

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

SAINT CHRISTOPHER AND NEVIS
VIDEOCONFERENCE
23rd OCTOBER – 26TH OCTOBER 2023

JUDGMENT

Case Name: **Antigua and Barbuda Fishermen Co-operative
Society**

v

[1] Phillip Athanaze

[2] Garry Gore

[3] Colin Francis

[4] John Browne

[5] John Tomlinson

**[ANUHCVP2022/0027]
(Antigua and Barbuda)**

Date: **Thursday, 26th October 2023**

**Coram for
Delivery:** **The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor Ward, Justice of Appeal
The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

Appearances:

Applicant: **Dr. David Dorsett for the appellant**

Respondent: **Mr. Justin L. Simon, KC for the respondents**

Issues: **Interlocutory appeal – Locus standi – Standing of the
Board of Directors of the Antigua and Barbuda
Fishermen Co-operative Society – Section 72 of the
Antigua and Barbuda Co- operative Societies Act (“the
Act”) – Election of Directors – Whether the judge erred
in her interpretation of section 72(2) of the Act -
Whether the judge erred in her finding that the 2014
Board lacked standing to bring the claim since the**

term of office of the directors elected in 2014 had expired

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The appeal is allowed**
- 2. The orders and declarations made by the judge below are set aside.**
- 3. The matter is remitted with directions to the Registrar that the matter is to be listed for an expedited hearing before another judge of the High Court.**

Reasons:

Held: allowing the appeal, setting aside the orders and declarations made by the judge below and remitting the matter with directions to the Registrar that the matter is to be listed for an expedited hearing before another judge of the High Court, and awarding costs to the appellant that:

- 1. The ordinary and natural interpretation of section 72(2) of the Act means that if an election of directors of the society is not held within three months of the end of the financial year or as extended by the Supervisor, the Board then in office continues to hold over until their successors are elected. This is an interpretation that would allow the day-to-day business of the Society to continue even as remedial steps are taken to address any concerns about the standing of the directors, which is the very issue to be resolved: whether the 2017 Board was lawfully elected as directors at the Special General Meeting on 12th November 2017, thereby terminating the tenure of the 2014**

Board. The interpretation employed by the learned judge cannot stand as it is one which narrows the meaning of section 72(2) to exclude its applicability in circumstances where the incumbent directors' term had expired, or where they had served two consecutive terms. Giving effect to the section's ordinary and natural meaning accords with the underlying policy and purpose of the Act which seeks to ensure, that at all times, the Society's business is run by a duly elected Board of Directors as provided for in the Act and the Society's By-Laws.

Sections 42, 72 and 73 of the Antigua and Barbuda Co-operative Societies Act, Act No. 9 of 2010 Revised Laws of Antigua and Barbuda, 2010 applied; The Labour Tribunal v The St. Lucia Electricity Services Limited SLUHCVP2019/0003 (delivered 8th April 2020, unreported) applied; Smith v Selby [2017] CCJ 13 (AJ) applied.

- 2. There can be no rational fear that the directors would hold over in perpetuity. The Act as well as the By-Laws provide for various mechanisms to combat any such scenario, for example, removal of directors from office by special resolution of members, convening of meetings by the Supervisor and convening of meetings by members.**

Sections 43, 44 and 90 of the Antigua and Barbuda Co-operative Societies Act, Act No. 9 of 2010 Revised Laws of Antigua and Barbuda, 2010 applied; Section 54 of the Antigua and Barbuda Fishermen Co-operative Society

Limited By-Laws, St. John's Antigua 2006 applied.

3. Additionally, in relation to whether Mr. Mussington was authorised to act on behalf of the 2014 Board, one of the declarations sought by the claimants was that all decisions flowing from the Special General Meeting held on 12th November 2017 are null and void and of no effect. These included the decision to expel Mussington. The 2014 Board's challenge on this claim goes to the very root of the defendants' standing to expel him. Therefore, the judge was wrong to conclude that Mr. Mussington did not challenge his expulsion and that by virtue of that, he lacked standing.

