

**EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL**

CHAMBER HEARING

28th February 2023

MATTERS DEALT WITH ON PAPER

Before:

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

Case Name:

Deodath Soogrim

and

**[1] Ira Archibald Jr
(As personal representative of the
Estate of Ira Archibald deceased)**

**[2] Audrey Patricia Halstead
(As personal representative of the
Estate of Charlesworth Reginald
Halstead deceased)**

[3] Audrey Patricia Halstead

**[ANUHCVP2023/0003]
Antigua and Barbuda**

Date:

Tuesday, 28th February 2023

On paper:

Applicant: Mr. Peyton Knight

Respondents: No appearance

Issues:

**Application for extension of time to file notice of
appeal**

Result / Order:

IT IS HEREBY ORDERED THAT:

The matter is removed from the Chamber Hearing list and the Application against the respondents in this matter is discontinued.

Reason:

The applicant filed a notice of discontinuance indicating that he wished to wholly discontinue the action against the respondents.

Case Name:

Tejah Armstrong

v

The King

**[ANUHCRA2016/0003]
Antigua and Barbuda**

Date:

Tuesday, 28th February 2023

On paper:

Applicant: Mr. Wendel G. Alexander

Respondent: No appearance

Issues:

Application for leave to argue additional grounds of appeal and that the grounds of appeal be amended to include additional grounds of appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Application is granted.
2. The grounds of appeal shall be restated as it appears in the notice of motion filed on 26th January 2023.

Reason:

The Court noted that the application to argue additional grounds of appeal was made after the

receipt of the transcript of proceedings in the court below and that it was unlikely that the additional grounds could have been drafted before receipt of the transcript and without the aid of legal representation.

Case Name: **North International Bank Limited**
and
Antigua Overseas Bank Limited
[ANUHCVP2022/0016]
Antigua and Barbuda

Date: **Tuesday, 28th February 2023**

On paper:
Applicant: **Mr. Damien Benjamin**
Respondent: **Ms. Kathleen Bennett**

Issues: **Application for stay pending the determination of the appeal**

Result / Order: **IT IS HEREBY ORDERED THAT:**
The application for a stay of execution pending the determination of the appeal is dismissed.

Reason: **The Court was of the view that the applicant failed to satisfy the Court that it had met the relevant evidential and legal threshold to justify a stay of execution pending the hearing and determination of the appeal.**

Case Name: **Brenda Gillian Furlonge**
and

**[1] The Honourable Minister of
Public Safety
[2] The Attorney General**

**[ANUHC VAP2020/0009]
Antigua and Barbuda**

Date: **Tuesday, 28th February 2023**

On paper:

**Appellant/
Respondent:**

In person

**Respondents/
Applicants:**

Ms. Joy Dublin, Attorney General's Chambers

Issues:

**Application for an extension of time to file
submissions in response to notice of appeal –
Application to have substantive hearing of the appeal
adjourned to a date to be fixed by the Court –
Application for relief from sanctions – Application for
no order as to costs**

Result / Order:

**IT IS HEREBY ORDERED that provided that applicant
files documented certification evidencing inability to
work on medical grounds following 10th October 2022
and proof of travel for medical reasons on or before
3rd March 2023:**

- 1. The Application is granted.**
- 2. The respondents/applicants shall file and
serve their written submissions with
authorities on or before 20th March 2023.**
- 3. The appellant is at liberty to file and serve
written submissions with authorities in reply
(if necessary), on or before 3rd April 2023.**
- 4. The hearing of the appeal is adjourned to the
next Court of Appeal sitting for Antigua and
Barbuda scheduled for the week
commencing 5th June 2023.**

5. No order as to costs.

Reason:

The Court noted that while the respondents/applicants advanced a plausible reason for the delay in complying with the order for which they seek an extension of time and for seeking an adjournment of the substantive appeal, the application was not supported by any documentary certification evidencing counsel's inability to work on medical grounds nor proof of travel for medical reasons.

Case Name:

Bernard Fevriere

v

The Police

**[DOMMCRAP2023/0001]
Commonwealth of Dominica**

Date:

Tuesday, 28th February 2023

On paper:

Applicant: Mrs. Gina Dyer- Munro

Respondent: No appearance

Issues:

Application for leave to file notice of appeal out of time

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall serve a copy of the Application together with the affidavit evidence filed in support thereof on the respondent on or before 8th March 2023 and provide proof thereof.**
- 2. The respondent is at liberty to file evidence and/or written submissions in**

response to the Application within 14 days of being served with the Application.

