

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL

CHAMBER HEARING

15th December 2020

MATTERS DEALT WITH ON PAPER

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

Case Name: Oscar Vargas
v
[1] Barbara Vargas (Nee Pierre)
[2] CIBC First Caribbean International
Bank (Barbados) Limited
[3] Caribbean Union Bank

[ANUHCVP2020/0034]
(Antigua and Barbuda)

Date: Tuesday, 15th December 2020

On paper:

Applicant: Mr. Hugh Marshall Jnr

Respondents: Ms. Mandi Thomas for the second respondent

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

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for an extension of time to file notice of appeal, together with the affidavit in support of the application, shall be served on the first respondent personally and the applicant shall

provide proof of service of same within 21 days of the date of this Order.

2. The application for an extension of time is adjourned for consideration at the next chamber sitting of this Court scheduled for 19th January 2021.

Reason:

The Court noted that while there was affidavit evidence that the first respondent was served by post, there was no evidence before the Court that the first respondent filed an address for service. In such a case where a party to be served does not file an address for service, Section 10(1) (a) (i) of the Eastern Caribbean Supreme Court, Court of Appeal Rules requires personal service on that party.

Case Name:

Redi-Mix Concrete Limited

v

Anora St. Louis

[DOMMCVAP2015/0002]

(The Commonwealth of Dominica)

Date:

Tuesday, 15th December 2020

On paper:

Applicant: Ms. Singoalla Blomqvist- Williams

Respondent: Mr. Jeffrey L. Douglas-Murdock

Issues:

Application for a stay of execution

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for a stay is dismissed.
2. The appellant is at liberty to comply with the requirements of section 142 of the Magistrate's Code of Procedure Act, so as to trigger a stay.

Reason: The Court was mindful of Section 142 of the Magistrate's Code of Procedure Act, Chap 4:20 of the Laws of the Commonwealth of Dominica which provides that:

“Upon notice of appeal being given and such recognizances being taken or money being received in lieu thereof as provided for in section 145 the enforcement of the judgment appealed against shall be suspended until the appeal has been determined by the Court of Appeal.”

The Court considered that a stay would be automatically triggered if the appellant filed the recognizances which it is required to file by virtue of Section 142 of the Act. In the circumstances, the Court was of the view that the application for a stay is unnecessary and that the appellant should comply with section 142 of the Act.

Case Name: Shenel Fortune
v
The Queen
[GDAHCRAP2020/0017]
(Grenada)

Date: Tuesday, 15th December 2020

On paper:
Applicant: In person

Issue: 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 application for leave to appeal is deemed to be the applicant's notice of appeal.

3. The Registrar of the High Court shall prepare a transcript of the High Court proceedings and give the parties notice of the availability of transcript on or before 15th March 2021.
4. The matter shall thereafter proceed in accordance with CPR 62.

Reason:

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

Case Name:

Joshua Wilson

v

The Queen

**[GDAHCRAP2020/0016]
(Grenada)**

Date:

Tuesday, 15th December 2020

Appearances:

Applicant: In person

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 application for leave to appeal is deemed to be the applicant's notice of appeal.
3. The Registrar of the High Court shall prepare a transcript of the High Court proceedings and give the parties notice of the availability of transcript on or before 15th March 2021.

4. The matter shall thereafter proceed in accordance with CPR 62.

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

Case Name: The Director of Public Prosecution
v
Nathan Douglas
[GDAHCRAP2020/0018]
(Grenada)

Date: Tuesday, 15th December 2020

Appearances:
Applicant: In person
Respondent: Mr. Jerry Edwin

Issues: Application for leave to appeal against sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The respondent shall be served personally with the application for leave to appeal against his sentence and the office of the Director of Public Prosecutions shall provide proof of service of the application on the respondent within 21 days of the date of this order.
2. The application for leave to appeal is adjourned for further consideration at the next Chamber Sitting of the Court scheduled for 19th January 2021.

Reason: The Court noted that there was no affidavit of service on the respondent personally of the application for leave to appeal against sentence.

Case Name: **Kenneth Kryz & Greig Mitchell**
(Joint Liquidators)
v
[1]Steven Fagen
[2]Karen Allen
[3]Carole Lidbetter
[4]Juan Angel Jara Lopez
[5]Financial Services Commissioner
[MNIHCVAP2020/0020]
(Montserrat)

Date: **Tuesday, 15th December 2020**

Appearances:
Applicants: **Ms. Lovetta Silcott**
Respondents: **First, second and third respondents in person**
Ms. Renee Morgan for the fifth respondent

Issues: **Application for order to remove parties in appeal**

Result /
Order: **IT IS HEREBY ORDERED:**
1. The application to remove Steven Fagen, Karen Allen, Carole Lidbetter and Juan Angel Jara Lopez as parties to this appeal is granted.
2. The Financial Services Commissioner shall hereafter be the only respondent in the appeal.

Reason: **The Court noted that the parties whose removal were sought were the first to fourth respondents and was of the view that the appeal only concerned the applicant and the fifth-named respondent.**

Case Name: Kenneth Kryss & Greig Mitchell
(Joint Liquidators)
v
[1] Steven Fagen
[2] Karen Allen
[3] Carole Lidbetter
[4] Juan Angel Jara Lopez
[5] Financial Services
Commissioner

**[MNIHCVAP2020/0020]
(Montserrat)**

Date: Tuesday, 15th December 2020

Appearances:

Applicants: Ms. Lovetta Silcott

Respondents: First, second and third respondents in person
Ms. Renee Morgan for the fifth respondent

Issues: Application for stay of execution of order pending appeal

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

The application for a stay of execution is refused.

Reason: The Court was of the view that the applicants failed to satisfy the threshold for a grant of a stay of execution.

Case Name: Theodora James
v
Francis Montoute
**[SLUHCVP2020/0024]
(Saint Lucia)**

Date: Tuesday, 15th December 2020

Appearances:

Applicant: Ms. Mertle John

Respondent: Mr. Anwar Brice

Issues: Application for stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for a stay of execution of the order of Cenac-Phulgence J dated 25th August 2020 pending the determination of the appeal is adjourned for further consideration to 22nd December 2020.

Case Name: Allie Franklyn Providence
v
Commissioner of Police

[SVGMCRAP2018/0038]
(Saint Vincent and the Grenadines)

Date: Tuesday, 15th December 2020

Appearances:

Applicant: Kay Bacchus Baptiste

Respondent: In person

Issues: Application to amend grounds of appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application is granted.

Reason: The Court was satisfied that the application to amend the grounds of appeal was made within the time directed by the Court and that the amended grounds were served on the respondent.

Case Name:

Edward Hazelwood

v

The Queen

**[SVGHCRA2018/0017]
(Saint Vincent and the Grenadines)**

Date:

Tuesday, 15th December 2020

Appearances:

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 application for leave to appeal is deemed to be the applicant's notice of appeal.**
- 3. The Registrar of the High Court shall prepare a transcript of the High Court proceedings and give the parties notice of the availability of transcript on or before 15th March 2021.**
- 4. The matter shall thereafter proceed in accordance with CPR 62.**

Reason:

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