

**EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL**

CHAMBER HEARING

28th March 2023

**MATTERS DEALT WITH ON PAPER
The Hon. Mr. Trevor Ward, Justice of Appeal**

Before:

Case Name:

**[1] Benjamin Ruan
[2] Heidi Duncan**

v

**Pageette L. Carter
(personally and his capacity as Attorney for
Bernadine R. Carter)**

**[AXAHCVAP2023/0002]
Anguilla**

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

On paper:

Appellant: **Mr. Carlyle Rogers**

Respondent: **Mr. Devin Hodge**

Issues: **Application for extension of time - Application for
leave to appeal**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for an extension of time within which to file a notice of appeal is dismissed.**
- 2. The notice of appeal filed 1st March is dismissed.**

3. The application for a stay of the Order of Innocent J dated 19th October 2022 pending the determination of the appeal is dismissed.

Reason:

The Court considered the principles on which an extension of time should be granted as asserted in Lindsay F.P. Grant et al v Tanzania Tobin Tanzil SKBHCVAP2020/0004 (delivered 6th July 2020, unreported).

The Court noted that the first instance where the appellants attempted to contact their previous counsel in the matter was on 8th December 2022, by which point the time for appeal had already elapsed. The Court considered that there was no good reason put forward for that initial delay and that the subsequent delay was inordinate.

Case Name:

Trevor Santos

v

Horizon Constructed Limited

**[ANUHCVAP2011/0015]
Antigua and Barbuda**

Date:

Tuesday, 28th March 2023

On paper:

Appellant: Ms. E Ann Henry KC

Respondent: Ms. Talia DaCosta

Issues:

Application for leave to amend notice of appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Appellant is granted leave to amend the Notice of Appeal filed 3rd May 2011.

2. The Appellant shall file the amended Notice of Appeal within 14 days of this order.
3. The appeal shall thereafter proceed in accordance with the Civil Procedure Rules.

Reason:

The Court noted that the transcripts of proceedings from the court below is unavailable to the appellant and he is unable to advance the ground of appeal as originally contemplated when the notice of appeal was filed.

Case Name:

Ryan Samuels

v

The King

**[ANUHCRA2021/0004]
Antigua and Barbuda**

Date:

Tuesday, 28th March 2023

On paper:

Applicant: No appearance

Respondent: No appearance

Issues:

Application for the waiver of transcript fees

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application seeking waiver of transcript fees is hereby granted.
2. A transcript of proceedings at the trial of the appellant shall be supplied free of charge to the appellant.

Reason:

The Court noted that the applicant was sentenced in 2019 and did not have the means to pay the fees for the transcript.

Case Name:

Brenda Gillian Furlonge

v

**[1] The Honourable Minister of
Public Safety**

[2] The Attorney General

**[ANUHCVP2020/0009]
Antigua and Barbuda**

Date:

Tuesday, 28th March 2023

On paper:

Respondent/Applicant: **Ms. Joy Dublin**

Appellant/Respondent: **In person**

Issues:

**Application for extension time to comply with Court
Order – Relief from sanctions**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for an extension of time to comply with the Order of the Court dated February 2023 is granted.**
- 2. The applicants shall file the outstanding documentary evidence in relation to Alicia Aska, Senior Crown Counsel I, within 14 days of today's date.**

Reason:

The Court considered the principles on which an

extension of time should be granted as asserted in Lindsay F.P. Grant et al v Tanzania Tobin Tanzil SKBHCVAP2020/0004 (delivered 6th July 2020, unreported) and the power of a single judge to extend time pursuant to rule 26.1(2) (k) of the Civil Procedure Rules, 2000.

The Court noted that the application was filed before the time set for compliance with the Order dated 28th February had expired, which meant that the application was properly to be treated as an application for an extension of time and not one for relief from sanctions per BBL Limited and Irina Savelieva v Canouan Resorts Development Limited and Canouan Realty Limited, SVGHCVAP2019/0006 and Vanroy Romney v Sheridan Smith, [2016] ECSJ No. 149, delivered 14th September 2006;

The Court further considered that good reasons had been shown for the applicant's inability to comply with the order within the time stipulated, given that Alicia Aska was on leave and out of jurisdiction until 6th March 2023 and that the applicant did not have access to the medical and travel records of Alicia Aska.