- 3. The application is adjourned for further consideration at the next chamber sitting of the court scheduled for 28th March 2023.**

Reason: **There was no evidence of service of the application on the respondent.**

Case Name: **Lennox Honore**

and

- 1. Hubert Alexander**
- 2. Marcel Coipel**

**[DOMMCVAP2019/0001]
Commonwealth of Dominica**

Date: **Tuesday, 28th February 2023**

On paper:

Applicant: **Mr. Glenworth Ducreay**

Respondents: **No appearance**

Issues: **Application to be removed as solicitor on record for the appellant**

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

- 1. The applicant, Casaropa Chambers, shall provide supporting evidence to satisfy the Court that the appellant, Lennox Honore is one and the same as the deceased John Honore.**
- 2. The applicant shall provide proof of service of**

the Application on any of the purported beneficiaries of the estate of the deceased or on anyone who is otherwise qualified to take up representation in that estate.

3. The Application is adjourned for further consideration at the next chamber sitting of the court scheduled for 28th March 2023.

Reason:

The Court noted that the applicant had failed to provide proof that the deceased was one and the same as the appellant in the matter. Additionally there was no proof of service of the Application on any of the purported beneficiaries of the estate of the deceased or on anyone who was otherwise qualified to take up representation in that estate.

Case Name:

Jeremiah Gustave

v

The State

**[DOMHCRAP2023/0001]
Commonwealth of Dominica**

Date:

Tuesday, 28th February 2023

On paper:

Applicant: Mr. Kondwani Williams

Respondent: No appearance

Issues:

Application for leave to appeal against conviction and sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant shall serve a copy of the Application together with the minutes of conviction and sentence on the respondent within seven (7) days of today's date and provide proof of service thereof.
2. The application dated 12th January 2023 for leave to appeal against conviction and sentence is adjourned for further consideration at the next chamber sitting of the court scheduled for 28th March 2023.

Reason:

The Court noted that there was no evidence of service of the Application or the minutes of conviction and sentence on the respondent.

Case Name:

[1] Sag Motors Ltd.
[2] Desmond Carlisle

and

National Bank of Dominica

[DOMHCVAP2022/0001]
Commonwealth of Dominica

Date:

Tuesday, 28th February 2023

On paper:

**Appellants/
Respondents:**

Mrs. Heather Felix- Evans

**Respondent/
Applicant:**

Mr. Jeffrey Douglas- Murdock

Issues: Application for an extension of time to file and serve submissions in opposition to the notice of appeal – Application for relief from sanctions

Result / Order: IT IS HEREBY ORDERED THAT:
1. The applicant shall serve a copy of the Application on the respondent and provide proof thereof.
2. The application is adjourned for further consideration at the next Chamber sitting of the Court scheduled for 28th March 2023.

Reason: The Court noted that the applicant had not provided proof of service of the Application on the respondent.

Case Name: Shamiguel James

v

The State

[DOMHCRAP2023/0002]
Commonwealth of Dominica

Date: Tuesday, 28th February 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues: Application for leave to appeal against conviction and sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The Application is granted.**
- 2. The notice of application filed on 21st January 2023 for leave to appeal 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 7 days of the date of this order.**
- 4. The parties shall comply with the practice and procedures prescribed by the Court of Appeal Rules as well as the relevant Practice Directions in advancing this appeal.**

Reason:

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

Case Name:

Demlyn Murray

v

The King

**[GDAHCRAP2023/0001]
Grenada**

Date:

Tuesday, 28th February 2023

On paper:

Applicant:

In person

Respondent: No appearance

Issues: Application for leave to appeal against conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant shall file and serve an application for an extension of time for leave to appeal against conviction and sentence within 14 days of the date of this order.
2. Subject to the filing and service of the application for extension of time referred to above, the application for leave to appeal against conviction and sentence is adjourned for further consideration at the next Chamber Hearing of the Court scheduled for 28th March 2023.
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 7 days of the date of this order.

Reason: The Court noted that the application for leave to appeal was filed out of time and that there was no accompanying application for an extension of time.

