

CHAMBER HEARING

6th November 2018

MATTERS DEALT WITH ON PAPER

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

Case Name: Jenny Lindsay
v

[1] Webster Dyrud Mitchell (A Partnership)

[2] John Dyrud

[3] Palmavon Webster

[AXAHCVAP2017/0002]
(Anguilla)

Date: Thursday, 8th November 2018

On paper:

**Applicants/
Respondents:** Ms. Rayana Dowden (Webster LP)

**Respondent/
Appellant:** Ms. Jenny Lindsay

Issue: Application for extension of time to file and serve respondents' skeleton arguments

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for an extension of time to file and serve the respondents' skeleton arguments/written submissions in opposition is granted.**
- 2. The time for filing the respondents' skeleton arguments/ written submissions filed by the respondents on 31st August 2018 are deemed to have been properly filed.**

Reason: The Court was satisfied that the applicants/respondents had met the requirements for the grant of an extension of time to file their skeleton arguments. The Court noted that the appeal is not listed to be heard until January 2019. The Court noted that there is no requirement for the applicants/respondents to obtain relief from sanctions.

Case Name: Antigua Commercial Bank
v
Mary Prophet
[ANULTAP2018/0006]
(Antigua and Barbuda)

Date: Tuesday, 6th November 2018

On paper:
Applicant: Ms. Safiya Roberts (Roberts & Co.)
Respondent: Mr. Simon Rogers Murdoch (Chancellor Chambers)

Issue: Application for stay of execution pending determination of appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application for a stay of execution of the order of the Industrial Court dated 9th May 2018 is granted pending the determination of the appeal.

Reasons: The Court was satisfied that that the applicant had met the requirements for the grant of a stay of execution of the order of the Industrial Court.

[1] Rose Marie Kelly

[2] Trevor D. Jones

Case Name:

v

[1] Anne Spivey

(as Representative of the Estate of Merle Henry)

[2] Anne Spivey

**(as Personal Representative of the Estate of
Audrey Nicholls)**

[ANUHCVP2016/0021]

(Antigua and Barbuda)

Date:

Tuesday, 6th November 2018

On paper:

Applicant:

Ms. Leslie-Ann Brissett

Issues:

**Application to be removed from the record as legal
practitioner**

Result / Order :

IT IS HEREBY ORDERED THAT:

**The applicant having failed to comply with the
requirements of rule 63.6(2) and (3) of the Civil Procedure
Rules 2000 and with the orders of the Court dated 31st July
2018 and 25th September 2018, the application to be
removed from the record as legal practitioner for the
appellants is denied.**

Reason:

**The Court noted that the applicant has not complied with
the orders of Thom JA dated 31st July 2018 and Michel JA
dated 25th September 2018 directing that she complies
with rule 63.6(2) and (3) of the Civil Procedure Rules 2000.**

Case Name:

Paul Chet Green

v
[1] Omari Samuel
[2] Ansely Charles

[ANUHCVP2018/0019]
(Antigua and Barbuda)

Date: Tuesday, 6th November 2018

On paper:

Applicant : Mr. Hugh C. Marshall Jnr (Marshall & Co.)

Issue: Application for extension of time to file application for leave to appeal – Application to deem application for leave to appeal properly filed – Application for relief from sanctions

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for extension of time to file the application for leave to appeal is granted.**
- 2. Time for filing the application for leave to appeal is extended to 7th June 2018.**
- 3. The application filed on 7th June 2018 is deemed to have been properly filed.**
- 4. The application for leave to appeal the decision of Master Jan Drysdale dated 11th May 2018 is granted.**
- 5. The notice of appeal shall be filed and served within 21 days of the date of this order and the appeal shall thereafter proceed in accordance with rule 62.10 of the Civil Procedure Rules 2000.**

Reason:

The Court noted the affidavit of service of the application dated 24th September 2018 and that there was no response to the application. The Court was satisfied that the applicant had met the requirements for the grant of an extension of time to file the application for leave to appeal. The Court was also satisfied that the applicant had met the threshold for the grant of leave to appeal.

