

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
CHAMBER HEARING DIGEST
28th September 2021

Before: The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Case Name: Allin Durand
v
The Superintendent of Prisons
[AXAHCVAP2021/0005]
Anguilla

Date: Tuesday, 28th September 2021

On Paper:

Appearances:

Applicant:	In Person
Respondent:	The Attorney General

Issue: Application for leave to appeal

Result/ Order IT IS HEREBY ORDERED THAT:

Leave to appeal the judgment and order of Henry J dated 21st May 2021 is refused.

Reason: The notice of application for leave to appeal was filed out of time and there was no evidence of a notice of application for extension of time for leave to appeal.

Case Name: Cable & Wireless
v

Avonelle Caragliano
[AXAHCVAP2021/0006]
Anguilla

Date: Tuesday 28th September 2021

On Paper:

Appearances:
Applicant: Ms. Jean M. Dyer

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
1. Leave to appeal the judgment of Innocent J dated 8th July 2021 is granted.
2. The applicant shall file and serve the Notice of Appeal within 21 days of the date of this order.

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

Case Name: Pamela Riley
v
National Bank of Anguilla Limited
[AXAHCVAP2021/0007]
Anguilla

Date: Tuesday 28th September 2021

Coram:

Appearances:
Applicant: Ms. Merlanih Lim

Issues:	Application for leave to appeal – Stay of execution
Result / Order:	IT IS HEREBY ORDERED THAT: 1. Leave to appeal the judgment and order of Innocent J dated 6th July 2021 is refused. 2. The application seeking a stay of execution is dismissed.
Reason:	The Court reused the applicant’s application for leave to appeal as the applicant did not file the application in accordance with rule 62.2(1) of the Civil Procedure Rules 2000. Further, as a result of the application for leave to appeal being refused, the application for grant of the stay of execution fell away.
Case Name:	Paul Morrison v Percy Thomas [AXAHCVAP2021/0008] Anguilla
Date:	Tuesday 28th September 2021
Coram:	
Appearances:	
Applicant:	Ms. Tona Simpson Whyte
Respondent:	Ms. Joyce Kentish
Issues:	Application for leave to appeal – Stay of execution
Result / Order:	IT IS HEREBY ORDERED THAT: 1. Leave to appeal the decision of Master Tamara Gill dated 20th July 2021 is granted.

2. The applicant shall file and serve the notice of appeal within 21 days of this order.

3. The applicant shall serve the notice of application and supporting documents, the submissions and authorities in support, and a copy of this order on the respondent within 7 days of the date of this order and shall provide proof service within 14 days of the date of this order.

4. The application for a stay of execution of the decision of Master Tamara Gill dated 20th July 2021 pending the determination of the intended appeal and a stay of proceedings, is adjourned for further consideration to the next Chamber Sitting of the Court scheduled for 26th October 2021.

Reason:

The Court was satisfied that the applicant had met the requisite threshold for the grant of leave to appeal. The Court also noted that there was no proof of service of the notice of application, affidavit in support, certificate of exhibits and draft filed on 3rd August 2021 and the submissions and authorities filed on 13th August 2021, on the respondent, and as such ordered that the applicant serve these documents.

Case Name:

**Conroy Jones
v
The Queen
[ANUHCRA2021/0009]
Antigua and Barbuda**

Date:

Tuesday, 28th September 2021

On Paper:

Appearances:

Applicant:

Mr. Wendel G. Robinson

Respondent:

Ms. Shannon Jones-Gittens, Crown Counsel

Issue:

Application for bail pending appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

The application for bail pending appeal is refused.

Reason:

The Court upon considering the principles in *The State v Lynette Scantlebury* (1976) 27 WIR 103 and took the view that the exceptional circumstances required for the grant of bail pending appeal had not been shown in this application.

Case Name:

**Bettino & Britto Limited
v
[1] Dawn Run Limited
[2] Galley Bay Club Limited

[ANUHC VAP2019/0012]
Antigua and Barbuda**

Date:

Tuesday, 28th September 2021

On Paper:

Appearances:

Appellant: Mr. Dane Hamilton, QC

Respondents: Ms. Andrea C. Roberts Nicholas

Issues:

**Application for security for costs – Stay of appeal–
Strike out of appeal**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for security for the respondents' costs is refused.**
- 2. The application for a stay of the appeal until such time as security for the respondents' costs is provided is refused.**

Reason: The Court was of the view that the respective requirements for the grant of security for costs and a stay had not been satisfied.