Case Name:

Wilfred Knight

and

The King

**[GDAHCRAP2023/0002]
Grenada**

Date: **Tuesday, 28th February 2023**

On paper:

Applicant: **In person**

Respondent: **No appearance**

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

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall file and serve an application for an extension of time for leave to appeal against conviction and sentence within 14 days of the date of this order.**
- 2. Subject to the filing and service of the application for extension of time referred to above, the application for leave to appeal against conviction and sentence is adjourned for further consideration at the next Chamber Hearing of the Court scheduled for 28th March 2023.**
- 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 7 days of the date of this order.**

Reason:

The Court noted that the application for leave to appeal was filed out of time and that there was no accompanying application for an extension of time.

Case Name:

Janien Louison

and

**Consolidated Contractors Company Caribbean
Incorporated**

**[GDAHCVAP2023/0004]
Grenada**

Date:

Tuesday, 28th February 2023

On paper:

Applicant: Mr. Deloni Edwards

Respondent: Mr. Benjamin Hood

Issues:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal the decision of Master Carlos Michel filed on 9th January 2023 is adjourned pending the hearing and determination of the Extension of Time Application.**
- 2. The applicant shall serve the Extension of Time Application on the respondent within 6 days of today's date.**
- 3. The Extension of Time Application is listed for hearing at the next Chamber sitting of the Court scheduled for the 28th March 2023.**

Reason:

The Court noted that the application for leave to

appeal was filed out of time, however the applicant filed an application for an extension of time on 27th February 2023, the day before the scheduled chamber hearing. In light of the latter application not having been served on the respondent nor listed for hearing by the Court, the matter was adjourned to the next chamber sitting.

Case Name:

Veronica Dathorne Bickell

and

**Ferron Lowe
[GDAHCVAP2023/0001]
Grenada**

Date:

Tuesday, 28th February 2023

On paper:

Applicant: Ms. Gennilyn Ettienne

Respondent: No appearance

Issues:

Application for leave to appeal – Notice of Discontinuance

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall serve the respondent with the notice of discontinuance filed 22nd February 2023 and lodge an affidavit with the Court verifying proof of service thereafter.**
- 2. Upon receipt of the affidavit verifying proof of service, the matter shall be discontinued and shall be removed from the Chamber Hearing List.**

Reason: The Court noted that the applicant had filed a notice of discontinuance however there was no proof of service of the notice of discontinuance on the respondent.

Case Name: Dave Langdon

and

The King

[GDAHCRAP2023/0003]
Grenada

Date: Tuesday, 28th February 2023

On paper:

Applicant: Mr. Anselm Clouden

Respondent: No appearance

Issues: Application for leave to appeal against sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant shall file an application for an extension of time for leave to appeal against sentence within 14 days of the date of this order.
2. Provided that the applicant files and serves of the application seeking an extension of time to appeal against sentence within the time prescribed in paragraph 1 above, the application for leave to appeal against sentence is adjourned for further consideration at the next Chamber Hearing

of the Court scheduled for 28th March 2023.

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 7 days of the date of this order.

Reason:

The Court noted that the application for leave to appeal was filed out of time and that it was not supported by an accompanying application for an extension of time for leave to appeal.

Case Name:

**Iliss Lewis
(by her lawful attorney Judy Charles)**

and

**[1] Everlina Mitchell
[2] Lennard Samuel
[3] Selwyn Mitchell**

**[GDAHCVAP2023/0003]
Grenada**

Date:

Tuesday, 28th February 2023

On paper:

Applicant: Ms. Sheriba Lewis

Respondents: Ms. Barbara Lindo

Issues:

Application for an extension of time within which to appeal – Application for an order that notice of appeal be deemed properly filed – Application for relief from

sanctions

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for an extension of time within which to appeal is granted.**
- 2. The notice of appeal filed 6th January 2023 is deemed properly filed.**
- 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 an extension of time.

Case Name:

[1] Randy Marlon Jeffers

**[2] Lester Leon Jeffers
(Personal Representatives of the
Estate of Pamela Jeffers,
(Deceased)**

and

Waterfront Properties (Nevis) Limited

**[NEVHCVAP2023/0001]
Saint Kitts and Nevis**

Date:

Tuesday, 28th February 2023

On paper:

Applicants: Mrs. Marlene Uter Bent

Respondent: Ms. Elizabeth Harper

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

Result / Order: IT IS HEREBY ORDERED THAT:
A stay of the judgment of Thompson Jr. J delivered on 5th December 2022 is granted pending the hearing and determination of the appeal.

