

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL

CHAMBER HEARING

Tuesday 27th June 2023

MATTERS DEALT WITH ON PAPER

Before: The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Case Name: Leroy Campbell
v
His Majesty the King
[ANUHCRAP2023/0002]
(Antigua and Barbuda)

Date: Tuesday, 27th June 2023

On paper:

Applicant: Hugh C. Marshall

Respondent: No Appearance

Issues: Application for leave to appeal against conviction and sentence, leave to appeal out of time

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

1. The applicant shall file and serve an application for tendering the fresh evidence to be relied upon supported by evidence showing compliance with the requirements of section 45 of Eastern Caribbean Supreme Court Act Cap

143 (including the statement referred to but not attached to the application) by no later than 14th July 2023 failing which the proposed application will not be considered by the Court.

- 2. The application for leave to appeal against conviction and sentence, leave to appeal out of time and the intended application to rely on fresh evidence is adjourned for consideration to the next Chamber Hearing scheduled for 20th July 2023.**

Reason:

The Court noted the applicant did not comply with the order dated 30th May 2023 which directed that the applicant file and serve an application for tendering the fresh evidence to be relied upon, supported by evidence in compliance with the requirements of section 45 of the Eastern Caribbean Supreme Court Act Cap 143.

The Court considered the affidavit filed on 26th June 2023 on behalf of the applicant showing the attempts by the applicant, through his legal representatives to obtain the new evidence that the applicant intends to rely on, and the Court was inclined to give the applicant a final opportunity to file a proper application for permission to adduce fresh evidence on the hearing of his appeal.

Case Name:

- 1. Jessamy Environmental Consulting & Research Caribbean Incorporated**
- 2. Valma R. Jessamy**

v

Republic Bank Grenada Limited

[GDAHCVAP2021/0016]

(Grenada)

Date: Tuesday 27th June 2023

On paper:

Applicant: C. Jerry Edwin

Respondent: Renwick & Payne

Issues: Application for extension of time to file notice of appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for an extension of time to file notice of appeal is dismissed.
2. Costs of the application in the sum of \$750.00 to the respondent to be paid by 31st July 2023.

Reason:

The Court noted the judgment/reasons for decision of Actie J dated 10th February 2023 records the presence of counsel for the applicants in court on 10th February 2023 when the learned judge delivered her decision striking out the claim with reasons. Further, the second applicant, Valma R. Jessamy, stated in her affidavit in support of the application filed on 14th March 2023 that she was in court via Zoom on 10th February 2023 at 11 am when the learned judge read out her order dismissing her claim. Therefore, time for applying for leave to appeal against the judge's order began to run on 11th February 2023 and expired on 27th February 2023. The application for an extension of time to appeal, and not for an extension of time to apply for leave to appeal which it should have been, was filed out of time on 14th March 2023 and the reason proffered

for the delay in filing the application was the non-availability of the learned judge's order striking out the claim. The Court was mindful of the test for granting an extension of time to appeal in *Hyacinth v Joseph* 88 WIR 303 and was satisfied that the reason for the delay in filing the application is not a good reason because the applicants could have filed the notice of appeal, or an application for leave to appeal, within the prescribed time without a copy of the order being appealed, and that the applicants do not have good grounds of appeal for challenging the learned judge's case management decision to strike out the claim.