Case Name:

North International Bank Limited

v

Antigua Overseas Bank Limited

[ANUHCVAP2022/0016]

Antigua and Barbuda

Date:

Tuesday, 28th March 2023

On paper:

Applicant: Mr. Damien Benjamin

Respondent: Ms. Kathleen Bennet

Issues: Application for leave to appeal – Application for stay – 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 for leave to appeal is dismissed.
2. The notice of appeal is a nullity and is struck out.
3. The application for a stay of execution of the order dated 11th May 2022 pending appeal is dismissed.

Reason: The Court considered the principles on which an extension of time should be granted as asserted in Lindsay F.P. Grant et al v Tanzania Tobin Tanzil SKBHCVAP2020/0004 (delivered 6th July 2020, unreported).

The Court noted that the delay was inordinate and that the applicants failed to provide a good reason for excusing the delay. The Court further considered that the appeal did not have a realistic prospect of success.

Case Name: Patricia Bedminster
(as personal representative of Joseph Bedminster also known as Haristeed Joseph Bedminster)

v

Marianna Cuffy

[DOMHCVAP2022/0002]
Commonwealth of Dominica

Date: Tuesday, 28th March 2023

On paper:

Appellant: Ms. Cara Shillingford Marsh

Respondent: Mr. Jeffrey L. Douglas-Murdock

Issues: Application for extension of time to file and serve submissions in opposition

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant/respondent is granted an extension of time to file and serve submissions in opposition to the notice of appeal.
2. The submissions filed by the applicant/respondent on 24th February 2023 are deemed properly filed.
3. No order as to costs.

Reason: The Court considered the principles on which an extension of time should be granted as asserted in Lindsay F.P. Grant et al v Tanzania Tobin Tanzil SKBHCVAP2020/0004 (delivered 6th July 2020, unreported) and noted that reasons given for the delay were sufficient and that the applicant had met the threshold for granting an extension of time.

The Court further considered that there is no sanction imposed by CPR 62.10 (4) or by Order of the dated 29th November 2022 for failure to file submissions in opposition to the appeal within the time stipulated.

Case Name: Anthony Astaphan

v

[1] Dale Dangleben
[2] Daryl Titre

**[DOMHCVAP2023/0001]
Commonwealth of Dominica**

Date: Tuesday, 28th March 2023

On paper:

Applicant: Mr. Lennox Lawrence

Respondent: No appearance

Issues: Application for leave to appeal the decision of
Pariagsingh M dated 31st January 2023

Result / Order: **IT IS HEREBY ORDERED THAT:**
The application for leave to appeal the decision and
order of Pariagsingh, M dated 31st January 2023 is
adjourned for hearing before the full court at the next
sitting of the Court of Appeal in the Commonwealth of
Dominica.

Reason: The Court considered the provisions of CPR 62.2(5)
and was of the view that the matter should be
determined before the full court.

Case Name: [1] The Commissioner of Police
[2] The Minister of Justice, Immigration &
National Security
[3] The Attorney General
v
[1] Archipelago Trading Ltd.
[2] Greens Wholesale & Co. Ltd

[3] H.H Wilson & Co. Ltd
[4] Josephine Gabriel & Co. Ltd
[5] L.A Dupigny & Co. Ltd
[6] Pirates Ltd

[DOMHCVAP2023/0002]
Commonwealth of Dominica

Date: Tuesday 28th March 2023

On paper:

Applicants: Ms. Vanica Sobers-Joseph

Respondents: No appearance

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal against the decision of Pariagsingh, M made on 31st January 2023 is granted.
2. The applicants shall file and serve their notice of appeal within 21 days of the date of this order.
3. Thereafter, the appeal shall proceed in accordance with Part 62 of the Civil Procedure Rules 2000.

Reason: The Court considered the applicants' submissions together with authorities filed on 22nd March 2023 and was of the view that the applicants had met the threshold for the grant of leave to appeal.