Reason: The Court was of the view that in all of the circumstances the appellants/applicants had met the relevant threshold for the grant of a stay and that the balance of harm favoured the grant of a stay of execution.

Case Name: Bryan St. Martin

v

The King

[SLUHCRA2019/0002]
Saint Lucia

Date: Tuesday, 28th February 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues: Application for legal aid and waiver of transcript fees

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The appellant shall complete and file a copy of the form set out in the Schedule to this Order within 14 days of the date of this order.**
- 2. The Application will be considered and determined (on paper) upon receipt of the completed Schedule.**
- 3. The Registrar of the High Court shall serve a copy of this order along with the Schedule on the appellant and provide this Court with proof of service.**

Reason:

The Court determined that the appellant had not provided sufficient evidence to enable the Court to make a determination on his application.

Case Name:

Kirby Lima

v

The King

**[SLUHCRA2022/0007]
Saint Lucia**

Date:

Tuesday, 28th February 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues:

Application for waiver of transcript fees

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The appellant shall complete and file a copy of the form set out in the Schedule to this Order within 14 days of the date of this order.**
- 2. The application seeking waiver of transcript fees will be considered and determined (on paper) upon receipt of the completed Schedule.**
- 3. The Registrar of the High Court shall serve a copy of this order along with the Schedule on the appellant and provide this Court with proof of service.**

Reason:

The Court determined that the appellant had not provided sufficient evidence to satisfy the Court that he does not in fact have the means to pay the fees for the transcript.

Case Name:

Magistrate Bertlyn Richards

and

**[1] Peter Hippolyte
[2] Michael Augustin
[3] Matinus Alexander**

**[SLUHCVP2022/0019]
Saint Lucia**

Date:

Tuesday, 28th February 2023

On paper:

**Applicant: Mr. George Charlemagne, Attorney General's
Chambers**

Respondents: Mr. Horace Fraser

Issues: Application for a stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:

1. The appellant/applicant is to file and serve submissions addressing ground (i) of the respondents' objection on or before 8th March 2023.
2. The respondents are at liberty to file and serve submissions in response on or before 16th March 2023.
3. The Application is adjourned for an oral hearing before a single judge of the Court on a date to be fixed by the Chief Registrar.

Reason: The Court was of the view that the applicant's submissions had not addressed a specific ground of objection raised in the respondents' submissions in objection to the grant of a stay.

Case Name: Barry McMilan Hunte
v
The King
[SLUHCRAP2020/0002]
Saint Lucia

Date: Tuesday, 28th February 2023

On paper:

**Appellant/
Applicant:**

In person

Respondent:

No appearance

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 the Office of the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.**

Reason:

The appellant satisfied the Court that he does not have sufficient means to enable him to obtain legal representation and that it was in the interest of justice that he be granted legal aid.

Case Name:

Veron Primus

v

The King
[SVGHCRA2022/0015]
Saint Vincent and the Grenadines

Date: Tuesday, 28th February 2023

On paper:

Applicant: Mr. Michael Wyllie

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, within 14 days of the date of this order, serve on the Director of Public Prosecutions a copy of the notice of application for leave to appeal against conviction and sentence.
2. The application for leave to appeal is adjourned to the next chamber sitting of the Court scheduled for 28th March 2023.

Reason: The Court noted that it had not been furnished with evidence of service of the application for leave to appeal against sentence on the respondent.

Case Name: Cassel Lavia

v

The King

**[SVGHCRA2022/0012]
Saint Vincent and the Grenadines**

Date: Tuesday, 28th February 2023

On paper:

Applicant: In person

Respondent: No appearance

Issues: Application for bail pending appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application for bail pending determination of the appeal is denied.

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 for granting bail pending the hearing and determination of the appeal.