APPLICATIONS AND APPEALS

Case Name:

Ng Min Hong

v

Somarlie Lie

[BVIHCMAP2022/0068]

(Territory of the Virgin Islands)

Date:

Monday, 23rd October 2023

Coram:

The Hon. Mr. Mario Michel, Justice of Appeal

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

The Hon. Mr. Trevor Ward, Justice of Appeal

Appearances:

Applicant:

Mr. Alain Choo- Choy KC with him Mr. James Noble and Ms. Kate Lan

Respondent:

Mr. Matthew Hardwick KC with him Mr. Richard Evans and Dr. Alecia Johns

Issues: Conditional Leave to Appeal to His Majesty in Council - Whether the applicant's application for conditional leave to appeal to His Majesty in Council was made within 21 days of the date of the decision appealed from in accordance with section 4 of the Virgin Islands (Appeals to Privy Council) Order 1967 - Whether the Court should take into consideration the date on which its decision was delivered orally or the date on which the written decision was delivered to the parties to satisfy section 4 of the Virgin Islands (Appeals to Privy Council) Order 1967 - Whether the court has jurisdiction to extend time to apply for conditional leave to appeal to His Majesty in Council - Application for stay of unless order

Type of Order: Oral Decision

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The application for conditional leave to appeal to His Majesty in Council is dismissed.
2. The application for a stay of the hearing accordingly falls away.
3. Costs of the application to be assessed if not agreed within 21 days of the date of this order.

Reason: The application for conditional leave to appeal to His Majesty in Council emanates from an order made by this Court on 28th July 2023, which dismissed the applicant's appeal against an order and judgment of Wallbank J. The application was made pursuant to the provisions of the Virgin Islands (Appeals to Privy Council) Order 1967 ("the 1967 Order"), section 4 of which provides that an application to the Court for leave to appeal to the Privy Council "shall be made by

motion or petition within 21 days of the date of the decision to be appealed from”.

The application was made by notice of motion filed on 1st September 2023.

Before addressing the substantive issue of whether or not conditional leave to appeal should be granted to the applicant, the Court had to first determine the preliminary issue of whether the application for leave was made within the time provided for under section 4 of the 1967 Order. The applicant contended that the application was made within time, having been made within 21 days of the date when the parties received the written judgment of the Court. The respondent contended that the application was out of time because it was made more than 21 days after the making of the order sought to be appealed.

The Court noted that the very wording of the applicant's motion stated that the order which the applicant sought leave of the Court to appeal was “the order and judgment made herein by the Court of Appeal on 28th, July 2023”. The Court was of the view that this would have logically appeared to be the date from which one would begin to count the 21 days within which an application for leave to appeal was to be made. The applicant however contended that it was not that date, but the date when the written judgment was provided to the parties, being 11th August 2023 from which one should begin the count of the 21 days. The Court was also of the view that it was trite that one does not appeal against the document which contains the written order and or judgment of the court but against the order of the court. The order which the applicant sought leave to appeal was stated in the applicant's notice of motion as the order of this Court made on 28th July 2023.

Learned King’s Counsel for the applicant, Mr. Choo-Choy, referred the Court to the case of Shanda Games

Ltd v Masco Capital Investments Limited [2020] UKPC 2 from the Cayman Islands. In that case, the Cayman Islands Court of Appeal held that section 4 of the Cayman Islands Appeals to the Privy Council Order 1984, which is materially identical to section 4 of the 1967 Order, provides that an application for leave to appeal to the Privy Council must be made within 21 days of “the date of the decision to be appealed from” which must be interpreted to mean 21 days from the filing of the judgment. He submitted that in the case of the BVI and on the facts of the present case, this meant that the applicant had 21 days from the date when he received the written judgment within which he could apply for leave, which means that application for leave to appeal had to have been made by 1st September 2023 and that the application made on that date was in time.

[However, it was the view of the Court that the Shanda Games Ltd case did not assist the applicant, because the decision of the Cayman Islands Court of Appeal was based on section 19(1) of the Cayman Islands Court of Appeal law and rule 11(4) of the Cayman Islands Court of Appeal Rules, which provide that the time within which to appeal runs not from the date of pronouncement of the judgment, but from the date on which the judgment and/or order was filed. The court held that, by analogy, the same regime should apply to applications for leave to appeal to the Privy Council; where therefore an application for leave to appeal to the Privy Council was made outside of the 21 days within which judgment was handed down in open court, but within 21 days when the certificate incorporating the decision was produced and the judgment was formalised. The application was made in time and would be granted.] The preceding paragraph needs to be worded so that its meaning can be made clear.

