

**EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL**

CHAMBER HEARING

20th July 2023

**MATTERS DEALT WITH ON PAPER
The Hon. Mde. Gertel Thom, Justice of Appeal**

Before:

Case Name:

Jason Benjamin

v

Cindy Gordon

**[ANUMCVAP2023/0005]
Antigua and Barbuda**

Date:

Thursday, 20th July 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues:

Application for extension of time within which to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall file and serve i) an amended notice of application for an extension of time outlining the grounds on which he seeks the extension of time for leave to appeal and the grounds on which he seeks to appeal the decision of the magistrate and ii) an affidavit in support, within 14 days of the date of this order.**
- 2. The Chief Magistrate shall provide a copy of**

the decision of the magistrate which the appellant seeks leave to appeal to the Chief Registrar within 14 days of the date of this order.

3. The application for an extension of time is adjourned for further consideration at the next Chamber Sitting of this Court scheduled for 26th September 2023.

Reason:

The Court noted that the notice of application for an extension of time did not provide any grounds on which the application was made and was not accompanied by an affidavit in support.

Case Name:

**[1] Flying Dutchman Overseas Limited
(a company incorporated in the
Virgin Islands)**

**[2] Vita Felice Limited
(a company incorporated in the
Virgin Islands)**

v

**[1] The Port Authority
(a body corporate established by
the Port Authority Act)**

[2] The Attorney General

**[ANUHCVP2023/0025]
Antigua and Barbuda**

Date:

Thursday, 20th July 2023

On paper:

Applicants: Mr. Andre O’Kola

Respondents: No appearance

Issues: Application for leave to appeal to Court of Appeal, alternatively leave from the Court of Appeal to apply for judicial review

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted leave to appeal the order contained in paragraph 86(2) of the judgment of Williams J dated 8th June 2023.
2. The applicant shall file its Notice of Appeal within 21 days of the date of this order.
3. The appeal shall proceed in accordance with the Civil Procedure Rules 2000.

Reason: The Court was of the view that the applicant had met the threshold for the grant of leave to appeal.

Case Name: Carlisle Bay Resort Ltd.

v

Glasmine James

[ANUHLTAP2023/0025]
Antigua and Barbuda

Date: Thursday, 20th July 2023

On paper:

Applicant: Ms. Kema Benjamin

Respondent: No appearance

Issues: Application to serve notice of appeal on respondent outside of the jurisdiction- Application for extension of time for service of notice of appeal on respondent outside of jurisdiction – Application that any and/or all

**further documents be served on the respondent
outside the jurisdiction**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for an extension of time to serve the respondent outside the jurisdiction is granted.**
- 2. The application for leave to serve the respondent the notice of appeal and further documents outside the jurisdiction at 938 East 220 Street, Bronx, New York, 10469, is granted.**
- 3. The appellant/applicant shall serve the respondent with the notice of appeal, the application for an extension of time to serve the notice of appeal, a copy of the final order of the Industrial Court of Antigua and a copy of this order at 938 East 220 Street, Bronx, New York, 10469, via Federal Express (FedEx) or DHL within 21 days of the date of this order and shall thereafter file proof of service.**
- 4. No order as to costs.**

Reason:

The Court was satisfied that in the circumstances the appellant/applicant should be granted leave to serve the respondent outside the jurisdiction and an extension of time to serve the respondent.

Case Name:

Antigua Masonry Products Ltd.

v

Norrison Matthews

[ANUHLTAP2022/0006]

Antigua and Barbuda

Date:

Thursday, 20th July 2023

On paper:

Applicant: Ms. Kema Benjamin

Respondent: No appearance

Issues:

Application seeking an order that the President of the Industrial Court be compelled to provide forthwith reasons for his order

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall obtain a copy of the Notice of Discontinuance from the Industrial Court and provide the Chief Registrar and the applicant with a copy.
2. The notice of application is adjourned for further consideration at the next chamber sitting of the Court scheduled for 26th September 2023.

Reason:

The Court noted that counsel was informed by the Industrial Court's Registrar that a Notice of Discontinuance was filed in the matter in the court below by the respondent. The Court was therefore of the view that it would be pertinent for the Court to be provided with evidence of the Notice of Discontinuance filed and proof of service on the applicant before proceeding.