Case Name: Nokian Shina LLC

and

Olga Borrisovna Symshliaeva

**[BVIHCMAP2022/0073]
Territory of the Virgin Islands**

Date: Tuesday, 28th February 2023

On paper:

Appellant: Mr. Iain Tucker and Ms. Cate Barbour of Walkers

Respondent/Applicant: Mrs. Kimberly Crabbe- Adams for Harneys Westwood & Riegels LP

Issues: Application to be removed as solicitor on record for the respondent – Application for an order that the delivery of the application and the evidence filed in support via email be deemed good service – Application for an order that the delivery of the order of the court granting the application by email be deemed to be good service

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant, Harneys Westwood & Riegels LP, is removed from the record as acting for the respondent.
2. The delivery of the notice of application and the evidence filed in support to the respondent c/o Alexey Vshivkov at alexey.vshivkov@gmail.com is deemed good service.
3. The applicant shall cause this order to be served on the respondent, Ms. Olga Borrisovna Symshliaeva by email at the email address of alexey.vshivkov@gmail.com and provide proof of service thereafter.
4. The applicant shall cause this order to be served on the appellant's legal practitioners and provide proof of service thereafter.
5. Notwithstanding Harneys Westwood & Riegels LP's removal from the record as acting for the respondent, Ms. Olga Borrisovna Symshliaeva, the appellant may serve on the respondent all forms, applications, orders and any other documents required to be served on the respondent in relation to the proceedings in BVIHCMAP2022/0073 by delivery to the

respondent's former legal representatives Harneys Westwood & Riegels LP at Craigmur Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands, being the address for service on record.

6. The order at paragraph 5 shall cease to have effect immediately upon:
- a) the respondent, filing and serving upon the appellant a Notice of Acting in Person in accordance with CPR 63.4, providing an address for service within the jurisdiction; or
 - b) a legal practitioner filing and serving upon the appellant a Notice of Acting in accordance with CPR 63.2.

Reason:

The Court was of the view that the applicant had satisfied the Court that it should be removed from the record as solicitor for the respondent.

Case Name:

Tobago House of Assembly

and

- [1] Richard Graham also called Rick
Graham
(Trading as Original Canopy Tours
Enterprises Limited)**
- [2] Darren Hreniuk (Trading as Original
Canopy Tours Enterprises Limited)**

**[BVIHCMAP2022/0074]
Territory of the Virgin Islands**

Date:

Tuesday, 28th February 2023

On paper:

Applicant: Mrs. Hazelann Hannaway- Boreland and Ms. Jhneil Stewart

Respondents: No appearance

Issues: Application for leave to amend heading in notice of appeal to comply with rule 62.10 of the Civil Procedure Rules, 2000 (“CPR”) and grounds of appeal – Application that the hearing of appeal be dealt with on an expedited basis pursuant to CPR 62.10 (5) – Application for an extension of time to file documents required by CPR 62.10(1) – Application for costs to be reserved until determination of the appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The appellant will serve the Application and supporting documents on the respondents in a manner which is consistent with the rules of practice and procedure in the Virgin Islands within 7 days of the date of this order and provide the prescribed proof of service thereof.
2. The respondents are at liberty to file a response to the Application, if necessary, within 14 days of receipt of the Application and supporting documents.
3. The Application is adjourned for further consideration to the next Chamber sitting of this Court scheduled for 28th March 2023.

Reason: The applicant purported to have served the application on the respondents via the E-Litigation portal however the Court noted that the respondents were litigants in person and that all documents filed against such litigants must be served manually.

Case Name: Cmbicdhaw Investments Ltd.

and

[1] Cdh Fund L.P.

[2] Cdh Grand Cattle Holdings Limited

[BVIHCMAP2023/0001]

Territory of the Virgin Islands

Date: **Tuesday, 28th February 2023**

On paper:

Applicant: **Ms. Monique Peters**

Respondents: **Ms. Reisa Singh**

Issues: **Application for leave to appeal - Application for stay pending appeal**

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

- 1. The application for leave to appeal the order of Wallbank J filed on 23rd January 2023 is granted.**
- 2. The applicant shall file and serve the notice of appeal within 14 days of the date of this order.**
- 3. The parties shall file and exchange written legal submissions addressing the application for a stay of execution within 14 days of today's date.**
- 4. The application for a stay of execution is adjourned to the next Chamber sitting of this Court scheduled for 28th March 2023.**

Reason: **The Court was satisfied that the applicant had met the threshold for the grant of leave to appeal however in relation to the application for a stay, that the**

respondents had not filed any substantive evidence or submissions in support of its notice of opposition.