

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

CHAMBER HEARING

MATTER DEALT WITH ON PAPER

Case Name:

Michael Thomas

v

The King

[SVGHCRAP2023/0015]

(St. Vincent and the Grenadines)

Date:

Tuesday 20th February 2024

Before:

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

On paper:

Applicant:

No appearance

Respondent:

Ms. Tamika DaSilva

Issues:

Application for an extension of time within which to seek leave to appeal – Application for leave to appeal against sentence

Type of
Order:

Result /
Order:

IT IS HEREBY ORDERED THAT:

1. The Extension of Time Application is granted.
2. The Leave Application is granted.

3. The application for leave to appeal against sentence filed on 31st July 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 parties within 14 days of the date of this order and shall provide proof of service thereafter.

Reason:

The Court noted considered the principles upon which an extension of time is granted as enunciated in *Carleen Pemberton v Mark Brantley* SKBHCVAP2011/0009 (delivered 14th October 2011, unreported) and *John Cecil Rose v Anne Marie Uralis Rose* SLUHCVAP2011/0013 (delivered 22nd 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. The Court noted that although the Extension of Time Application was filed outside the time prescribed in the Order of 26th September 2023, it was apparent that the applicant was currently incarcerated; the applicant indicated that his failure to seek leave to appeal against his sentence within the time prescribed was due to the fact that he also lacked legal representation; and the Court also noted that the applicant sought leave to appeal against his sentence on the grounds that (i) the social inquiry report was not taken into account in sentencing; (ii) a lesser penalty (compensation fine) was appropriate in the circumstances; and (iii) the punishment was excessive in all the circumstances. Having considered these matters, the Court determined that the applicant had met the threshold for the grant of the extension of time.

The Court also considered rule 55 of the Court of Appeal Rules which empowers the Court, when it is minded to grant leave to appeal, to deem the application for leave to appeal as the notice of appeal. The Court was of the view that the applicant had met the threshold for the grant of leave to appeal against sentence and so the application was granted and it was deemed to be the notice of appeal.