

CHAMBER HEARING

March 2018

MATTERS DEALT WITH ON PAPER

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

Case Name: [1] Clayton Joseph
[2] Lorna Joseph
v
National Bank of Anguilla (Private Banking and Trust Limited)
(In Administration)

[AXAHCVAP2018/0004]
(Anguilla)

Date: Tuesday, 27th March 2018

On paper:

Applicants: Ms. Jacinth Jeffers (Caribbean Juris Chambers)

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

Result / Order: IT IS HEREBY ORDERED THAT:

1. Leave is granted to the applicant to rely on written submissions and authorities filed in the Court below on 10th January 2018 and 22nd January 2018.
2. Leave is granted to the applicant to file and serve a notice of appeal against the decision of Master Ermin Moise delivered on 26th February 2018 and reduced into a written decision dated 20th March 2018.
3. The applicant shall file the notice of appeal within 21 days of the date of this order.
4. The application for a stay of proceedings is refused as the applicant has not met the required threshold

for the grant of a stay.

Reason: The Court was satisfied that the applicant had met the requisite threshold for the grant of leave to appeal. The Court was not satisfied that the applicant had met the requisite threshold the grant of a stay.

Case Name: [1] Paragon Holding Limited
[2] John Erato
v
[1] Turtle's Nest (Condominium) Co. Ltd.
[2] Bradford Huffman
[3] Wesley Fuhrman

[AXAHCVAP2018/0001]
(Anguilla)

Date: Tuesday, 27th March 2018

On paper:

Applicant:	Ms. Tara Carter (Carter & Associates)
Respondents:	Ms. Paulette Harrigan

Issues: Application for stay of execution – Application to strike out notice of appeal – Application for leave to rely on skeleton arguments

Result / Order:

IT IS HEREBY ORDERED THAT:

1. Leave is granted to the respondents/applicants to rely on the affidavit of Wesley Fuhrman filed on 12th February 2018 and skeleton arguments filed on 12th February 2018.
2. The application for a stay of execution of the order of Mathurin J is granted pending determination of the appeal or until further order of the Court.
3. The application to strike out the notice of appeal and notice of application filed on 26th February 2018 is dismissed.
4. Costs in the sum of EC\$750.00 to be paid to the respondent/applicant within 14 days of this order in respect of the strike out application.
5. The application to determine an issue and/or extend time is dismissed.
6. Costs in the sum of EC\$750.00 to be paid to the respondent/applicant within 14 days of this order in respect of the extension of time application.
7. The appeal shall proceed in accordance with CPR 2000.

Reason:

The Court noted that the order of Thom JA made on 20th February 2018 determined the issue raised in the notice of application filed by the appellants/applicants on 8th March 2018 and resolved that having regard to section 29(4)(b) of the Eastern Caribbean Supreme Court (Anguilla) Act, leave is not required to appeal an order granting an injunction

The Court formed was satisfied that the applicant has met the threshold for the grant of a stay of execution.

Case Name:

Joseph Peters

v

The Queen

[ANUHCRA2018/0001]

(Antigua and Barbuda)

Date: Tuesday, 27th March 2018

On paper:

Applicant: 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 is directed to comply with paragraph 1 of the order of Thom JA made on 20th February 2018 within 14 days of the date of this order.
2. The Registrar of the High Court shall serve a copy of this order together with a copy of the Minute of Conviction and Sentence on the Director of Public Prosecutions within 14 days of the date of this order.
3. The Registrar of the High Court shall furnish proof of service of the application and the Minute of Conviction and Sentence on the Director of Public Prosecutions within 14 days of the date of this order.
4. The application is adjourned for further consideration at the next Chamber hearing scheduled for 24th April 2018.

Reason: The Court noted that there has been a failure to comply with the order of Thom JA made on 20th February 2018.

Case Name:

The Supervisory Authority
v
[1] Cresswell Overseas S.A.
[2] Meini Bank (Antigua) Ltd.
(In Receivership)

[ANUHCVP2017/0003]

(Antigua and Barbuda)

Date: Tuesday, 27th March 2018

On paper:

**Applicants/
Respondents:** Mr. Franklyn E. Walwyn (the Law Cottage)

**Respondent/
Appellant:** Mr. C. Anthony Armstrong

Issue: Application for stay of execution

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for the continuation of the order made by Baptiste, Michel and Webster JJA on 13th February 2018 is granted pending determination of the appeal.
2. The stay of execution of paragraphs 1 and 3 of the order of Thom JA made on 30th January 2018 and continued by Baptiste, Michel and Webster JJA on 13th February 2018 is hereby further continued until determination of the appeal by this Court.
3. No order as to costs.