The Court found that that case could not however be applied to the present case because the regime contained in the legislation and rules of the Cayman Islands was not the same as the regime in the BVI, where rule 42.8 of the Civil Procedure Rules 2000 provides that “the judgment or order takes effect from the day it is given or made, unless the court specifies that it is to take effect on a different day.” This rule was interpreted by this Court in the case of Wycliffe Baird v David Goldgar HCVAP2008/005 (delivered 18th November 2008, unreported) where it was held that time runs from the date of the order, which date was contained in the certificate of result of appeal and not the date that the certificate was received by the parties or their lawyers or the date when the reasons for decision was received by the parties or their lawyers.

Learned King’s Counsel did not furnish the Court with any other authority to support his submission, instead, he argued that the basis of the decision of the Court of Appeal of the Cayman Islands was not so much the provisions of the Cayman Islands Court of Appeal law or the Cayman Islands Court of Appeal Rules referred to in the judgment, but it was the unfairness that could be caused to the party seeking leave to appeal if he were forced to make an application for leave to appeal without having had at his disposal the actual text of the judgment being appealed. His argument was that the provisions of the Court of Appeal law and the Court of Appeal rules provided comfort to the Cayman Island Court of Appeal in interpreting section 4 of the Cayman Islands Appeals to the Privy Council Order 1984 in the way that they did.

Learned King’s Counsel on behalf of the respondent, Mr. Hardwick, countered each and every argument advanced by Mr. Choo-Choy, KC and submitted that the only reasonable interpretation to be placed on section 4 of the 1967 Order was that applications for

leave to appeal to the Privy Council must be made within 21 days of the date of the order handed down by the Court, which in this case was clearly the 28th of July 2023. Therefore, the application for leave to appeal the order of 28th July 2023, having been made by the applicant on 1st , September 2023, was out of time and must accordingly be dismissed.

The Court in agreeing with the submissions advanced on behalf of the respondent, found that the application made by the applicant for leave to appeal to the Privy Council had to have been made within 21 days of the making of the order of 28th July 2023, that was by 18th August 2023, and that the application made on 1st September 2023 was made out of time. The Court found no basis to retroactively alter the order of the Court by specifying - 10 weeks after the making of the order - that the order would be given a different date to the one on which it was made. As a result, the application for conditional leave to appeal to the Privy Council having been made out of time, was dismissed, and the application for a stay pending the hearing and determination of the appeal accordingly fell away. The Court also made the above costs order.

Case Name:

Robert Owen Haynes

v

Patricia Eudora Welsh

[SKBHCVAP2018/0008]

(Saint Christopher and Nevis)

Date:

Tuesday, 24th October 2023

Coram:

The Hon. Mr. Mario Michel, Justice of Appeal

The Hon. Mr. Trevor Ward, Justice of Appeal

The Hon. Mr. Gerard St. C Farara, Justice of Appeal

[Ag.]

Appearances:

Appellant/Respondent: Ms. Sherry-Ann Liburd-Charles

Respondent/Applicant: Ms. Midge Atria Morton

Issues: Application to strike out notice of appeal for want of prosecution - Failure of court to produce transcript

Type of Order: Directions

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court is directed to cause the transcript of proceedings in the High Court or other record of notes of evidence in the High Court to be prepared on or before 31st December 2023 and to notify the parties in writing of its availability.
2. Where the transcript of proceedings or other record of notes is unavailable, the Registrar of the High Court shall notify the parties in writing of its unavailability and the need for the transcript to be included in the record of appeal shall be dispensed with.
3. The appeal shall thereupon proceed in accordance with 65.14 and 65.15 of the Civil Procedure Rules (Revised Edition) 2023.
4. The appeal shall be listed for hearing at the sitting of the Court of Appeal for Saint Christopher and Nevis during the week commencing 17th June 2024 or such earlier date as the Chief Registrar may direct.

5. There shall be no order as to cost.

Reason:

Before the Court was an application filed by the respondent/applicant on 11th April 2023 to strike out the notice of appeal filed on 13th June 2018 for want of prosecution. The Court was of the view that the delay in prosecuting the appeal was primarily due to the difficulties of the court in producing the transcript of proceedings. In the circumstances, the court was minded to give directions for the furtherance of the appeal.