Case Name:

Shanan Samuels

v

The King

[GDAHCRAP2022/0002]

Grenada

Date:

Tuesday, 28th March 2023

On paper:

Appellant: No appearance

Respondent: No appearance

Issues:

Application for legal aid

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The Registrar of the High Court shall serve a copy of this order on the appellant and respondent within 7 days of the date of this order.**
- 2. The appellant shall file and serve an affidavit evidencing his financial means within 14 days of the date of this order.**
- 3. The application for an order of the Court to assign legal counsel to the appellant is adjourned for further consideration at the next Chamber sitting of this Court scheduled for 18th April 2023.**

Reason:

The Court noted that the appellant had not provided evidence that he did not have sufficient means to

enable him to obtain legal counsel.

Case Name: **Quadriga Office Management Inc.**
v
Otway Investments Limited
[GDAHCVAP2022/0030]
Grenada

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

On paper:

Applicant: **Mr. Benjamin Hood**

Respondent: **Ms. Shireen Wilkinson**

Issues: **Application for leave to appeal – Application for a stay of execution**

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

- 1. The application for leave to appeal against the order of Glasgow J dated 12th December 2022 is granted.**
- 2. The application for a stay of all subsequent orders of the court in the matter pending the determination of the appeal is dismissed.**
- 3. The applicant shall file and serve a notice of appeal within 21 days of the date of this order.**
- 4. Thereafter the appeal shall proceed in accordance with Part 62 of the Civil Procedure Rules 2000.**

Reason:

The Court considered the principles for the grant of leave to appeal as stated in *Othneil Sylvester v Faellleseje* Civil Appeal No. 5 of 2005 (delivered 20th February 2006, unreported) and in *Cage St. Lucia Limited v Treasure Bay (St. Lucia) Limited* Saint Lucia Civil Appeal No. 45 of 2011 (delivered on 23rd January 2012, unreported). Having regard to these principles, the Court was of the view that the applicant had shown good prospects of success on appeal for the grant of leave to appeal.

The Court also considered the principles upon which a stay pending the determination of the appeal is granted as established by this Court in the case of *C-Mobile Services Ltd v Huawei Technologies Co. Ltd* BVIHCMAP2014/0017 (delivered 2nd October 2014, unreported) including all the circumstances of the case, that a stay is the exception rather than the general rule, that the party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted, the likely prejudice to the successful party, the prospect of the appeal succeeding where strong grounds of appeal or a strong likelihood the appeal will succeed is shown. Having regard to these principles, the Court was of the view that the applicant had failed to provide any evidence that the appeal would be stifled or rendered nugatory unless a stay was granted.

Case Name:

Terrance R. Joseph

v

ACB Bank Limited

[GDAHCVAP2023/0008]

Grenada

Date:

Tuesday, 28th March 2023

On paper:

Applicant: Ms. Gennilyn Ettienne

Respondent: Ms. Shireen Wilkinson

Issues: Application for an extension of time to seek leave to appeal – Application for leave to appeal – Notice of discontinuance of application

Result / Order: IT IS HEREBY ORDERED THAT:

The application for an extension of time and the application for leave to appeal both filed on 16th February 2023 are dismissed.

Reason: The Court noted that the applicant had filed a notice of discontinuance on 28th March 2023 of the application for leave to appeal and the application for an extension of time both filed on 16th February 2023.

Case Name: Kenneth Borris
v
The King

[GDAHCRAP2022/0013]
Grenada

Date: Tuesday, 28th March 2023

On paper:

Appellant: No appearance

Respondent: No appearance

Issues: Application for legal aid

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall serve a copy of this order on the appellant and respondent within 7 days of the date of this order.
2. The appellant shall file and serve an affidavit evidencing his financial means within 14 days of the date of this order.
3. The application for an order of the Court to assign legal counsel to the appellant is adjourned for further consideration at the next Chamber sitting of this Court scheduled for 18th April 2023.

Reason: The Court was of the view that the appellant had not provided evidence that he did not have sufficient means to enable him to obtain legal counsel.