Reason:

The Court noted the indication by counsel for the respondent, by way of letter dated 1st March 2018, that the respondent does not oppose the application for the continuation of the stay.

The Court was satisfied that the applicant has met the threshold for the continuation of the stay of execution.

Case Name:

Kendy O'Brien

v

The Police

[DOMMCRAP2017/0022]

(Commonwealth of Dominica)

Date: Tuesday, 27th March 2018

On paper:

Applicant: 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 is directed to comply with paragraphs 1, 2 and 3 of the order of Thom JA made on 20th February 2018 within 14 days of the date of this order.
2. The Registrar of the High Court shall serve a copy of this order together with a copy of the Minute of Conviction and Sentence on the Director of Public Prosecutions within 14 days of the date of this order.
3. The Registrar of the High Court shall furnish proof of service of the application and the Minute of Conviction and Sentence on the Director of Public Prosecutions within 14 days of the date of this order.
4. The application is adjourned for further consideration at the next Chamber hearing scheduled for 24th April 2018.

Reason: The Court noted that there has been a failure to comply with the order of Thom JA made on 20th February 2018.

Case Name:

Earl Junior Emmanuel

v

The Police

[DOMMCRAP2017/0024]

(Commonwealth of Dominica)

Date: Tuesday, 27th March 2018

On paper:

Applicant: 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 is directed to comply with paragraphs 1, 2 and 3 of the order of Thom JA made on 20th February 2018 within 14 days of the date of this order.
2. The Registrar of the High Court shall serve a copy of this order together with a copy of the Minute of Conviction and Sentence on the Director of Public Prosecutions within 14 days of the date of this order.
3. The Registrar of the High Court shall furnish proof of service of the application and the Minute of Conviction and Sentence on the Director of Public Prosecutions within 14 days of the date of this order.
4. The application is adjourned for further consideration at the next Chamber hearing scheduled for 24th April 2018.

Reason: The Court noted that there has been a failure to comply with the order of Thom JA made on 20th February 2018.

Case Name: Kish Elizee
v
The State

[DOMMCRAP2016/003]
(Commonwealth of Dominica)

Date: Tuesday, 27th March 2018

On paper:

Applicant: Ms. Dawn Yearwood-Stewart

Issue: Application for leave to appeal against conviction

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 against conviction and sentence on the learned Director of Public Prosecutions within 7 days of the date of this order.
2. The Registrar of the High Court shall furnish this Court with proof of service within 14 days of the date of this order.
3. The application for bail pending appeal is hereby adjourned for further consideration at the next Chamber hearing scheduled for 24th April 2018.

Reason: The Court noted that the application has not been served on the learned Director of Public Prosecutions.

Case Name: Jessamy Environmental Consulting & Research
Caribbean Incorporated

v

Grenada Cooperative Bank Limited

**[GDAHCVAP2017/0020]
(Grenada)**

Date: Tuesday, 27th March 2018

On paper:

Applicant: Mr. Jerry Edwin

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 within which to serve the notice appeal on the respondent is granted.
2. The applicant shall serve the notice of appeal on the respondent within 7 days of the date of this order.
3. The applicant shall pay costs of \$750.00 to the respondent within 14 days of the date of this order.

Reason: The Court was satisfied that the applicant had met the requisite threshold for the grant of an extension of time to file the notice of appeal.

Case Name: Godwin Bibby
v
[1] Jacqueline Rosemary Polling
[2] Republic Bank (Grenada) Limited
[GDAHCRAP2018/0001]
(Grenada)

Date: Tuesday, 27th March 2018

On paper:
Applicant: In person

Issue: Application for leave to extension of time to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application for an extension of time within which to appeal is hereby dismissed.

Reason: The Court was not satisfied that the applicant met the

threshold for the grant of an extension of time within which to appeal.