Case Name: [1]Kier Construction Limited
[2]Sundry Workers
v
George Dexter Tavernier
(Trading as Tavernier Construction)
[ANUHCVP2019/0007]
Antigua and Barbuda

Date: Tuesday, 28th September 2021

On Paper:

Appearances:
Appellant: Ms. Safiya Roberts Swatton for the 1st Appellant
Respondent: No appearance

Issues: Application for extension of time – Relief from sanctions

Result / Order: IT IS HEREBY ORDERED THAT:

The appellant is granted an extension of time to file and serve its written submissions in support of the appeal, to within 28 days of the receipt of then notice of availability of transcript.

Reason: The Court was of the view that the applicant had met the requirements for the grant of an extension of time to file written submissions. The Court was also of the view that an application for relief from sanctions was not inapplicable in the circumstances.

Case Name: [1] The Attorney General of Antigua and Barbuda
[2] David Matthias
v
HMB Holdings Limited
[ANUHCVP2021/0021]
Antigua and Barbuda

Date: Tuesday, 28th September 2021

On Paper:

Appearances:
Applicant: Mrs. Carla Brookes-Harris

Issues: Application for leave to appeal – Stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:
1. Leave to appeal against the judgment of Robertson J dated 10th August 2021 is granted.
2. The application for a stay of the order at paragraph 57 (a) of the judgment of Robertson J dated 10th August 2021, pending the determination of the appeal is refused.

Reason: The Court was of the view that the applicant had met the requirement for the grant of leave to appeal. However, the applicant had not met the requirements for a stay of execution.

Case Name: Mandell Joseph Cyrille
v
The State
[DOMHCRAP2021/1001]

Commonwealth of Dominica

Date: **Tuesday, 28th September 2021**

On Paper:

Appearances:
Applicant: **In person**

Issue: **Application for leave to appeal**

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

- 1. The applicant shall cause a copy of the application seeking leave to appeal against conviction and sentence and the minute of conviction and sentence of the applicant to be served on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.**
- 2. The application for leave to appeal against conviction and sentence is adjourned for further consideration to the next Chamber Sitting of the Court scheduled for 26th October 2021.**

Reason: **The Court noted that there was no proof of service of the application for leave to appeal against conviction and sentence and the minute of conviction and sentence of the applicant on the Director of Public Prosecutions.**

Case Name: **Cara Shillingford**
v
[1]Stephenson Hyacinth (in his capacity of Chairman of the Integrity Commission)
[2]Thomas Holmes (in his capacity as Member of the Integrity Commission)

**[3] Integrity Commission of the
Commonwealth of Dominica**

**[DOMHCVAP2021/1001]
Commonwealth of Dominica**

Date: Tuesday, 28th September 2021

On Paper:

Appearances:
Applicant: Mr. Wayne Benjamin Marsh

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant shall furnish the Court with a written copy of the oral decision of Stephenson J given on 28th July 2021 when made available to the parties.
2. The application for leave to appeal the oral decision of Stephenson J given on 28th July 2021 is adjourned for further consideration to the next Chamber Sitting of the Court scheduled for 26th October 2021.

Reason: The Court noted that a written copy of the oral decision of Stephenson J given on 28th July 2021 had not yet been reduced into writing and made available to the parties.

Case Name: Nyron Parris
v
The Queen
[GDAHCRAP2021/0009]
Grenada

Date: **Tuesday, 28th September 2021**

On Paper:

Appearances:

Applicant: **In Person**

Respondent: **No appearance**

Issue: **Application for leave to appeal**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal against sentence is granted.**
- 2. The notice of application filed on the 19th July 2021 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 Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.**

Reason:

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

Case Name:

**Kenton Lambert
v
The Queen
[GDAHCRAP2021/0010]
Grenada**

Date: **Tuesday, 28th September 2021**

On Paper:

Appearances:

Applicant: **In person**

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal against sentence is granted.
2. The notice of application filed on the 19th July 2021 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 Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.

Reason: The Court was satisfied that leave ought to be granted to the applicant to appeal his sentence.

Case Name: Hayden Phillip
v
The Queen
[GDAHCRAP2020/0005]
Grenada

Date: Tuesday, 28th September 2021

On Paper:

Appearances:
Applicant: In person

Issue: Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall furnish this Court and the applicant with a copy of the minute of conviction and sentence of the applicant within 14 days of the date of this order.
2. The Registrar of the High Court shall cause a copy of the application for leave to appeal against conviction and sentence and the minute of conviction and sentence of the applicant to be served on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.
3. The application for leave to appeal against conviction and sentence is adjourned for further consideration to the next Chamber Sitting of the Court scheduled for 26th October 2021.

Reason:

The Court noted that there was no proof of service of the application for leave to appeal against conviction and sentence and the minute of conviction and sentence of the applicant on the Director of Public Prosecutions.

