

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

CHAMBER HEARING

MATTERS DEALT WITH ON PAPER

Case Name:

Aldin Phillip

v

The King

**[GDAHCRAP2019/0009]
(GRENADA)**

Date:

Wednesday 14th December 2022

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

On paper:

Applicant:

No appearance

Respondent:

No appearance

Issues:

**Application for an order of the Court to assign
legal aid to the applicant – Application for leave to
appeal against conviction and sentence**

Type of Order

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal
against conviction and sentence is
granted.**

2. The notice of application for leave to appeal against conviction and sentence filed on 15th July 2019 is deemed to be the notice of appeal.
3. The application filed on 26th September 2022 seeking an order of the Court to assign legal aid to the applicant is granted.
4. The applicant 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 applicant in the conduct of his appeal.
5. The Registrar of the High Court shall furnish counsel selected from the roster with the Record of Appeal.
6. 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 21 days of the date of this order and shall provide proof of service thereof.

Reason:

The Court was of the view that the applicant had met the threshold for the grant of leave to appeal against conviction and sentence. The Court also considered section 52 of the West Indies Associated States Supreme Court (Grenada) Act and found that the applicant had satisfied the Court that he did 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:

The Commissioner of Police

v

Oval Lake

[SKBMCRAP2022/0004]

(SAINT CHRISTOPHER AND NEVIS)

Date:	Wednesday 14th December 2022
Before:	The Hon. Mr. Mario Michel, Justice of Appeal
On paper:	
Applicant:	Mr. Teshaun Vasquez
Respondent:	No appearance
Issues:	Application for leave to appeal against the sentence imposed on the respondent
Type of Order	
Result / Order:	IT IS HEREBY ORDERED THAT: 1. The applicant shall serve a copy of the application on the respondent within 21 days of the date of this order and shall provide proof of service thereof. 2. The applicant shall furnish the Court with the minute of conviction and sentence of the respondent within 21 days of the date of this order. 3. Unless the applicant complies with paragraphs 1 and 2 of this order, the application for leave to appeal against the sentence imposed on the respondent shall stand dismissed. 4. The application for leave to appeal against the sentence imposed on the respondent is adjourned for further consideration at the next Chamber sitting of this Court scheduled for 31st January 2023.
Reason:	The Court noted that the applicant had not provided proof of service of the application on the respondent and that the applicant had not furnished the Court with a copy of the minute of conviction and sentence of the respondent.

Case Name:

Shawn Richards

v

Nigel Carty

[SKBHCVAP2019/0021]

(SAINT CHRISTOPHER AND NEVIS)

Date:

Wednesday 14th December 2022

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

On paper:

Applicant:

Mr. Terence Victor Byron

Appellant:

No appearance

Respondent:

No appearance

Issues:

**Application to be removed as attorney on record
for the appellant**

Type of Order

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application by Terence Victor Byron of Byron & Byron Chambers to be removed from the record as legal practitioner acting for the appellant is granted.**
- 2. Terence Victor Byron of Byron & Byron Chambers is removed from the record as legal practitioner acting for the appellant, Shawn Richards.**
- 3. The applicant shall serve a copy of this order on the appellant and on the respondent within 21 days of the date of this order and shall provide proof of service thereof.**

Reason: The Court considered rule 63.6 of the Civil Procedure Rules 2000 and was satisfied that the applicant, Terence Victor Byron of Byron & Byron Chambers, had met the threshold to be removed from the record as legal practitioner acting for the appellant, Shawn Richards.

Case Name: [1] Samuel David Samuel
[2] Osborne Hewitt
v
George Reynold Scotland
[SVGHCVP2019/0023]
(SAINT VINCENT AND THE GRENADINES)

Date: Wednesday 14th December 2022

Before: The Hon. Mr. Mario Michel, Justice of Appeal

On paper:

Appellants/Respondents: No appearance

Respondent/Applicant: Ms. Patricia Marks-Minors

Issues: Application for an extension of time to file written submissions and authorities – Application for relief from sanctions

Type of Order

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The application for an extension of time to file written submissions and authorities is granted.
2. The respondent shall file and serve written submissions with authorities on or before 6th January 2023.