Case Name: **Errol Sylvester John**
v
The Queen
[GDAHCRAP2018/0005]
(Grenada)

Date: **Tuesday, 27th March 2018**

On paper:
Applicant: **In person**

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

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

- 1. The Registrar of the High Court is directed to file and provide a copy of the Minute of Conviction 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 on the Director of Public Prosecutions within 14 days of the date of this order.**
- 3. The Registrar of the High Court shall provide proof of service within 21 days of the date of this order.**
- 4. The application is adjourned for further consideration at the next Chamber hearing scheduled for 24th April 2018.**

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

Case Name: **Kathleen Raye**

v
Capital Bank International Limited
(In Receivership)
(Through David Holukoff, Receiver of Capital
Bank International Ltd.
(In Receivership)

[GDAHCRAP2017/0017]
(Grenada)

Date: Tuesday, 27th March 2018

On paper:

Applicant: Ms. Karen M. M. Samuel

Respondent: Ciboney Chambers

Issues: Application to strike out the notice of appeal-
Application for an extension of time to serve the notice
of appeal and deem notice of appeal properly served –
Application for stay of execution

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application to strike out the notice of appeal is hereby dismissed.
2. The application for an extension of time to serve the notice of appeal and to deem the notice of appeal served on 6th December 2017 properly served is granted.
3. The notice of appeal served on the applicant/respondent on 6th December 2017 is hereby deemed properly served.
4. Costs in the sum of EC\$750.00 to be paid to the appellant/applicant within 14 days of this order in respect of the strike out application.
5. Costs in the sum of EC\$750.00 to be paid to the respondent/applicant within 14 days of this order in respect of the extension of time application.
6. The application for a stay of execution is hereby dismissed.
7. Costs in the sum of EC\$750.00 to be paid to the respondent/applicant within 14 days of this order in

respect of the stay application.

Reason:

The Court was mindful that the power to strike out should be exercised sparingly and as a matter of last resort particularly in cases where an order can be made by the Court to put matters right so as to do justice between the parties.

The Court was not satisfied that the appellant/applicant met the threshold for the grant of a stay of execution.

Case Name:

**Native Hut Limited
v
Cllico Investment Bank
(In Compulsory Liquidation)

[GDAHCRAP2018/0002]
(Grenada)**

Date:

Tuesday, 27th March 2018

On paper:

**Applicant: Mr. George Finton De Bourg
Respondent: Wilkinson, Wilkinson & Wilkinson**

Issues:

Application for leave to appeal – Application to deem leave to appeal properly filed

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application to file and serve a notice of appeal against the decision of Glasgow J delivered on 22nd January 2018 is hereby dismissed.**
- 2. The notice of appeal filed on 1st February 2018 is hereby deemed properly filed**
- 3. The appeal shall proceed in accordance with CPR 62.10.**

Reason: The Court noted section 33 (2)(g) of the West Indies Associated States Supreme Court (Grenada) Act which provides that an appeal against the grant or refusal of an injunction may be made without leave.

Case Name: Elizabeth Corion
(Administratrix of the Estate of Bruno Corion,
Deceased)
v
Gafsons Investments (Grenada) Inc.
[GDAHCVAP2018/0005]
(Grenada)

Date: Tuesday, 27th March 2018

On paper:
Applicant: Lex Fidelis Chambers

Issues: Application for extension of time to file an application and/or to deem application properly filed – Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant for an extension of time to appeal the order of Glasgow J made on 11th December 2017 is hereby granted.
2. The application for leave filed on 7th March 2018 is hereby deemed properly filed.
3. The applicant shall file and serve a notice of appeal within 21 days of the date of this order.
4. The applicant shall pay costs of \$750.00 to the respondent in respect of the application for an extension of time within 14 days of the date of this order.
5. The appeal shall proceed in accordance with CPR

2000.

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

Case Name: Akim Frank
v
The Queen
[GDAHCRAP2018/0003]
(Grenada)

Date: Tuesday, 27th March 2018

On paper:
Applicant: Mr. George Prime

Issue: Application for leave to appeal against sentence

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court is directed to serve the application for leave to appeal against sentence on the learned Director of Public Prosecutions within 14 days of the date of this order.
2. The Registrar of the High Court shall provide a copy of the Minute of Conviction within 14 days of the date of this order.
3. The Registrar of the High Court shall serve a copy of the Minute of Conviction on the learned Director of Public Prosecutions within 14 days of the date of this order.
4. The application is adjourned to the next Chamber Hearing scheduled for 24th April 2018 for further consideration.

Reason: The Court noted than the minute of conviction and sentence has not been provided.