Case Name:

**Hayden Phillip
v
The Queen
[GDAHCRAP2020/0006]
Grenada**

Date:

Tuesday, 28th September 2021

On Paper:

Appearances:

Applicant:

In person

Issue:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall furnish this Court and the applicant with a copy of the minute of conviction and sentence of the applicant within 14 days of the date of this order.
2. The Registrar of the High Court shall cause a copy of the application seeking leave to appeal against conviction and sentence and the minute of conviction and sentence of the applicant to be served on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.
3. The application for leave to appeal against conviction and sentence is adjourned for further consideration to the next Chamber Sitting of the Court scheduled for 26th October 2021.

Reason:

The Court noted that there was no proof of service of the application for leave to appeal against conviction and sentence and the minute of conviction and sentence of the applicant on the Director of Public Prosecutions.

Case Name:

**Hayden Phillip
v
The Queen
[GDAHCRAP2020/0007]
Grenada**

Date:

Tuesday, 28th September 2021

On Paper:

Appearances:

Applicant:

In person

Issue: **Application for leave to appeal**

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

1. The Registrar of the High Court shall furnish this Court and the applicant with a copy of the minute of conviction and sentence of the applicant within 14 days of the date of this order.
2. The Registrar of the High Court shall cause a copy of the application seeking leave to appeal against conviction and sentence and the minute of conviction and sentence of the applicant to be served on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.
3. The application for leave to appeal against conviction and sentence is adjourned for further consideration to the next Chamber Sitting of the Court scheduled for 26th October 2021.

Reason: The Court noted that there was no proof of service of the application for leave to appeal against conviction and sentence and the minute of conviction and sentence of the applicant on the Director of Public Prosecutions.

Case Name: **Hayden Phillip**
v
The Queen
[GDAHCRAP2020/0008]
Grenada

Date: **Tuesday, 28th September 2021**

On Paper:

Appearances:

Applicant: In person

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall furnish this Court and the applicant with a copy of the minute of conviction and sentence of the applicant within 14 days of the date of this order.
2. The Registrar of the High Court shall cause a copy of the application seeking leave to appeal against conviction and sentence and the minute of conviction and sentence of the applicant to be served on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.
3. The application for leave to appeal against conviction and sentence is adjourned for further consideration to the next Chamber Sitting of the Court scheduled for 26th October 2021.

Reason: The Court noted that there was no proof of service of the application for leave to appeal against conviction and sentence and the minute of conviction and sentence of the applicant on the Director of Public Prosecutions.

Case Name: Rondell Hagley

V

The Queen

**[GDAHCRAP2020/0010]
(Grenada)**

Date: Tuesday, 28th September 2021

On paper:

Applicant: Derick Sylvester & Associates

Respondent: The Director of Public Prosecutions

Issue: Application for leave to appeal conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall cause a copy of the application seeking leave to appeal against conviction and sentence to be served on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.
2. The Registrar of the High Court shall provide this Court and both the applicant and the Director of Public Prosecutions with a copy of the minute of conviction and sentence of the applicant within 14 days of the date of this order.
3. The application for leave to appeal against conviction and sentence is adjourned for further consideration to the next Chamber Sitting of the Court scheduled for 26th October 2021.

Reason: The Court noted that the minute of conviction and sentence was not provided and further that there was no evidence of service of the notice of application for leave to appeal against conviction and sentence on the Director of Public Prosecutions.

Case Name:

Davis Stanislaus

v

The Queen

**[GDAHCRAP2020/0004]
(Grenada)**

Date:

Tuesday, 28th September 2021

On paper:

Applicant:

In person

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 provide this Court with a copy of the minute of conviction and sentence of the applicant within 14 days of the date of this order.**
- 2. The Registrar of the High Court shall serve a copy of the minute of conviction and sentence on the applicant and the Director of Public Prosecutions and provide this Court with proof of service of the same within 14 days of the date of this order.**
- 3. The application for leave to appeal against sentence is adjourned for further consideration to the next Chamber Sitting of the Court scheduled for 26th October 2021.**

Reason: The Court noted that the minute of conviction and sentence was not provided.

Case Name: Kim Phillip

v

The Queen

**[GDAHCRAP2020/0003]
(Grenada)**

Date: Tuesday, 28th September 2021

On paper:
Appellant: In person

Issue: Application for leave to appeal against conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall cause a copy of the application seeking leave to appeal against conviction and sentence to be served on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.
2. The Registrar of the High Court shall provide this Court and both the applicant and Director of Public Prosecutions with a copy of the minute of

conviction and sentence of the applicant within 14 days of the date of this order.

