant's notice of application filed on 6th July 2023 shall be deemed to be a notice of appeal.

Reason: The Court was satisfied that the applicant should be granted leave to appeal against sentence.

Case Name: Fleur Byron Cox also known as Fleur Odlum
v
Nick Ltd.

[SLUHCVP2023/0003]
(Saint Lucia)

Date: Tuesday, 19th December 2023

Appearances:

Applicant: Ms. Cynthia Hinkson-Ouhla
Respondent: Ms. Diana Thomas

Issues: Application for extension of time for obtaining an order for the appointment for the appointment of next friend

Result / Order: IT IS HEREBY ORDERED THAT:

The application for an extension of time is granted and the time for compliance with the order of a single judge of this court dated 27th September 2023 is hereby extended to 19th January 2024.

Reason: The Court was satisfied that the applicant provided sufficiently cogent evidence to the Court in support of the application to extend the time stipulated in the order of the single judge dated 27th September 2023.

Case Name: [1.] Harbor Club Limited
[2.] Sunrod Property Inc
[3.] Parcel Holdings Inc
v
Mc Millan Monroe DBA
Tropical Decoration
[SLUHCVAP2023/0027]
(Saint Lucia)

Date: Tuesday, 19th December 2023

Appearances:
Applicants: Ms. Vanessa Pinnock
Respondent: Mr. Alvin St. Clair

Issues: Application for leave to appeal – Application for stay of execution – Application for stay of proceedings

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal against the order of Pariagsingh M delivered 10th October 2023, is set down for hearing before the Full Court on a date to be fixed by the Chief Registrar.
2. The application for a stay of execution is refused.
3. The application for a stay of proceedings is refused.

Reason: The Court was of the view that the applicants did not meet the threshold for the grant of leave to appeal and noted that cogent evidence was not provided in support of the application for a stay.

Case Name: Devorn Charles

v
The King

[SVGHCRA2023/0024]
(Saint Vincent and the Grenadines)

Date: **Tuesday, 19th December 2023**

Appearances:
Applicant: **Mr. Duane Daniel**
Respondent: **No appearance**

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

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

- 1. The Registrar of the High Court shall serve a copy of the application for leave to appeal, minute of conviction and E- litigation Code on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.**
- 2. The Registrar of the High Court shall serve a copy of this order on the applicant and The Director of Public Prosecutions within 14 days of the date of this order.**
- 3. The consideration of the application for leave to appeal against conviction and sentence is adjourned to the next Chamber Sitting of this Court scheduled for 23rd January 2024 for further consideration.**

Reason: **There was no proof of service of the application for leave to appeal on the Director of Public Prosecutions.**

Case Name: **Alpheus Stevenson**
v
The King

[SVGHCRA2023/0025]

(Saint Vincent and the Grenadines)

Date: Tuesday, 19th December 2023

Appearances:

Applicant: Mr. Aron Lewis

Respondent: Director of Public Prosecutions

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. An extension of time is granted to the applicant to apply for leave to appeal against his conviction and sentence.
2. The notice of application for leave to appeal against sentence is granted.
3. The notice of application filed on 20th April 2023 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 Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.

Reason: The Court was of the view that the applicant met the threshold for the grant of an extension of time and should be granted leave to appeal against his sentence.

Case Name: Austin Jack
v
The King

[SVGHCRAP2023/0026]
(Saint Vincent and the Grenadines)

Date: Tuesday, 19th December 2023

Appearances:

Applicant: In person

Respondent: Director of Public Prosecutions

Issues: Application for leave to appeal against conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The notice of application for leave to appeal against conviction and sentence is granted.
2. The notice of application filed on 17th November 2023 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 Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.

Reason: The Court was of the view that the applicant should be granted leave to appeal his conviction and sentence.

Case Name: Mitchell Israel
v
The King

[SVGHCRAP2023/0027]
(Saint Vincent and the Grenadines)

Date: Tuesday, 19th December 2023

Appearances:

Applicant: Mr. Aron Lewis

Respondent: Director of Public Prosecutions

Issues: Application for leave to appeal against conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The notice of application for leave to appeal against conviction and sentence is granted.
2. The notice of application filed on 17th November 2023 together with the documents titled 'Grounds of

Appeal against Conviction and Sentence' filed 15th December 2023 is deemed to be the notice of appeal and grounds of appeal.