Case Name: Leslie Phillip
v
Kyron Williams
[GDAHCVAP2023/0010]
Grenada

Date: Tuesday, 28th March 2023

On paper:
Applicant: Ms. Danyish Harford

Respondent: Ms. Alicia Lawrence

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant shall provide this Court with a copy of the decision of Master Carlos Michel dated 16th February 2023 within 14 days of the date of this order.
2. The application for leave to appeal against the decision of Master Carlos Michel dated 16th February 2023 is adjourned for further consideration at the next Chamber sitting of this Court scheduled for 18th April 2023.

Reason: The Court noted that the decision of Master Carlos Michel dated 16th February 2023 was not provided to the Court.

Case Name: Celestine Morain
v
[1] St. George's University Ltd.
[2] Wesley Lucas
[GDAHCVAP2022/0028]
Grenada

Date: Tuesday, 28th March 2023

On paper:

Appellant: Ms. Hazel Hopkin-La Touche

Respondents: No appearance for the 1st respondent
Mr. Deloni Edwards for the 2nd respondent

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 delivered on 11th October 2022 pending the determination of the appeal is dismissed.

Reason:

The Court considered the principles upon which a stay pending the determination of the appeal is granted as established by this Court in the case of C-Mobile Services Ltd v Huawei Technologies Co. Ltd BVIHCMAP2014/0017 (delivered 2nd October 2014, unreported) including all the circumstances of the case, that a stay is the exception rather than the general rule, that the party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted, the likely prejudice to the successful party, the prospect of the appeal succeeding where strong grounds of appeal or a strong likelihood the appeal will succeed is shown.

Having regard to all the circumstances of the case, the Court was of the view that the appellant had failed to provide sufficient cogent evidence that the appeal would be stifled or rendered nugatory unless a stay was granted.

Case Name:

Claudius Gumbs

v

Chaselyn Ferlance

[SKBMCVAP2023/0002]

Saint Christopher and Nevis

Date: Tuesday, 28th March 2023

On paper:

Applicant: Ms. Natasha Grey

Respondent: Ms. Sherry-Ann Liburd-Charles

Issues: Application for an extension of time

Result / Order: IT IS HEREBY ORDERED THAT:

The notice of application for an extension of time to file the notice of appeal is granted.

Reason: The Court considered the principles upon which an extension of time is granted as set out 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 was of the view that the applicant had not met the threshold for the grant of an extension of time since the delay of almost a year in filing the notice of appeal was inordinate and no reasons were given for the applicant's failure to take any steps after the matter came up for hearing in August 2022.

Case Name: [1] Norman Francis
[2] Thaddeus Antoine

v

**[1] Jones Biscette
[2] Marie Biscette
[3] Bank of Saint Lucia Limited**

**[SLUHCVP2017/0008]
Saint Lucia**

Date: Tuesday, 28th March 2023

On paper:

Appellants: Ms. Marie-Ange Symmonds

Respondent: Mr. Horace Frazer for the 1st and 2nd respondents
Ms. Leslie P.K. Prospere for the 3rd respondent

Issues: Application to be appointed as representative party

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for the applicant, Eleanor Francis, to be appointed as a representative party for the first named appellant for the purposes of maintaining the instant appeal and the defence of claim no. SLUHCVP2014/0542 is granted.
2. The applicant shall serve a copy of this order on all parties to this appeal and to the proceedings in SLUHCVP2014/0542.
3. The appeal shall proceed in accordance with Civil Procedure Rules 2000 and the first named appellant shall be "Eleanor Francis (As personal representative of the Estate of Norman Francis, deceased)."

Reasons: Upon considering the notice of application and

affidavit in support filed by the applicant, Eleanor Francis, on 26th January 2023 to be appointed as a representative party for the first named appellant, the Court was satisfied that the applicant was the lawful wife of the first named appellant and is therefore a proper person to be appointed as representative party.