3. The application for leave to appeal against conviction and sentence is adjourned for further consideration to the next Chamber Sitting of the Court scheduled for 26th October 2021.

Reason:

The Court noted that the minute of conviction and sentence was not provided and further that there was no evidence of service of the notice of application for leave to appeal against conviction and sentence on the Director of Public Prosecutions.

Case Name:

Finbar Browne

V

Celicia Phillip

**[GDAHCVAP2021/0022]
(Grenada)**

Date:

Tuesday, 28th September 2021

Appearances:

Applicant:

Amicus Attorneys

Issues:

Application for leave to appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

1. The applicant shall furnish this Court with copy of the order of Glasgow J dated 29th July 2021 within 14 days of the date of this Order.

2. The application seeking leave to appeal against the order of Glasgow J dated 29th July 2021 is adjourned for further consideration at the next Chamber Hearing scheduled for 26th October 2021.

Reason: The Court noted that a copy of the order of Glasgow J dated 29th July 2021 was not attached to the application.

Case Name: Golden Years Home for the Elderly

V

Ingrid Branford Hughes

**[MNIHCVAP2021/0001]
(Montserrat)**

Date: Tuesday, 28th September 2021

Appearances:
Appellant/Applicant: Allen Markham & Associates

Respondent: Dr. David Dorsett

Issues: Application for stay of execution – Application for matter to be remitted to lawfully constituted Labour Tribunal

Result / Order: IT IS HEREBY ORDERED THAT:

The application seeking a stay of the order of the Labour Tribunal made on 5th March 2021, pending determination of the appeal herein is dismissed.

Reason:

The Court considered the decisions of *St. Augustine Primary School v Evelyn Gibson* MNILTAP2019/003 and *Keston Riley v Montserrat Port Authority* MNILTAP2020/001 in which it ruled that decisions of a three member panel was a nullity and the principles enunciated in the decision of *Eugene Leacock v Lorna Griffith* [2017] CCJ 1 (AJ) that where a court lacks jurisdiction, its judgment and orders are of no legal consequence. Having done so, the Court was of the view that in the circumstances, the Tribunal was not properly constituted and accordingly lacked jurisdiction to adjudicate upon the dispute between the parties thereby rendering the decision a nullity.

Case Name:

**Howard Mark Rotherham
v
Anthony Jonathan Nunns**

**[MNIHCVAP2021/0007]
(Montserrat)**

Date:

Tuesday, 28th September 2021

Appearances:

Applicant: Dr. David Dorsett

Respondent: Mr. Jean Kelsick

Issues:

**Application for extension of time to appeal –
Application for leave to appeal – Application for stay
of proceedings**

**Result /
Order:**

IT IS HEREBY ORDERED:

- 1. The applicant shall furnish this Court with a copy of the decision of Morley J dated 16th July 2021 within fourteen (14) days of the date of this order.**
- 2. The application seeking: (i) an extension of time within which to appeal; (ii) leave to appeal against the judgment of Morley J dated 16th July 2021; and (iii) a stay of**

proceedings shall be set down for hearing before the Full Court at the next sitting of the Court of Appeal in the Territory of Montserrat scheduled for the week commencing 7th February 2022.

Reason: The Court noted that a copy of the decision being appealed was not attached to the application. The Court was also of the view that the matter should be determined by the Full Court in accordance with rule 62.2(5) of the Civil Procedure Rules 2000.

Case Name: **Fotis Andrianakos**

V

**[1] Financial Services Commission
[2] Financial Services Commissioner**

**[MNIHCVAP2021/0008]
(Montserrat)**

Date: **Tuesday, 28th September 2021**

Appearances:
Applicant: **MNI Law**

Issues: **Application for leave to appeal**

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

The application seeking leave to appeal against the judgment of Morley J dated 16th July 2021 shall be set down for hearing before the Full Court at the next sitting of the Court of Appeal in the Territory of Montserrat scheduled for the week commencing 7th February 2022.

Reason: The Court was of the view that the matter should be determined by the Full Court in accordance with rule 62.2(5) of the Civil Procedure Rules 2000.