Case Name: **Eliza Elfreida Paul (as Administrator of the
Estate of Helen Isabella Paul)
v
Raynard Paul**

**[ANUHCVP2018/0018]
(Antigua and Barbuda)**

Date: **Tuesday, 6th November 2018**

On paper:
Applicant: **Mr. Charlesworth C. M. Tabor**

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

Result / Order: **IT IS HEREBY ORDERED THAT:
The applicant shall either apply to the Court for
permission to serve the application for an extension of
time and affidavit in support on the respondent outside
the jurisdiction or provide an affidavit in compliance with
rule 5.13 of the Civil Procedure Rules 2000, within 14 days
of the date of this order.**

Reason: **The Court noted the affidavit of service filed by the
applicant indicating that the application for extension of
time was served on the respondent at an address outside
the jurisdiction. The Court also noted that permission of
the Court is required to effect service of documents
outside of the jurisdiction and that there was no order of
the Court permitting service of documents outside the
jurisdiction or any evidence of compliance with rule 5.13.**

Case Name: **Ericsson AB Antigua Limited
v
Ayesha Charles**

**[ANULTAP2018/0007]
(Antigua and Barbuda)**

Date: Tuesday, 6th November 2018

On paper:

Applicant: Mr. Rushaine R. Cunningham (Dentons Delany)

Respondent: Mr. Michael G. Archibald (Phillips, Phillips & Archibald)

Issue: Application for extension of time within which to file notice of appeal – Application to deem notice of appeal properly filed – Application for stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted an extension of time within which to file the notice of appeal.
2. The notice of appeal filed on 29th June 2018 and the record of appeal filed on 1st October 2018 are deemed properly filed.
3. The application for a stay of execution of the order of the Industrial Court dated 26th March 2018 is refused.

Reason: The Court was satisfied that the applicant had met the requirements for the grant of an extension of time within which to appeal. Additionally, the Court was satisfied that the notice of appeal filed by the applicant on 29th June 2018 and the record appeal filed on 1st October 2018 met the requirements of rules 62.4 (1) and (2) of the Civil Procedure Rules 2000.

However, the Court was not satisfied that the applicant had met the requirements for the grant of a stay of execution of the order of the Industrial Court.

Case Name:

**AI Motors Ltd
v
[1] SM Rentals
[2] John Matthew**

**[DOMMCVAP2018/0007]
(Commonwealth of Dominica)**

Date: Tuesday, 6th November 2018

On paper:

Applicant: Ms. Cara Shillingford

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 is granted.
2. The notice of appeal filed on 4th June 2018 is deemed properly filed.
3. The applicant shall serve the respondent with the notice of appeal within 14 days of the date of this order.
4. The applicant shall provide this Court with a copy of the decisions or transcripts of the proceedings containing the decisions of the Magistrates' Court which are being appealed within 7 days of the date of this order.
5. The applicant shall serve the respondents with a copy of the decisions or transcripts of the proceedings containing the decisions of the Magistrates' Court which are being appealed within 14 days of the date of this order.

Reason: The Court took the view that the applicant had met the requirements for the grant of an extension of time to file the notice of appeal.

Case Name: Veronica Dathorne Bicknell
v
Ferron Lowe

[GDAHCVAP2018/0010]
(Grenada)

Date: Tuesday, 6th November 2018

On paper:

Applicant: Ms. Gennilyn Etienne (Excelsior Legal Inc.)

Respondent: Mr. Ruggles Ferguson (Cibony Chambers)

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

Result / Order: IT IS HEREBY ORDERED THAT:
1. The application for extension of time to apply for leave to appeal is refused.
2. The time to apply for leave to appeal having expired, and no extension of time to apply for leave having been granted, the application for leave to appeal is struck out.

Reasons: The Court was not satisfied that the applicant had met the requirements for the grant of an extension of time to apply for leave to appeal

Case Name: Andy John
v
The Commissioner of Police
GDAMCRAP2016/0013
(Grenada)

Date: Tuesday, 6th November 2018

On paper:

Applicant: In person

Issue: Application for extension of time to appeal against conviction

Result / Order: IT IS HEREBY ORDERED THAT:
1. If the application and skeleton arguments have not already been served on the respondent, the applicant shall serve a copy of the notice of application and

skeleton arguments on the respondent within 14 days of the date of this order.

2. The appellant shall provide proof of service on the respondent of the notice of application filed on 20th June 2018 and the skeleton arguments filed on 21st June 2018 within 21 days of the date of this order.
3. The application is adjourned to the chamber sitting of this Court scheduled for 18th December 2018.

Reason:

The Court noted that there was no evidence of service of the notice of application and the skeleton arguments of the appellant on the Director of Public Prosecutions.

Case Name:

Hayden Phillip

v

The Queen

**[GDAHCRAP2018/0014]
(Grenada)**

Date:

Tuesday, 6th November 2018

On paper:

Applicant:

In person

Issue:

Application for leave to appeal against sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

1. An extension of time is granted to the applicant to seek leave to appeal sentence.
2. Leave is granted to the applicant to appeal against his two-year prison sentence.
3. The applicant shall file and serve his notice of appeal within 28 days of the date of this order.