Case Name:

**Shanga David
v
Junior Chiverton**

**[NEVHCVAP2023/0010]
(Saint Christopher and Nevis)**

Date:

Tuesday, 24th October 2023

Coram:

**The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Trevor Ward, Justice of Appeal
The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

Appearances:

Applicant/Respondent: Mr. Eustace Nisbett

Respondent/Appellant : Ms. Hazelyn Ross

Issues:

Application to strike out notice of appeal - Application test - Whether order sought to be appealed is an interlocutory or final order

Type of Order:

Oral Decision

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application to strike out the notice of appeal filed on 1st June 2023 is granted.**
- 2. The application for leave to appeal the order 26th April 2023 is denied.**
- 3. Costs in the sum of \$1500.00 shall be payable to the applicant/respondent.**

Reason:

There were two principal applications before the Court, an application to strike out the notice of appeal filed 1st June 2023 and an application seeking leave to appeal a High Court order made on 26th April 2023. The order sought to be appealed was an order made by a master, where he declined to set aside a default judgment issued in favour of the respondent/appellant.

The Court upon reviewing the order was of the view that it was an interlocutory order in accordance with the application test and that leave to appeal was required before a notice of appeal could be filed. In this case a notice of appeal was filed on 1st June 2023 and no prior application for leave to appeal had been made. The notice of appeal filed in respect of an interlocutory order, for which no leave had been granted, was therefore a nullity and was accordingly struck out. Further, the Court was of the view that, the application subsequently made for leave to appeal was virtually academic and even if the Court were to consider it, the fact that no application for an extension of time was made for the filing of the application for leave to appeal and that the filing took place well beyond the time provided by the Civil Procedure Rules 2000, that application should also be denied.

Case Name:

**Lawvington Forbes
v**

**The Attorney General of Saint Christopher
and Nevis**

**[NEVHCVAP2022/0012]
(Saint Christopher and Nevis)**

Date: Tuesday, 24th October 2023

Coram: The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Trevor Ward, Justice of Appeal
The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. Eustace Nisbett

Respondent: Ms. Rivi Lake and Ms. LaShaun Smart

Issues: Interlocutory appeal - Appeal against decision to strike out claim for deprivation of personal liberty - Section 5 of the Constitution of Saint Christopher and Nevis - Whether the striking out of part of the appellant's Originating Motion was draconian and a breach of natural justice - Whether detention by an order of the court precluded the appellant from bringing an Originating Motion for the deprivation of his personal liberty - Whether the learned judge erred in striking out parts of the Originating Motion without conducting a full examination of the evidence - Whether the appellant's initial detention was unlawful - Whether the continued detention of the appellant was unlawful even where it was ordered by the court

Type of Order: N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Case Name: **Everton Elliott**

V
Anselm Caines

[NEVHCVAP2022/0013]
(Saint Christopher and Nevis)

Date: Tuesday, 24th October 2023

Coram: The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Trevor Ward, Justice of Appeal
The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

Appearances:

Appellant: Ms. Sherry-Ann Liburd-Charles

Respondent: Mr. Perry Joseph

Issues: Interlocutory appeal - Appeal against grant of application to dispense with service of the claim - Whether the learned master erred by hearing the appellant's application to strike out the claim and the respondent's application to dispense with service simultaneously - Whether the learned master by erred by hearing the application to dispense with service without any notice to the appellant and without inviting the appellant to make submissions in relation to the application

Type of Order: Oral Judgment

Result / Order: IT IS HEREBY ORDERED THAT:

1. The part of the order of Gill M dated 26th September 2022 granting the respondent's application to dispense with service is set aside.
2. The part of the order of Gill M dated 26th September 2022 requiring filing of the defence within 42 days is set aside.

3. The respondent's application to dispense with service be listed before a master of the court for hearing.
4. Costs to be paid by the respondent to the appellant in the agreed sum of \$1000.00.

Reason:

By notice of interlocutory appeal filed on 20th December 2022 the appellant appealed against parts of the judgment of Gill M delivered on 26th September 2022 (a) granting the claimant's application to dispense with service of the claim and (b) ordering the filing of a defence within 42 days.

Having heard the submissions by counsel for the appellant and the respondent and having considered the written submissions together with the authorities filed therein, the Court was satisfied that the learned master erred in not giving the appellant an opportunity to make representations or respond to the submissions on the respondent's application to dispense with service. The Court therefore ordered to set aside those parts of the that were appealed.