Case Name: **Travien Everton Liddie**

V

The Director of Public Prosecutions

**[SKBHCRA2021/0003]
(Saint Christopher and Nevis)**

Date: **Tuesday, 28th September 2021**

Appearances:

Applicant: **In person**

Respondent: **The Director of Public Prosecutions**

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

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

- 1. The applicant is granted an extension of time within which to seek leave to appeal.**
- 2. The applicant is granted leave to appeal his conviction and sentence.**
- 3. The notice of application for leave to appeal against sentence filed on 27th July 2021 is deemed to be the notice of appeal.**

Reason: **The Court was of the view that the appellant met the threshold requirements for the grant of an extension of time and for leave to appeal.**

Case Name:

Lawton Forbes

V

The Director of Public Prosecutions

**[SKBHCRAP2021/0004]
(Saint Christopher and Nevis)**

Date:

Tuesday, 28th September 2021

Appearances:

Applicant:

In person

Respondent:

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 cause a copy of the application for leave to appeal against conviction and sentence to be served on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.**
- 2. The applications for leave to appeal against conviction and sentence is adjourned for further consideration at the next Chamber Sitting of this Court scheduled for 26th October 2021.**

Reason:

The Court noted there is no evidence of service on the Director of Public Prosecutions of the application for leave to appeal against conviction and sentence.

Case Name:

Exclusive Retreats Limited

V

**First Caribbean International Bank (Barbados)
Limited**

**[SKBHCVAP2021/0013]
(Saint Christopher and Nevis)**

Date: Tuesday, 28th September 2021

Appearances:
Applicant: In person

Issues: Application for leave to appeal

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

The application seeking leave to appeal against the judgment of Master Burnette (Ag.) dated 21st July 2021 shall be set down for hearing before the Full Court at the next sitting of the Court of Appeal in the Federation of Saint Christopher and Nevis scheduled for the week commencing 6th December 2021.

Reason: The Court was of the view that the matter should be determined by the Full Court in accordance with rule 62.2(5) of the Civil Procedure Rules 2000.

Case Name:
[1] 25 Acres Holding Limited
[2] Deon & Associates Limited
[3] Deon Daniel
V

[1] Norbert Klaus
[2] Andrea Klaus-Kalman

**[NEVHCVAP2021/0006]
(Saint Christopher and Nevis)**

Date: Tuesday, 28th September 2021

Appearances:

Applicant:

Byron & Byron

Issues:

Application for leave to appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. Leave is granted to the applicant to appeal the order of Moise J dated 27th July 2021.**
- 2. The appellant shall file and serve the notice of appeal against the decision of Moise J within 21 days of the date of this order, together with such other documents as are required to be filed in accordance with Rule 62.10 of the Civil Procedure Rules 2000.**

Reason:

The Court was of the view that the applicant has met the requisite threshold for the grant of leave to appeal.

Case Name:

**Ursaline Scott
(By her Executrix Jeannie Graham)**

v

**[1] Attorney General of the Federation of Saint
Christopher and Nevis**

[2] The Registrar of Titles

**[SKBHCVAP2021/0014]
(Saint Christopher and Nevis)**

Date:

Tuesday, 28th September 2021

Appearances:

Applicant:

Cozier and Associates

Issues: Application for leave to appeal

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

1. Leave is granted to the applicant to appeal the order of Moise J dated 28th July 2021.
2. The appellant shall file and serve the notice of appeal against the decision of Moise J within 21 days of the date of this order, together with such other documents as are required to be filed in accordance with Rule 62.10 of the Civil Procedure Rules 2000.

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

Case Name: William Wilson

V

Christine Robinson

[SLUHCVAP2021/0001]
(Saint Lucia)

Date: Tuesday, 28th September 2021

Appearances:

Applicant:	Fraser & Co.
Respondent:	Chong & Co.

Issues: Application for stay pending execution

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

The application seeking a stay of the order of Smith J dated 23rd March 2018 is dismissed.

Reason:

The Court was of the view that the applicant had not met the threshold requirements for the grant of a stay of execution of the order of Smith J dated 23rd March 2018.

Case Name:

Marilyn Hippolyte

V

Heirs of Florita Hippolyte

**[SLUHCVAP2021/0009]
(Saint Lucia)**

Date:

Tuesday, 28th September 2021

Appearances:

Applicant:

Ms. Delia Daniel

Respondent:

In person

Issues:

Application for extension of time to appeal

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application seeking an extension of time to appeal the order of Philip J dated 26th May 2021 is granted.**
- 2. The notice of appeal filed on 9th July 2021 is deemed properly filed.**

Reason: The Court was of the view that the applicant has met the requirements for the grant of an extension of time.

Case Name: [1] National Contractors Limited
[2] Dave Boriel (Administrator of the Estate of the late Thomas Boriel)
[3] Dave Boriel

and

Raymond Boriel
[SLUHCVP2021/0010]
Saint Lucia

Date: Tuesday 28th September 2021

On paper:

Applicant:	Kimberley Roheman for the Applicants
Respondent:	No appearance

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 judgment of Pariagsingh M (Ag.) dated 26th July 2021 is granted.
2. The application for a stay of proceedings in Claim No. SLUHCVP2020/0100 pending the hearing and determination of the appeal, is granted.