Case Name:

Flavia Cherry

v

Ezekiel Mason

[SLUMCVAP2021/0004]

Saint Lucia

Date:

Tuesday, 28th March 2023

On paper:

Applicant: Ms. Mary M. Francis

Respondent: Mr. V. Dexter Theodore KC

Issues:

Application to be removed from the record

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application by Mary M. Francis to be removed from the record as acting for the respondent in this appeal is granted.**
- 2. The application by Mary M. Francis to be presented forma pauperis at the next sitting of the Court of Appeal is refused.**
- 3. The applicant shall serve a copy of this order on the respondent and on the law firm of Theodore & Associates, legal practitioners for the appellant.**

Reason:

The Court was satisfied that the application and the affidavit in support were properly served in accordance with CPR 63.6.

However, the Court noted that the applicant did not provide sufficient evidence and did not make a case for the respondent to be represented *forma pauperis* at the next sitting of the Court of Appeal.

Case Name:

Kurtly Garvey Cadette

v

The King

[SLUHCRA2023/0001]

Saint Lucia

Date:

Tuesday, 28th March 2023

On paper:

Applicant: Mr. Al C Elliot

Respondent: No appearance

Issues:

Application for extension of time to apply 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 against sentence is granted.**
- 2. Leave to appeal against sentence is granted.**
- 3. The notice of appeal filed on 6th March 2023 is**

deemed properly filed.

Reason:

The Court considered the application filed by the applicant on 2nd March 2023 and affidavit in support filed on 6th March 2023 and was satisfied that the reasons given for the delay were cogent and that leave to appeal should be granted.

Case Name:

Lesroy Richardson

V

The King

[SVGHC RAP2022/0013]

Saint Vincent and the Grenadines

Date:

Tuesday, 28th March 2023

On paper:

Applicant: No appearance

Respondent: No appearance

Issues:

Application for bail pending the hearing and determination of appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

The application for bail is refused.

Reason:

The Court considered the sentence imposed on the appellant, the length of time the appellant had served in custody and that is unlikely that the appellant would have served his sentence before the hearing of the appeal.

The Court also noted that the did not provide any evidence which reveals any exceptional circumstances for granting pending the hearing and determination of the appeal.

Case Name:

Ali Gibson

v

The King

[SVGHCRAP2017/0009]

Saint Vincent and the Grenadines

Date:

Tuesday, 28th March 2023

On paper:

Appellant: No appearance

Respondent: No appearance

Issues:

Application for legal aid

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The appellant shall file evidence to show that he does not have sufficient means to enable him to obtain legal aid.**
- 2. The application is adjourned for further**

consideration at the next Chamber sitting of this Court scheduled for 18th April 2023

Reason: The Court noted that the appellant failed to provide any evidence to show that he does not have means to obtain legal aid.

Case Name: Kenron Samuel

v

The King

[SVGHCRAP2023/0001]

Saint Vincent and the Grenadines

Date: Tuesday, 28th March 2023

On paper:

Appellant: No appearance

Respondent: No appearance

Issues: Application for extension of time to apply for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

The application for an extension of time to seek leave for appeal is dismissed.

Reason: The Court considered the principles of Lindsay F.P. Grant et al v Tanzania Tobin Tanzil SKBHCVAP2020/0004 (delivered 6th July 2020, unreported) and the power of a single judge to extend time pursuant to rule 26.1(2) (k) of the Civil Procedure Rules, 2000.

The Court noted that no reasons were provided for the delay.

Case Name: Kawanie Williams

V

The King

[SVGHCRAP2021/0005]
Saint Vincent and the Grenadines

Date: Tuesday, 28th March 2023

Before: The Hon. Mr. Trevor Ward, Justice of Appeal

On paper:

Applicant: No appearance

Respondent: No appearance

Issues: Application for bail

Type of Order:

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall serve a copy of the application for bail pending appeal on the Director of Public Prosecutions within 14 days of the date of this order.
2. The determination of the application for bail pending appeal is adjourned to the next Chamber Hearing of the Court scheduled 18th April 2023.

Reason:

The Court noted that there was no evidence of service of the application for bail pending appeal on the Director of Public Prosecutions.

Case Name:

The King

v

Dee Dijion Hodge

[BVIHCRAP2023/0001]

Territory of the Virgin Islands

Date:

Tuesday, 28th March 2023

On paper:

Applicant: Ms. Tiffany R. Scatlffe, the Director of Public Prosecution

Respondent: In person

Issues:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant shall file one bundle inclusive of all relevant documents properly reflecting the

application for consideration within 14 days of this order.