Case Name:

Priscilla Williams

v

Wendell Lee

**[MNILTAP2015/0001]
(Monsterrat)**

Date: Thursday, 8th November 2018

On paper:

**Applicant/
Respondent:** Mr. Hogarth Sergeant

**Respondent/
Appellant:** Mr. Sylvester Carrott

Issues: Application for extension of time to file respondent's skeleton arguments – Application for relief from sanctions

Result / Order: IT IS HEREBY ORDERED THAT:
1. The respondent is granted an extension of time to file and serve skeleton arguments within 21 days of the date of this order.
2. The appeal shall thereafter proceed in accordance with the Civil Procedure Rules 2000.

Reason: The Court noted that there is no requirement for relief from sanctions in seeking an extension of time to file skeleton arguments. The Court was satisfied that the applicant/respondent had met the requirements for the grant of an extension of time to file his skeleton arguments.

Case Name: Veronica Dorsette-Hector
v
1. The Governor of Monsterrat
2. The Attorney General

**MNIHCVAP2016/0015
(Monsterrat)**

Date: Tuesday, 6th November 2018

On paper:

Applicants/Respondents: Ms. Sheree Jemmotte-Rodney

Respondent/Appellant: Dr. David Dorsett

Issue: Application to strike out appellant's notice of appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application filed on 24th July 2018 to strike out the notice of appeal filed on 9th November 2016 is granted.

Reason: The Court noted that the appellant has not complied with rule 62.7 of the Civil Procedure Rules 2000 for service of the notice of appeal. The Court noted further that the appellant has taken no steps to progress the appeal since the filing of the notice of appeal on 9th November 2016.

Case Name: Registrar of Companies
v
1. Montobacco Limited
2. Emerald Metal Co Limited
3. 888 International Limited
4. Steven Fagen
5. Fotis Andrianakos
6. Marie Carole Lidbetter
7. Karen Allen
8. Edmond Elbaz
9. Reuben Meade

[MNIHCVAP2018/0006]
(Monsterrat)

Date: Tuesday, 6th November 2018

On paper:

Applicant: Ms. Renee A.R.D Morgan

Issue: Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal the decisions of Morley J dated 25th and 26th June 2018 is granted.
2. The applicant shall file a notice of appeal within 21 days of the date of this order.

Reason:

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

Case Name:

Gordon Pemberton

v

Ryllis Vasquez

**[SKBMCVAP2018/0014]
(Saint Kitts and Nevis)**

Date: Wednesday, 7th November 2018

On paper:

Applicant: Ms. Heidi W Badenock (Hobson-Newman & Amritt)

Respondent: Ms. Renal Edwards (Law Offices of Sylvester Anthony)

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

Result / Order:

IT IS HEREBY ORDERED THAT:

The application for extension of time to file a notice of appeal is refused.

Reason: The Court was not satisfied that the applicant had met the requirements for the grant of an extension of time.

Case Name:

**1. Vistas Infinitas International, LLC
2. Keyapaha International Ltd
3. Dan Bilzerian
v
Janine-Harris Lake as Registrar of the High
Court**

**[SKBHCVAP2018/0011]
(Saint Kitts and Nevis)**

Date: Thursday, 8th November 2018

On paper:

Applicants: Mr. Paul Bilzerian

Respondent: Ms. Simone Bullen Thompson, Solicitor General

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 to apply for leave to appeal is granted.**
- 2. The application for leave to appeal is set down for hearing by the Full Court at the next sitting of the Court of Appeal in St. Kitts and Nevis during the week commencing 28th January 2019.**

Reason: The Court was satisfied that the applicants had met the threshold requirements for the grant of extension of time to apply for leave to appeal. In relation to the leave to appeal application, the Court had regard to rule 62.2(5) of the Civil Procedure Rules 2000.

Case Name: William DeGrasse

v
Rory Flett

[SKBMCVAP2018/0015]
(Saint Christopher and Nevis)

Date: Thursday, 8th November 2018

On paper:

Applicant: Mr. John Cato

Issue: Application for permission to appeal out of time

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall furnish this Court with a copy of the judgment or decision of Magistrate Renold Benjamin dated 25th April 2018 within 14 days of the date of this order.**
- 2. The application for permission to appeal out of time is adjourned for further consideration to the next Chamber sitting of this Court scheduled for 20th November 2018.**

Reason:

The Court noted that the applicant had not complied with the order of Michel JA dated 5th October 2018 which directed that he furnishes the Court with a copy of the judgment or decision of Magistrate Renold Benjamin dated 25th April 2018.