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

Reason: The Court was of the view that the applicant should be granted leave to appeal his conviction and sentence.

Case Name: Kenron Bibby
v
The King

**[SVGHCRA2023/0028]
(Saint Vincent and the Grenadines)**

Date: Tuesday, 19th December 2023

Appearances:

Applicant: In person

Respondent: Director of Public Prosecutions

Issues: Application for leave to appeal against sentence

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

- 1. The notice of application for leave to appeal against sentence is granted.**
- 2. The notice of application filed on 21st November 2023 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 Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.**

Reason: The Court was of the view that the applicant should be granted leave to appeal his sentence.

Case Name: Ali Gibson

v
The King

[SVGHC RAP2017/0009]
(Saint Vincent and the Grenadines)

Date: Tuesday, 19th December 2023

Appearances:

Applicant: In person

Respondent: Director of Public Prosecutions

Issues: Application for legal aid

Result /
Order: IT IS HEREBY ORDERED THAT:

1. The appellant's application for the grant of legal aid is granted.
2. The appellant shall be assigned counsel from the roster of legal aid counsel kept by the Registrar of the High Court and selected by the Registrar of the High Court to assist the appellant in the conduct of hearing of the appeal.
3. The Registrar of the High Court shall furnish counsel selected from the roster with the Record of Appeal.
4. The Registrar of the High Court shall serve a copy of this order on the appellant and on the Director of Public Prosecution within 7 days of the date of this order and provide proof of service thereafter.

Reason: The Court was of the view that the applicant should be granted leave to appeal his sentence.

Case Name:

[1] Julian Svirsky
[2] Denis Donin
v
Arman Oyekenov

**[BVIHCMAP2023/0013]
(Territory of the Virgin Islands)**

Date: Tuesday, 19th December 2023

Appearances:

Appellants: Mr. Christopher Bromilow

Respondent/Applicant: Mr. Timothy Wright

Issues: Application for extension of time to file submissions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The respondent's application for extension of time to file submissions in response to the appeal is granted.
2. The submissions filed by the respondent on 30th November 2023 is deemed validly filed.
3. The appellants are at liberty to file and serve written submissions with authorities in reply (if necessary), on or before 31st January 2023.

Reason: The Court had regard to the principles for the grant of an extension of time as enunciated in the cases of Carleen Pemberton v Mark Brantley SKBHCVAP2011/0009 (delivered 14th October 2011, unreported) and John Cecil Rose v Anne Marie Uralis Rose Saint Lucia Civil Appeal No. 19 of 2003 (delivered 22nd September 2003, unreported) and the power of a single judge to extend time pursuant to rule 62.19(1) (c) of the Civil Procedure Rules, (Revised Edition) 2023. The Court also noted that there is no sanction imposed by the rules or by an order of the court for the failure to file submissions.

Case Name: Sergey Taruta
v
JSC VTB Bank

**[BVIHCMAP2021/0029]
(Territory of the Virgin Islands)**

Date: Tuesday, 19th December 2023

Appearances:

Applicant: Mr. Matthew Freeman

Respondent: Ogier Law Firm

Issues: Application to consolidate appeals

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

1. The appeals numbered BVIHCMAP2021/0029 and BVIHCMAP2021/0043 shall be consolidated and heard together.
2. The consolidated Appeals shall proceed under appeal number BVIHCMAP2021/0029.
3. Costs be costs in the consolidated appeals.

Reason: The Court noted that there was no opposition to the application by the respondent.

Case Name:

Greater Sail Limited
(a company incorporated in the British Virgin Islands)
v
[1] Nam Tai Property Inc
(a company incorporated in the British Virgin Islands)
[2] Nam Tai Group Limited
(a company incorporated in the Cayman Islands)
[3] Nam Tai Investment (Shenzen) Co Ltd (a
company incorporated in the People's Republic
of China)

[BVIHCMAP2023/0027]
(Territory of the Virgin Islands)

Date: Tuesday, 19th December 2023

Appearances:

Applicant: Mr. Andrew Emery

Respondents: Mr. Rondelle Keller

Issues: Application for a stay of execution

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

The stay of execution application is granted, and a stay is granted of the execution of the orders of Mangatal J dated 28th November 2023, pending the hearing and determination of the appeal against the said orders.

Reason: The Court considered the principles on which a stay is granted and was of the view that the applicant satisfied the requirements for the grant of a stay.