Case Name:

Caribbean Development (Antigua) Limited

v

**[1] Stuart Lockhart
[2] Geert Duizendstraal
[3] Gaye Hechme**

**[ANUHC VAP2023/0010]
Antigua and Barbuda**

Date: Thursday, 20th July 2023

On paper:

Applicant: Ms. Kema Benjamin

Respondents: No appearance

Issues: Application for permission to serve on 2nd respondent outside of the jurisdiction

Result / Order: IT IS HEREBY ORDERED THAT:
The application for permission to serve a notice of application for an extension of time for leave to appeal an interlocutory order and a stay of proceedings pending appeal filed on 21st March 2023, on the 2nd intended respondent outside of the jurisdiction via email is refused.

Reason: The Court noted that the method of service proposed was via email and was of the view that the applicant has not met the requirements for service by electronic means in accordance with the Civil Procedure Rules and Practice Direction No. 1 of 2014.

Case Name: Ronaldo Riley

v

Geoffrey Letang

**[DOMHCVAP2023/0010]
Commonwealth of Dominica**

Date: Thursday, 20th July 2023

On paper:

Applicant: Ms. Gina Dyer Munro

Respondent: No appearance

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application for leave to appeal the order of Master Cybelle Cenac Dantes dated 14th June 2023 is set down for a virtual hearing before the single judge on 27th September 2023 at 10:00am.

Reason: The Court was of the view that it ought to hear further submissions from the applicant on the prospects of success of appeal.

Case Name: Keith Mitchell

v

Patrick Simmons

[GDAHCVAP2023/0023]
Grenada

Date: Thursday, 20th July 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues: Application for stay pending the hearing and determination of the appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

A stay of execution of the order of Justice Raulston Glasgow dated 15th May 2023 is granted on the condition that the appellant pays the judgment sum of \$148,750.00 into the High Court within 7 days of the date of this order, and the Registrar of the High Court shall deposit the said sum in an interest bearing account in the name of The Registrar of the High Court with a Commercial Bank licensed to conduct Banking business in the State of Grenada.

Reason:

The Court, upon noting the principles on which a stay should be granted and noting that the respondent had no opposition to the application or the terms of the stay sought, granted the stay subject to the terms set out by the applicant.

Case Name:

[1] Ramesh Armanani

[2] Mohan Armanani

(by his lawful son and interested party Mahesh Armanani)

v

AEA Company Limited

[GDAHCVAP2023/0019]

Grenada

Date:

Thursday, 20th July 2023

On paper:

Applicants: Ms. Gennilyn Ettienne

Respondent: No appearance

Issues: Application for leave to appeal – Application for an extension of time for leave to appeal – Relief from sanctions

Result / Order: IT IS HEREBY ORDERED THAT:

1. Mahesh Armanani shall file proof of his appointment to represent the estate of Mohan Armanani in these proceedings.
2. The hearing of the amended notice of application for leave to appeal and the notice of application for extension of time for leave to appeal and relief from sanctions is adjourned until the next Chamber Hearing of the Court scheduled for 26th September 2023.

Reason: The Court noted that there was no evidence before it of the second applicant's death and that in the absence of Mahesh Armanani being appointed as the legal representative of the second applicant's estate or alternatively, as the representative party of the second applicant for the purposes of these proceedings, he had no legal standing to appear on behalf of the second applicant in these applications.

Case Name: [1] Raymond Prime
[2] Desiree Prime

v

Frederick Finlay

[GDAHCVAP2023/0024]
Grenada

Date: Thursday, 20th July 2023

On paper:

Applicants: Ms. Gennilyn Ettienne

Respondent: Mr. Derrick Sylvester

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application for leave to appeal against the order of Michel M is dismissed.

Reason: The applicant filed their application for leave out of time with no accompanying application for an extension of time for leave to appeal.

Case Name: Rachel Lily Campbell
and
Brodie John Campbell
[GDAHCVAP2023/0025]
Grenada

Date: Thursday, 20th July 2023

On paper:

Applicant: Mr. Jerry C. Edwin

Respondent: Ms. Lisa Taylor

Issues: Application for a stay of execution

Result / Order:

IT IS HEREBY ORDERED THAT:

The application for a stay of execution of the judgment of Glasgow J is refused.

Reason:

The Court noted, inter alia, that the that the reasons provided by the applicant in support of the application for a stay of execution were not cogent in all the circumstances and that in any event, the notice of appeal was not properly before the Court as the applicant had not filed an application for leave to appeal.