Reason: The Court was of the view that the applicant met the requisite threshold for the grant of leave to appeal based on the principles of *Cage St. Lucia Limited v Treasure Bay (St. Lucia) Limited* SLUHC VAP2011/045 (unreported, delivered on 23rd January 2012). The court was also of the view that based on the principles of *C-Mobile Services Ltd v Huawei Technologies Co. Ltd.* BVIHC MAP2014/0017 (delivered 2nd October 2014, unreported), the applicant should be granted a stay pending appeal.

Case Name: Anwar Jack
and
The Queen
[SVGHC RAP2020/0017]
Saint Vincent and the Grenadines

Date: Tuesday 28th September 2021

On paper:
Applicant: In person
Respondent: Director of Public Prosecutions

Issues: Application for leave to appeal against sentence

Result / Order: IT IS HEREBY ORDERED THAT:
1. The application for leave to appeal against sentence is granted.
2. The notice of application filed on the 28th December 2020 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 14 days of the date of this order.

Reason: The Court was of the view that the application for leave to appeal against sentence ought to be granted

Case Name: David Legair

and

The Queen
[SVGHCRA2021/0009]
Saint Vincent and the Grenadines

Date: Tuesday 28th September 2021

On paper:

Applicant: In person

Respondent: Director of Public Prosecutions

Issues: Application for leave to appeal against conviction and sentence

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 filed on 14th July 2021 for leave to appeal against conviction and sentence 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 14 days of the date of this order.

Reason: The Court noted that all the requirements were met for leave to appeal to be granted.

Case Name:

Fostina Hoyte

and

**Deidre Hamilton
[SVGMCVAP2021/0004]
Saint Vincent and the Grenadines**

Date:

Tuesday 28th September 2021

On paper:

Applicant: In person

Respondent: No appearance

Issues:

**Application for extension of time within which to file
application for leave to appeal**

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall cause the notice of application for an extension of time within which to appeal and supporting documents to be served on the respondent within 14 days of the date of this order and provide proof of service within 21 days of the date of this order.**
- 2. The applicant shall furnish the Court with copies of the orders of Her Honour Magistrate Zoila Ellis-Browne dated 6th July 2020, 31st March 2021 and 15th February 2021 within 14 days of this order.**

The application for an extension of time for leave to appeal against the orders of Her Honour Magistrate Zoila Ellis-Browne dated 6th July 2020, 31st March 2021 and 15th February 2021 is adjourned for further consideration at the next Chamber sitting scheduled for 26th October 2021.

Reason:

The Court noted that the orders of Her Honour Magistrate Zoila Ellis-Browne were not attached to the application for extension of time nor was there

evidence of service of the application on the respondent.

Case Name: **Joseph Bailey**
and
The Queen
[SVGHCRA2020/0010]
Saint Vincent and the Grenadines

Date: **Tuesday 28th September 2021**

On paper:
Applicant: **In person**
Respondent: **Director of Public Prosecutions**

Issues: **Application for bail pending appeal**

Result /
Order: **IT IS HEREBY ORDERED THAT:**
The application for bail pending appeal is refused.

Reason: **The Court was satisfied that the applicant had not met requirements for the grant of bail pending the determination of the appeal as stated in The State v Lynette Scantlebury (1976) 27 WIR 103**

Case Name: **Julius Gloster**
and
The Queen
[SVGHCRA2021/0003]
Saint Vincent and the Grenadines

Date: **Tuesday 28th September 2021**

On paper:

Applicant:

In person

Respondent:

Director of Public Prosecutions

Issues:

Application for leave to appeal against conviction and sentence

**Result /
Order:**

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal against sentence is granted.**
- 2. The notice of application filed on the 9th March 2021 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 14 days of the date of this order.**

Reason:

The Court noted that all the requirements were met for leave to appeal to be granted.

Case Name:

Kawanie Williams

and

The Queen

[SVGHCRA2021/0005]

Saint Vincent and the Grenadines

Date: **Tuesday 28th September 2021**

On paper:

Applicant: **In person**

Respondent: **Director of Public Prosecutions**

Issues: **Application for extension of time to file application for leave to appeal**

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

- 1. The application for an extension of time within which to appeal is granted.**
- 2. The applicant shall file and serve the notice of appeal within 21 days of the date of this order.**
- 3. The Registrar of the High Court shall serve a copy of this order and the Criminal Form 1 Notice of Appeal or Notice of Appeal for leave to Appeal against Conviction or Sentence on the applicant within 7 days of the date of this order and provide proof of service within 14 days of the date of this order.**
- 4. The Registrar of the High Court shall serve a copy of this order on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.**