Case Name:

Jadee S. K. Caines

v

[1] Spencer Brand

[2] Oaklyn Peets (Supervisor of Elections)

**[3] Calvin Fahie (Registration Officer for the
Constituencies of St. Paul)**

**[4] Kevin Barrett (Returning Officer for the
Constituency of St. Paul)**

[5] The Electoral Commission

**[6] The Attorney General of St. Christopher
and Nevis**

[NEVHCVAP2023/0005]

(Saint Christopher and Nevis)

Date:

Wednesday, 25th October 2023

Coram:

The Hon. Dame Janice M. Pereira, DBE, Chief Justice

**The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

Appearances:

Applicant: Ms. Angela Cozier

Issues:

Application to discharge the order of a single judge - Whether the single judge erred in dismissing the application for leave to appeal - Whether the single judge failed to give due regard to rule 62.2(5) of the CPR - Whether the single judge failed to recognize that the judge in the court below did not have jurisdiction to make an interlocutory order in the election petition matter - Whether the order of the judge in the court below was a nullity - Whether the Court of Appeal, in the absence of jurisdiction in interlocutory election petitions, has jurisdiction to determine whether a decision in the court below was a nullity

Type of Order:

Oral Decision

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

The application to discharge the order of the single judge is dismissed.

Reason:

This was an application filed by the applicant on 3rd May 2023 seeking to discharge the order of Webster JA, a single judge of the Court of Appeal, made on 18th April 2023 in respect of an application before him for permission to appeal the decision of the judge in the court below delivered on 27th February 2023 in which the judge struck out the applicant's petition on the basis that it was a nullity, having been filed out of time in accordance with the provisions in the National Assembly Elections Act Cap. 2.01 of the Laws of Saint Christopher and Nevis ("the Act").

The applicant sought to discharge the single judge's order while accepting that the decision of the judge in the court below against which she sought to appeal was an interlocutory order and that she filed a notice of interlocutory appeal. She also accepted the finding of the single judge that the Court of Appeal does not have jurisdiction to hear an interlocutory appeal from a decision arising in an election matter based on the Act.

The Court recited from Section 12 of the Act which provides as follows:

“(1) The High Court shall have jurisdiction to hear and determine any question whether

(a) any person has been validly elected as a Representative;

(b) any person has been validly appointed as a Senator;

(c) any person has been elected as Speaker from among persons who were not members of the National Assembly was qualified to be so elected or has vacated the office of Speaker; or

(d) any member of the Assembly has vacated his or her seat or is required, by virtue of section 9(4) and (5), to cease to perform his or her functions as a member of the Assembly.

...

(6) An appeal shall lie as of right to the Court of Appeal from any final decision of the High Court determining any such question as is referred to in subsection (1).

...

(7) No appeal shall lie from any decision of the Court of Appeal in exercise of the jurisdiction conferred by subsection (6) and no appeal shall lie from any decision of the High Court in

proceedings under this section other than a final decision determining any such question as is referred to in subsection (1) of this section.”

It was clear that the matter before the Court did not deal with any of the categories of matters set out in section 12(1) of the Act. The decision in this case, as conceded by the applicant, is an interlocutory decision. Sections 6 and 7 make plain that an appeal shall lie as of right from any final decision of the High Court but that no appeal shall lie from any decision of the High Court in proceedings under this section other than a final decision. The authorities are replete that the Court of Appeal has no jurisdiction to entertain and to hear an appeal from an interlocutory decision of the court. The Court cannot arrogate to itself a jurisdiction to decide any matters in relation to an interlocutory decision taken by the court below. That was confirmed from an appeal from the Court of Appeal of the Eastern Caribbean Supreme Court to the Caribbean Court of Justice in the case of Cuffy and Others v Skerrit and Others [2022] CCJ 12 (AJ) DM, which stated that the Court of Appeal does not have jurisdiction to hear appeals against interlocutory matters relating to an election petition.

The Court could therefore find no error made by the single judge in dismissing the application for permission to appeal against such an order. The Court could not, in the circumstances, exercise a jurisdiction which it did not have in setting aside that order and granting permission to appeal. Accordingly, the application to this Court to discharge the order of the single judge was dismissed.

Case Name:

Travis Crawford

v

The King

[SKBHCRAP2020/0005]

(Saint Christopher and Nevis)

Date: Wednesday, 25th October 2023

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

Appearances:

Appellant: In person

Respondent: Mr. Leslie Roberts

Issues: Criminal appeal - Appeal against sentence - Rape -
Burglary - Whether the sentence imposed by the
learned judge was manifestly excessive

Type of Order: N/A

Result / Order: IT IS HEREBY ORDERED THAT:

1. The appellant having withdrawn his appeal
against sentence, the appeal is accordingly
dismissed.
2. The sentences imposed by the learned judge are
affirmed.