Case Name:

Elvin Waltris

v

The King

[GDAHCRAP2022/0007]

Grenada

Date:

Thursday, 20th July 2023

On paper:

Applicant:

In person

Respondent:

Mr. Howard Pinnock - Senior Crown Counsel

Issues:

Application for bail pending appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The Registrar of the High Court shall notify the Chief Registrar in writing within 14days of the date of this order of the date when the transcript of proceedings would be available.**
- 2. The Registrar shall serve a copy of the notice of**

the date when the transcript of the proceedings would be available on the Director of Public Prosecutions.

3. The applicant and the respondent shall file further submissions within 14 days after receipt of the notice of the Registrar.
4. The application for bail is adjourned for further consideration to the next chamber sitting of the Court scheduled for 26th September 2023.

Reason:

The Court noted the date when the applicant was convicted and sentenced and that the submissions of the Director of Public Prosecution indicated that the transcript had not been prepared after several years.

Case Name:

Winston Murray

v

The King

**[GDAHCRAP2013/0003]
Grenada**

Date:

Thursday, 20th July 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues:

Application for bail pending appeal

Result / Order:

IT IS HEREBY ORDERED:

1. The application dated 21st June 2023 for bail

pending the hearing and determination of the appeal of his conviction is refused.

2. The Registrar of the High Court shall serve a copy of this order on the applicant and shall provide proof of service thereof.

Reason:

The Court was of the view that the applicant had not provided any evidence which, on the authority of The State v Lynette Scantlebury (1976) 27 WIR 103, revealed any exceptional circumstances which had arisen for granting bail pending the hearing and determination of the appeal.

Case Name:

[1] Christine Antoine
[2] Denzil Mc Meo
[3] Marsha Francis
[4] John Francis Lawrence
[5] Glenn Otway
[6] Fleurette Claire Welsh
(As personal representative of the Estate of Megan Welsh)

and

[1] The Grenada Authority for the Regulation of Financial Institutions
[2] British American Insurance Company Limited
(By its Judicial Manager Reuben John)

[GDAHCVAP2023/0026]
Grenada

Date:

Thursday, 20th July 2023

On paper:

Applicants:

Ms. Gennilyn E. Ettienne

Respondents: Mr. James Bristol

Issues: Application for an extension of time to file notice of appeal – Relief from sanctions

Result / Order: IT IS HEREBY ORDERED THAT:
The application for an extension of time to file a notice of appeal against the judgment of Glasgow J and relief from sanctions is refused.

Reason: The Court noted that the decision sought to be appealed was of an interlocutory nature which meant that leave to appeal must first be obtained. The intended appellant had not sought and obtained leave to appeal therefore the application for an extension of time to file a notice of appeal was refused.

Case Name: [1] Human Resource Management Unit
[2] Office of the Deputy Governor
[3] Attorney General

and

Raymond Cabey

[MNIHCVAP2023/0005]
Montserrat

Date: Thursday, 20th July 2023

On paper:

Applicants: Ms. Cedricia Shiell

Respondent: No appearance

Issues: Application for an extension of time to file notice of appeal – Relief from sanctions – Application for leave to appeal – Costs

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for an extension of time within which to apply for leave to appeal against the order of Hon. Morley J made on 6th April 2023 is granted.
2. Leave to appeal the decision of Hon. Morley J made on 6th April 2023 is granted.
3. The applicants shall file and serve a notice of appeal on the respondent within 14 days of the date of this order.
4. No order as to costs

Reason: The Court, upon considering the principles for the grant of an extension of time and for the grant of leave to appeal, was of the view that the applicants should be granted an extension of time and that the applicants had met the threshold for the grant of leave to appeal. Additionally, the Court noted that there was no sanction imposed by the rules or by an order of the court for failure to file the application for leave to appeal in time.

Case Name: Brian Kenroy Bailey
v
Chief Immigration Officer
[MNIHCVAP2022/0001]
Montserrat

Date: Thursday, 20th July 2023

On paper:

Applicant: Mr. Warren Cassell

Respondent: Mrs. Sheree E. Jermotte- Rodney

Issues: Application for an order that the applicant/appellant be released from detention and/or granted a temporary residency permit consistent with the letter of the Chief Immigration Officer

Result / Order: IT IS HEREBY ORDERED THAT:

1. The respondent has leave to file and serve submissions in response to the application filed on 29th June 2023 within 14 days of the date of this order.
2. The applicant is at liberty to file submissions in reply, if necessary, within 14 days thereafter.
3. The application filed on 29th June 2023 seeking an order that the applicant/appellant be released from detention and/or granted a temporary residency permit consistent with the letter of the Chief Immigration Officer dated 18th October 2021, shall be set down by the Chief Registrar for hearing before the Full Court at the same time as the substantive appeal.