Case Name:

[1] Sharon Theodule
[2] Sylvester Theodule
[3] Alfred Alcide
[4] Huggins Neal Nicholas

v

[1] Doris Adella John
[2] Eustace Eugene
[3] Angus Eugene
[4] Justin William

[5] Claudia William

**[SLUHCVP2018/0026]
(Saint Lucia)**

Date: Tuesday, 6th November 2018

On paper:

Applicants: Mrs. Wauneen Louis-Harris

Respondents: Mrs. Maureen John-Xavier

Issue: Application for leave to appeal – Application for stay of execution – Application for relief from sanctions

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal is set down for hearing by the Full Court at the next sitting of the Court of Appeal in St. Lucia during the week commencing 12th November 2018.
2. The application for a stay of execution of the order of Smith J dated 3rd July pending the determination of the appeal is refused.

Reason:

The Court was satisfied that the applicants had not met the requirements for the grant of a stay of execution of the order(s) of Smith J dated 3rd July 2018 pending the determination of the appeal and for relief from sanctions. The Court had regard to CPR 62.2(5) and acted accordingly.

Case Name:

Alister Smith

v

The Commissioner of Police

**[SVGMCRAP2016/0036]
(Saint Vincent and the Grenadines)**

Date: Thursday, 8th November 2018

On paper:

Applicant: In person

Issues: Application for bail pending appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application for bail pending appeal is set down for hearing at the next sitting of the Full Court in St. Vincent and the Grenadines during the week commencing 10th December 2018.

Reason: The Court noted the order of Michel JA dated 19th April 2017 denying a previous application for bail pending appeal. The Court further noted that the applicant in his application by way of letter for bail pending appeal dated 22nd March 2018 may be seeking a review of the order of Michel JA dated 19th April 2017 denying bail. Therefore, the matter was set down for hearing before the Full Court.

Case Name: Terrance Joseph
v
The Queen

[SVGHCRAP2018/0005]
(Saint Vincent and the Grenadines)

Date: Thursday, 8th November 2018

On paper:

Applicant: In person

Issue: Leave to appeal against conviction and sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted a further 14 days to file his proposed grounds of appeal.
2. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions and shall furnish this Court with proof of service on or before 15th November 2018.
3. Consideration of the application is adjourned to the chamber sitting of this Court scheduled for 18th December 2018.

Reason:

The Court noted that the applicant has not complied with the orders of Thom JA dated 31st July 2018 and Michel JA dated 5th October 2018 which directed that the applicant file his grounds of appeal.

Case Name:

Therdio McKie

v

The Queen

[SVGHCRA2018/0007]

(Saint Vincent and the Grenadines)

Date:

Thursday, 8th November 2018

On paper:

Applicant:

In person

Issues:

Leave to appeal against sentence – Application for bail pending appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for bail pending appeal is refused.
2. The application for leave to appeal against sentence is granted.
3. The applicant shall file and serve his notice and grounds of appeal within 14 days of the date of this order.

Reason: The Court took the view that the applicant had met the requirements for the grant of leave to appeal but had not met the requirements for the grant of bail pending the determination of his appeal.

Case Name: Selvin Chinnery
v
The Commissioner of Police
[BVIMCRAP2018/0002]
(Territory of the Virgin Islands)

Date: Tuesday, 6th November 2018

On paper:
Applicant: Mr. Patrick Thompson (PST LAW)

Issue: Application for leave to file notice of appeal out of time –
Application for notice of appeal to be deemed properly
filed

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court is again directed to provide the Court with a copy of the minute of conviction and sentence of the applicant or to provide reasons as to why the minute of conviction and sentence cannot be furnished within 21 days of the date of this order.
2. The applicant shall serve the notice of application for leave to file a notice of appeal out of time and for the notice of appeal filed on 6th June 2018 to be deemed properly filed on the Director of Public Prosecutions and provide proof of service within 14 days of the date of this order.
3. Consideration of the application is adjourned to the chamber hearing of this Court scheduled for 19th December 2018.

Reason:

The Court noted the orders of Thom JA dated 31st July 2018 and Michel JA dated 5th October 2018 directing the Registrar of the High Court to provide the Court with a copy of the minute of conviction and sentence of the applicant within 14 days and ordering that the applicant serve a copy of the application on the Director of Public Prosecutions. The Court noted that the minute of conviction has not been filed and that there is no proof of service of the application on the Director of Public Prosecutions.