3. The appellants are at liberty to file and serve written submissions in reply, if necessary, on or before 20th January, 2023.
4. The hearing of the appeal is fixed for the next sitting of the Court in the state of Saint Vincent and the Grenadines during the week commencing 24th July 2023.

Reason:

The Court was of the view that since the Status hearing order dated 13th July 2022 imposed no sanction for the respondent's failure to comply with the order, this was not a case for relief from sanctions. Furthermore, the Court was cognizant of the conjunctive requirements for the grant of an extension of time and found that the respondent had met the threshold requirements for the grant of an extension of time.

Case Name:

Cassel Lavia

v

The King

[SVGHCRA2022/0012]

(SAINT VINCENT AND THE GRENADINES)

Date:

Wednesday 14th December 2022

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

On paper:

Appellant/Applicant:

No appearance

Respondent:

No appearance

Issues:

Application for the Court to appoint an attorney to assist the appellant in his appeal

Type of Order

Result /
Order:

IT IS HEREBY ORDERED THAT:

1. The application by way of letter filed by the appellant on 29th September 2022 seeking legal aid is dismissed.
2. The Registrar of the High Court shall serve a copy of this order on the appellant and on the Office of the Director of Public Prosecutions within 21 days of the date of this order and shall provide proof of service thereof.

Reason:

The Court noted that the order of Michel JA dated 29th November 2022 directed the appellant to provide this Court with an affidavit evidencing his financial means and that there was no evidence of compliance with the order dated 29th November 2022. The Court was of the view that the appellant had failed to provide proof that he did not have sufficient means to enable him to obtain legal representation and so his application was dismissed.

Case Name:

[1] Tensigma Limited
[2] Julian Svirsky
[3] Denis Donin
[4] Digital Asset Exchange Limited
v
Arman Oyekenov

[BVIHCMAP2022/0005]
(TERRITORY OF THE VIRGIN ISLANDS)

Date:

Wednesday 14th December 2022

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

On paper:

Applicant:

Bedell Cristin (BVI) Partnership

1st Appellant: No appearance
2nd, 3rd and 4th Appellants: Appleby (BVI) Limited
Respondent: Carey Olsen

Issues: Application to be removed from the record as attorney for the 1st appellant – Application for a seal and gag order – Application for service on the 2nd, 3rd and 4th appellants and on the respondent by email be deemed good service

Type of Order

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. Service of the application filed by Bedell Cristin (BVI) Partnership via email on the respondent/claimant, the second, third and fourth appellants/defendants is deemed to be good service.
2. The application by Bedell Cristin (BVI) Partnership to be removed from the record as acting for the first appellant/defendant is granted.
3. Bedell Cristin (BVI) Partnership is removed from the record as acting for the first appellant/defendant.
4. The application by Bedell Cristin (BVI) Partnership for the affidavit of Edmond Fung and exhibit EF-1 to be sealed on the Court's file, and not be made available to the respondent/claimant, the second, third and fourth appellants/defendants or anybody else for inspection is granted.
5. Bedell Cristin (BVI) Partnership shall serve a copy of this order on the first appellant/defendant within 21 days of the date of this order and shall provide proof of service thereof.

Reason:

The Court considered rule 63.6 of the Civil Procedure Rules 2000 and found that the applicant Bedell Cristin (BVI) Partnership had satisfied the Court that they should be removed from the record as acting for the first appellant/defendant. The Court also considered the principles concerning seal and gag orders as formulated by Lord Woolf MR in *R v Legal Aid Board, ex parte Kaim Todner* [1999] QB 966 and by Lord Reed in *A v British Broadcasting Corp.* [2014] UKSC 25, [2015] AC 588 and found that the applicant had met the threshold for the grant of the seal and gag order.