2. The application for leave to appeal the decision of Astaphan, J delivered on 23rd is adjourned to the next Chamber Sitting of the Court scheduled for 18th April 2023

Reason:

The Court noted that on 27th January 2023 the applicant filed a notice of application in BVIHCRAP2023/0001 which is duplicitous of the notice of application in BVIHCRAP2023/0002.

The Court determined that the duplicitous filing had produced some confusion in the application.

Case Name:

Vladimir Niyazov

v

[1] Messrs Agon Litigation (a partnership)

[2] Arabella Di Lorio

[3] Michael J Fay KC

[BVIHCMAP2021/0038]

Territory of the Virgin Islands

Date:

Tuesday, 28th March 2023

On paper:

Applicant: Mr. Michael J. Fay KC

Respondent: In person

Issues:

Application for security for costs – Application for

stay of execution

Result / Order:

IT IS HEREBY ORDERED THAT:

The applicant's application for security for costs is adjourned for hearing before the Full Court with the respondent's motion for leave to appeal to His Majesty in Council in May 2023.

Reason:

The Court noted that an issue arose as to whether the applicant is a proper party to the motion for conditional leave to appeal to His Majesty in Council.

Thus, the Court was of the view that it would be prudent for the application for security for costs and the motion for conditional leave be heard together in May 2023.

Case Name:

Jessroy Mckelly

v

The King

[BVIHCRA2014/0002]

Territory of the Virgin Islands

Date:

Tuesday, 28th March 2023

On paper:

Applicant: Mr. Michael Maduro

Respondent: Ms. Tiffany R. Scatlffe, the Director of Public Prosecution

Issues:

Application for leave to amend notice of appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to amend the notice of appeal is granted.**
- 2. The applicant is granted leave to amend the notice of appeal in the terms of the draft amended notice of appeal exhibited as JM1 and filed on 3rd February 2023.**
- 3. The applicant shall file and serve the amended notice of appeal within 21 days of the date of this order and provide proof of service thereafter.**
- 4. The Registrar of the High Court shall serve a copy of this order on the applicant and on the Office of the Director of Public Prosecutions within 14 days of the date of this order.**

Reason:

Upon considering the notice of application filed on 27th January 2023 and affidavit in support filed 3rd February 2023 by the appellant, the Court satisfied that the application to amend the notice appeal should be granted.

Case Name:

**Catherine M. Tuitt
(The Lawful Attorney for Mary Skeleton)**

V

**[1] Ann Thomas
[2] Justin Thomas**

**[MNIHCVAP2019/0015]
Montserrat**

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

On paper:

Applicant: **Ms. Korah Galloway**

Respondents: **Ms. Marcelle E. Watts**

Issues: **Application for leave to appeal**

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

- 1. The application for leave to appeal the order of Morley J dated 3rd October 2019 is granted.**
- 2. The notice of appeal filed on 21st February 2023 is deemed to be properly filed.**

Reason:

The Court noted the principle that an application for leave to appeal is an ex parte application and that the respondent did not have a right to respond to the application per *Cage St. Lucia Limited v Treasure Bay (St. Lucia) Limited* Saint Lucia Civil Appeal No. 45 of 2011 (delivered on 23rd January 2012, unreported) and for that reason the respondent's skeleton submissions were not considered.

The Court considered that the Court's Order of 26th January 2023, made without objection, as reflected in the Certificate of Result of Appeal, effectively granted the appellant an extension of time to seek leave to appeal.

The Court further noted that the applicant had complied with the order dated 26th January 2023 and filed this application in accordance with the said order to put matters right.

Upon Considering the principles for the grant of leave to appeal as stated in Othneil Sylvester v Faelleseje Civil Appeal No. 5 of 2005 (delivered 20th February 2006, unreported) and in Cage St. Lucia Limited v Treasure Bay (St. Lucia) Limited Saint Lucia Civil Appeal No. 45 of 2011 (delivered on 23rd January 2012, unreported),the Court was satisfied that the applicant had satisfied the relevant threshold for the grant of leave to appeal;