Reason: **The court was satisfied that the applicant met the threshold for the grant of an extension of time within which to appeal.**

Case Name: **Kirth Stapleton**
and

The Queen

**[SVGHCRA2021/0006]
Saint Vincent and the Grenadines**

Date: Tuesday 28th September 2021

On paper:

Applicant: In person

Respondent: Director of Public Prosecutions

Issues: Application for 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 is granted.
2. The applicant shall file and serve the notice of appeal within 21 days of the date of this order.
3. The Registrar of the High Court shall serve a copy of this order and the Criminal Form 1 Notice of Appeal or Notice of Appeal for leave to Appeal against Conviction or Sentence on the applicant within 7 days of the date of this order and provide proof of service within 14 days of the date of this order.
4. The Registrar of the High Court shall serve a copy of this order on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.

Reason: The Court was satisfied that the applicant met the threshold for the grant of an extension of time within which to appeal.

Case Name:

Kyron Bowers

and

**The Queen
[SVGHCRA2021/0001]
Saint Vincent and the Grenadines**

Date:

Tuesday 28th September 2021

On paper:

Applicant:

In person

Respondent:

Director of Public Prosecutions

Issues:

Application for leave to appeal against conviction and sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal against sentence and conviction is granted.**
- 2. The notice of application filed on 11th January 2021 for leave to appeal against conviction and sentence 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 on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.**

Reason:

The Court noted that all the requirements were met for leave to appeal to be granted.

Case Name:

**[1] Marlon Chance
[2] Atibon Campbell**

and

**The Queen
[SVGHCRA2021/0002]
Saint Vincent and the Grenadines**

Date:

Tuesday 28th September 2021

On paper:

Applicant: Mr. Jomo Thomas for the Applicants

Respondent: Director of Public Prosecutions

Issues:

Application for leave to appeal against conviction and sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicants shall cause a copy of the notice of appeal filed on 17th February 2021 to be served on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.**
- 2. The application for leave to appeal against conviction and sentence is adjourned for further consideration to the next Chamber Sitting of the Court scheduled for 26th October 2021.**
- 3. The Registrar of the High Court shall serve a copy of this order on the applicants 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 there was no evidence of service of the notice of the appeal on the Director of Public Prosecutions.

Case Name: Ron Cambridge
and
The Queen
[SVGHCRA2020/0015]
Saint Vincent and the Grenadines

Date: Tuesday 28th September 2021

On paper:

Applicant: In person

Respondent: Director of Public Prosecutions

Issues: Application for leave to appeal against conviction and sentence

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 filed on 30th November 2020 for leave to appeal against conviction and sentence 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 14 days of the date of this order.

Reason: The Court noted that all the requirements were met for leave to appeal to be granted.

Case Name: Simon Hoyte

and

The Queen

[SVGHCRA2016/0008]
Saint Vincent and the Grenadines

Date: Tuesday 28th September 2021

On paper:

Applicant: In person

Respondent: Director of Public Prosecutions

Issues: Application for legal aid- Application for leave to appeal against conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted leave to appeal against his conviction and sentence.
2. The notice of application filed by the applicant on 7th June 2016 for leave to appeal against conviction and sentence is deemed to be the notice of appeal.
3. 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 appellant in the conduct of hearing of the appeal.

4. The Registrar of the High Court shall furnish counsel selected from the roster, with the Record of Appeal.
5. The Registrar of the High Court shall provide a copy of the transcript of proceedings to the applicant free of charge.
6. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions and shall provide proof of service within 14 days of the date of this order.

Reason:

The court noted that the applicant had met the requirements to be granted leave to appeal against conviction and sentence and that upon the applicant's impecuniosity it was within the interest of justice that the applicant be granted legal aid.

Case Name:

Walcott Haywood

and

The Queen

[SVGHCRA2021/0008]

Saint Vincent and the Grenadines

Date:

Tuesday 28th September 2021

On paper:

Applicant:

In person

Respondent:

Director of Public Prosecutions

Issues:

Application for leave to appeal against conviction and sentence

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 filed on 8th July 2021 for leave to appeal against conviction and sentence 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 14 days of the date of this order.**

Reason:

The Court noted that the requirements were met for leave to appeal to be granted.

Case Name:

Andy Quashie

and

The Queen

[SVGHCRA2019/0011]

Saint Vincent and the Grenadines

Date:

Tuesday 28th September 2021

On paper:

Applicant:

In person

Respondent:

Director of Public Prosecutions

Issues:

Application for legal aid

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The Registrar of the High Court shall cause a copy of the application seeking legal aid in the form of**

a letter to be served on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.