Reason: The Court noted that the application could be conveniently dealt with at the hearing of the substantive appeal.

Case Name: Gilroy Auguste

v

The King

[SLUHCRA2020/0004]

Saint Lucia

Date: Thursday, 20th July 2023

On paper:

Applicant: Mr. Huggins Neal Nicholas

Respondent: No appearance

Issues: Application for an extension of time within which to seek leave to appeal against conviction – Application that the notice of application for leave to appeal be deemed properly filed – Application for leave to appeal against conviction deemed to be the notice of appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for an extension of time is granted.
2. The notice of application for leave to appeal against conviction is deemed properly filed.
3. The notice of application for leave to appeal is deemed to be the notice of appeal.
4. The Registrar of the High Court shall cause a copy of this order to be served on the applicant and Director of Public Prosecutions within 7 days of the date of this order.

Reason: The Court was of the view that the application for an extension of time should be granted.

Case Name:

**Fleur Byron Cox
Also Known as Fleur Odlum**

and

Nick Ltd.

**[SLUHCVP2023/0003]
Saint Lucia**

Date:

Thursday, 20th July 2023

On paper:

Applicant: Mrs. Cynthia Hinkson- Oula

Respondent: No appearance

Issues:

Application for an extension of time to file submissions

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant has leave to file further submissions in relation to CPR 23.3(3) on or before 14th August 2023.**
- 2. The respondent is at liberty to file submissions in response on or before 6th September 2023.**
- 3. The application for an extension of time to file submissions is adjourned to be heard virtually before a single judge on 27th September 2023 at 10:00am.**

Reason:

The Court noted that a reason for the applicant's delay in filing submissions is due to her 'inability to give instructions, and the physical and mental challenges which she now faces'. The Court therefore was of the opinion that further submissions should be filed to address this point.

Case Name:

Everton Elliott

and

Anselm Caines

**[SKBHCVAP2023/0004]
Saint Christopher and Nevis**

Date:

Thursday, 20th July 2023

On paper:

Applicant: Mrs. Sherry Ann Liburd- Charles

Respondent: No appearance

Issues:

Application for leave for appeal – Application for a stay of the proceedings pending the determination of the appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal the order of Master Pariagsingh dated 12th June 2023 is granted.**
- 2. The applicant shall file and serve the notice of appeal within 21 days of the date of this order.**
- 3. The applicant shall provide proof of service of the application for stay on the respondent.**
- 4. The application for a stay of the execution of the decision of Master Pariagsingh dated 12th June 2023, is adjourned to a date to be fixed by the Chief Registrar after compliance with paragraphs 2 and 3 of this order.**

Reason: The Court was of the view that the applicant met the threshold for the grant of leave to appeal however the Court noted that there was no evidence that the application for a stay was served on the respondent.

Case Name: Kevin Horstwood
and

Adam Bilzerian

[SKBHCVAP2023/0004]
Saint Christopher and Nevis

Date: Thursday, 20th July 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues: Application for leave for appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application for leave to appeal the order of Gill J dated 23rd June 2023 is set down for hearing before the Full Court on a date to be fixed by the Chief Registrar.

Reason: The Court, having regard to the principles for the grant of leave to appeal and to rule 62.2(5) of the Civil Procedure Rules, 2000, was of the view that the matter should be set down before the Full Court.

Case Name: Nalini Bhup

and

**The Ross University School of Veterinary
Medicine (St.Kitts)**

**[SKBHCVAP2023/0002]
Saint Christopher and Nevis**

Date: **Thursday, 20th July 2023**

On paper:

Applicant: **Mr. Brian Barnes**

Respondent: **Mr. Garth Patterson KC**

Issues: **Application for a stay pending appeal**

Result / Order: **IT IS HEREBY ORDERED THAT:
A stay of paragraph 69 of the decision of Justice
Tamara Gill delivered on the 21st April 2023 is
granted until determination of the appeal or further
order of the Court.**

Reason: **The Court was satisfied that in the circumstances the
appeal and the cross appeal would be stifled or
rendered nugatory and there was a risk of injustice to
the applicant if a stay of the order was not granted.**

Case Name: **Simeon Francois**

v

The King

**[SVGHCRA2023/0013]
Saint Vincent and the Grenadines**

Date: Thursday, 20th July 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues: Application for an extension of time for leave to appeal against sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for an extension of time for leave to appeal sentence is granted and leave to appeal is granted.
2. The application for an extension of time 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 and shall provide proof of service thereof.