Reason: The Court noted that the appellant did not wish to
proceed with his appeal against sentence. The appeal
having been withdrawn by the appellant was
accordingly dismissed and the sentences imposed by
the learned judge affirmed.

Case Name: Massy Properties (Trinidad) Ltd
v
Basel Algharbi et al
[GDAHCVAP2023/0022]
(Grenada)

Date: Thursday 26th October 2023

Coram: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor Ward, Justice of Appeal
The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

Appearances:

Applicant: Ms. Melissa Modeste-Singh

Respondent: Mr. Anslem Clouden for the 3rd Respondent

Issues: Application for leave to appeal - Application for stay of the order made by the learned master - Whether the learned master's decision exceeded the generous ambit within which reasonable disagreement is possible that it may be said to be blatantly wrong - Whether the learned master erred in failing to give consideration to the law on non est factum - Whether the learned master failed in the exercise of her judicial discretion by giving too little or too much weight to relevant factors or by taking into account irrelevant factors and considerations

Type of Order Adjournment

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The matter is adjourned to the next sitting of the Court of Appeal in Grenada commencing the week of 15th January 2024.
2. The applicant shall file and serve a bundle of documents including: (i) the transcript of proceedings in the court below including the reasons of the learned master, (ii) the notice of application and all supporting affidavits and other evidence by the 15th of December 2023.

3. The applicant shall file supplemental submissions by the 15th December 2023.

4. The respondent is at liberty to file submissions in reply by the 5th of January 2024.

Costs to the respondent to be paid by the applicant in the agreed sum of \$1,500.00.

Reason:

Further to the oral application of counsel on behalf of the applicant seeking an adjournment of today's proceedings with no objection made by counsel for the respondent, the hearing of the application of the matter was adjourned to the next sitting of this Court in Grenada commencing the week of the 15th of January 2024.

Case Name:

**Kevin A. Horstwood
v
Adam Bilzerian
[SKBHCVAP2023/0005]
(Saint Christopher and Nevis)**

Date:

Thursday 26th October 2023

Coram:

**The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor Ward, Justice of Appeal
The Hon. Mr. Gerard St. C Farara, Justice of Appeal**

Appearances:

Applicant: Ms. Michelle Slack

Respondent: No appearance

Issues:

Application for adjournment

Type of Order

Adjournment

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

- 1. The Applicant's application for leave to appeal is adjourned to the next sitting of the Court of Appeal for Saint Kitts and Nevis scheduled for the week of 26th February 2024.**
- 2. There shall be no order as to costs.**

Reason:

An application for an adjournment of the hearing of the application for leave to appeal was made by counsel for the appellant, who was recently retained. The Court, upon hearing the application, granted the application. The matter was therefore adjourned, and the Court made no order as to costs

Case Name:

[1] Angela Barkhouse

[2] Toni Shukla

v

[1] Samuel Benjamin Bankman-Fried

**[2] Emergent Fidelity Technologies Ltd (in
Provisional Liquidation)**

**[ANUHCVP2023/0008]
(Antigua and Barbuda)**

Date:

Thursday 26th October 2023

Coram:

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

The Hon. Mr. Trevor Ward, Justice of Appeal

The Hon. Mr. Gerard St. C Farara, Justice of Appeal

Appearances:

Applicant:

**Mr. David Joseph KC with him Ms. Kathleen Bennett
and Ms. Cherise Archibald**

Respondent:

**Dr. David Dorsett for the first respondent
Mrs. Andrea Smithen-Henry for the third respondent**

Issues:

**Civil appeal - Whether the learned judge erred in lifting
the stay, as against the first respondent, in Action 0456**

- Whether the learned judge erred in finding that the first respondent would suffer prejudice if he was not afforded an opportunity to challenge the Receivership Order - Whether the learned judge erred in concluding that the first respondent would suffer prejudice if he was not allowed to challenge the imposition of a freezing order against him - Whether the learned judge erred in failing to conclude that a defendant would have to show compelling reasons as to why a claimant should be forced to continue to prosecute a claim in the absence of evidence of assets or security - Application to adduce fresh evidence - Ladd v Marshall [1954] 1 WLR 1489 - Whether the proposed fresh evidence satisfies all three limbs of the Ladd v Marshall test

Type of Order:

N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

Judgment is reserved.