2. The application for the Court to assign legal aid to the applicant is adjourned for further consideration to the next Chamber Sitting scheduled for 26th October 2021.

Reason:

The Court noted that there was no evidence of service of the application for legal aid on the respondent.

Case Name:

Denzil Sam

and

The Queen

[SVGHCRA2019/0012]

Saint Vincent and the Grenadines

Date:

Tuesday 28th September 2021

On paper:

Applicant:

In person

Respondent:

Director of Public Prosecutions

Issues:

Application for legal aid

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall furnish the Court with a copy of the notice of appeal of the applicant.

2. The Registrar of the High Court shall cause a copy of the application in the form of a letter for the Court to assign legal aid to be served on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.
3. The application for the Court to assign legal aid to the applicant is adjourned for further consideration to the next Chamber Sitting of the Court scheduled for 26th October 2021.
4. 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 14 days of the date of this order.

Reason:

The Court noted that the applicant's notice of appeal was not attached to the application and that there was no evidence of service of the application for legal aid on the respondent.

Case Name:

[1] Treehouse Investments Limited
[2] GAC Holdings Limited

v

[1] Carl Stuart Jackson
[2] Andrew Hosking
[3] Simon Bonney
[4] Greig Mitchell

(In Their Capacity As Joint Liquidators Of Glen Moar Properties (In Liquidation), Unicorn Worldwide Holdings Limited (In Liquidation), Ballaugh Holdings Limited (In Liquidation), Sulby Investment Holdings Limited (In

**Liquidation) And Glen Moar Properties Limited
(In Liquidation)**

**[BVIHCMAP2021/0020]
(Territory of the Virgin Islands)**

Date: Tuesday, 28th September 2021

Appearances:

Appellants: Harney Westwood & Riegels LP

Respondents: Appleby (BVI) Limited

Issues: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. Leave is granted to the applicant to appeal the order of Jack J dated 20th July 2021.
2. The applicant shall file the notice of appeal within 21 days of this order.

Reason: The Court was satisfied that the applicant has met the threshold for the grant of leave to appeal the order dated 6th July 2021 in that the intended appeal has a realistic prospect of success.

Case Name: Renova Industries Limited & Ors

**Claimant
and**

Emmerson International Corporation & Ors

Defendants

And by way of Counterclaim:

Emmerson International Corporation & Ors

**Claimants by way of Counterclaim
and**

Renova Industries Ltd & Ors

Defendants by way of Counterclaim

And by way of Ancillary Claim:

Mikhail Abyzov & Ors

Claimants by way of Ancillary Claim

and

Renova Industries Ltd & Ors

Defendants by way of Ancillary Claim

And by way of third Ancillary Claim:

Emmerson International Corporation

Claimant by way of third Ancillary Claim

and

Viktor Vekselberg & Ors

Defendants by way of Third Ancillary Claim

**[BVIHCMAP2020/0003]
(Territory of the Virgin Islands)**

Date: Tuesday, 28th September 2021

Appearances:
Applicants/Appellants: Lennox Paton

Issues: Application to be removed as solicitor

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant shall serve a copy of the application together with the supporting documents and a copy of this Order on Mr. Andrew Titarenko within 14 days of the date of the Order and provide proof of service to the Court within 21 days of the date of this Order.
2. The application to be removed from the record as legal practitioner for the appellants is adjourned for further consideration at the next Chamber Sitting of the Court scheduled for 26th October 2021.

Reason: The Court noted that there is no evidence of service of the affidavit in support of the application on Mr. Andrew Titarenko in accordance with rules 63.6(3) of the Civil Procedure Rules 2000.

Case Name: Lunan Pharmaceutical Group Corporation

Applicant/Defendant

V

[1] Zhao Long
[2] Kunlun Newcentury Investment Holdings Co.

Respondents/Claimants

[3] Endushantum Investments Co. Ltd
[4] Jade Value Investments Holding Co. Ltd
[5] Zhongzhi Investment Holding Co. Ltd
[6] Sharon Wei

Respondents/Defendants

[BVIHCMAP2021/0022]
(Territory of The Virgin Islands)

Date: **Tuesday, 28th September 2021**

Appearances:

Applicant/Defendant: **Appleby**

Respondent: **Walkers for the first and second respondents**
Harneys, Westwood & Riegels for the 3rd to 6th respondents

Issues: **Application for declaration that leave to appeal is not required – Application for extension of time – Whether leave to appeal is required in the circumstances**

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

The application shall be set down for hearing before the Full Court at the next sitting of the Court of Appeal in the Territory of the Virgin Islands in the week commencing 4th October 2021.

Reason: **The Court was of the view that the issues raised in the application merited consideration by the Full Court.**