Reason: The Court was of the view that an extension of time should be granted and deemed the application to extend time an application for the grant of leave to appeal.

Case Name: Junior Jarvis

v

The King

[SVGHCRA2023/0005]
Saint Vincent and the Grenadines

Date: Thursday, 20th July 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues: Application for an extension of time for leave to appeal against conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application dated 19th June 2023 for an extension of the time in which to appeal is granted.
2. Leave to appeal conviction and sentence is granted.
3. The notice of application for leave to appeal filed on 19th June 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 within 7 days of this order and shall provide proof of service thereof.

Reason: The Court was of the view that the applicant had provided satisfactory reasons explaining the delay in filing the appeal and had met the threshold for an extension of time and for leave to appeal.

Case Name: Joseph Bailey

v

The King
[SVGHCRA2020/0010]
Saint Vincent and the Grenadines

Date: Thursday, 20th July 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues: Application for bail pending the hearing and determination of the appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application dated 21st June 2023 for bail pending the hearing and determination of the appeal of his conviction is refused.
2. The Registrar of the High Court shall take steps to expedite the hearing of the appeal.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and shall provide proof of service thereof.

Reason: The Court was of the view that the applicant had not provided any compelling evidence which, on the authority of The State v Lynette Scantlebury (1976) 27 WIR 103, revealed any exceptional circumstances which had arisen for granting bail pending the hearing and determination of the appeal.

Case Name: Cassell Lavia
v
The King

[SVGHCRAP2022/0012]
Saint Vincent and the Grenadines

Date: Thursday, 20th July 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues: Application for bail pending determination of the appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for bail pending the hearing and determination of the appeal of his conviction is refused.
2. The Registrar of the High Court shall take steps to expedite the hearing of the appeal.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and shall provide proof of service thereof.

Reason:

The Court was of the view that the applicant had not provided any compelling evidence which, on the authority of The State v Lynette Scantlebury (1976) 27 WIR 103, revealed any exceptional circumstances which had arisen for granting bail pending the hearing and determination of the appeal.

Case Name:

Kyron Bowens

v

The King

[SVGHCRAP2021/0001]

Saint Vincent and the Grenadines

Date: Thursday, 20th July 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues: Application for bail pending determination of the appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for bail pending the hearing and determination of the appeal of his conviction is refused.
2. The Registrar of the High Court shall take steps to expedite the hearing of the appeal.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and shall provide proof of service thereof.

Reason: The Court was of the view that the applicant had not provided any compelling evidence which, on the authority of The State v Lynette Scantlebury (1976) 27 WIR 103, revealed any exceptional circumstances which had arisen for granting bail pending the hearing and determination of the appeal.

Case Name: Sheldon John

v

The Commissioner of Police

[SVGMCRAP2017/0003]

Saint Vincent and the Grenadines

Date: Thursday, 20th July 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues: Application for an extension of time within which to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for an extension of time within which to appeal filed on 27th June 2023 is refused.
2. The Registrar of the High Court shall serve a copy of this order on the applicant and shall provide proof of service thereof.

Reason: The Court was of the view that there was no realistic prospect of success on the appeal.

Case Name: Harneys Corporate Services Limited
and
[1] Arabella Di Iorio
(as Interim Administrator Ad Collingenda Bona Defunti of the Estate of HRH Prince Khalifa Bin Salman Bin Hamad Al Khalifa, deceased)
[2] Zalal Investment Company Inc

[BVIHCMAP2023/0008]
Territory of the Virgin Islands

Date: Thursday, 20th July 2023

On paper:

Applicant: Ms. Nadine Whyte

Respondents: No appearance

Issues: Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

The notice of application filed on 16th May 2023 for leave to appeal the oral judgment and paragraph 6 of the Order of Wallbank J dated 3rd May 2023 is discontinued and accordingly dismissed.

Reason:

The applicant filed a notice of discontinuance indicating that it wished to wholly discontinue and withdraw the application filed against the respondents.