Case Name:

**David Brandt
v
Director of Public Prosecutions**

**[MNIHCVAP2018/0003]
(Montserrat)**

Date: **Tuesday, 27th March 2018**

On paper:

Applicant: **In person**

Issue: **Application for extension of time to file skeleton arguments – Application for stay of proceedings**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for an extension of time to file skeleton arguments is granted.**
- 2. The skeleton arguments filed by the applicant in support of the application for a stay of proceedings on 2nd March 2018 are hereby deemed properly filed.**
- 3. All proceedings in MNIMCI2016/0056-59 are hereby stayed pending determination of this appeal.**

Reason:

The Court was satisfied that the applicant has met the threshold for the grant of an extension of time and for a stay of proceedings pending the hearing and determination of the appeal.

Case Name:

**Catherine M. Tuitt
v
The Queen**

**[MNIHCVAP2018/0001]
(Montserrat)**

Date: Tuesday, 27th March 2018

On paper:

Applicant: In person

Issue: Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The Registrar of the High Court is hereby directed to provide a copy of the notes of evidence taken before the learned Magistrate within 14 days of the date of this order.**
- 2. The Registrar of the High Court is further directed to provide a copy of the conviction order within 14 days of the date of this order.**
- 3. The application for leave to appeal is hereby adjourned for further consideration at the next Chamber hearing scheduled for 24th April 2018.**

Reason:

The Court was noted that neither the notes of evidence nor a copy of the conviction order has been provided. The Court further noted that the applicant has stated in her affidavit in support of the application for leave to appeal that she was convicted on 22nd December 2017.

Case Name:

**[1] Benjamin Drakes
[2] Gerald Francis
(T/A Turnkey Engineering Contractors)
v
Plantation Beach Saint Lucia Ltd**

**[SLUHCVP2015/0017]
(Saint Lucia)**

Date: Tuesday, 27th March 2018

On paper:

Applicants: In person

Respondent: Ms. Cleopatra McDonald (Deterville, Thomas & Co.)

Issues: Application to remove attorney from record

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application and supporting affidavit are to be served on the respondent within 7 days of the date of this order.
2. Proof of service is to be provided.
3. The application is adjourned for further consideration at the next Chamber Hearing which is scheduled for 24th April 2018.

Reason:

The Court noted that there is no evidence of service on the respondent, Plantation Beach Saint Lucia Ltd.

Case Name:

[1] Agatha Peter
[2] Thomas Francis
[3] Andrea Fatal
[4] Emma Francis
[5] Cindy Francis

[6] Flavia Francis
[7] Sandra Didier
[8] Soeria Peter
[9] Gemma Hunte
[10] Celia Cadette
[11] Javin Cadette
[12] Francisca Francis

v

[1] Ansonia Lydia Charles

[2] Guy Charles
[3] Rockford Clarke
[4] Patsy H. Cyril
[5] Ernest C. Charles
[6] Anselma V. Charles
[7] Brenda D. Charles

[SLUHCVAP2018/0004]
(Saint Lucia)

Date: Tuesday, 27th March 2018

On paper:
Applicants: Horace Fraser

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
1. The applicants are joined as parties to the appeal.
2. Leave is granted to the applicants to appeal the order of Cenac-Phulgence J dated 6th December 2017
3. The applicants are directed to serve a copy of this order on the respondents
4. The applicants are to file and serve the notice of appeal within 21 days of this order.
5. The appeal shall thereafter proceed in accordance with CPR 2000.

Reason: The Court noted that the applicants were not party to the proceedings in the court below. The Court considered that the parties should be joined as applicants to the appeal pursuant to CPR 19.3(1);

The Court was satisfied that the applicants have met the threshold for the grant of leave to appeal;

The Court was mindful of the short period of delay in filing the application for leave to appeal.

Case Name:

**Jonathan David Lesfloris
v
[1] Glenda Dale Henry
[2] The Department of Fisheries

[SLUHCVAP2018/0005]
(Saint Lucia)**

Date:

Tuesday, 27th March 2018

On paper:

Applicant:

Ms. Wauneen Louis-Harris

Issue:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal the order of the Honourable Justice Godfrey Smith dated 25th January 2018 is set for hearing before the Full Court at the sitting of the Court of Appeal in Saint Lucia during the week commencing 14th May 2018.**
- 2. The application for a stay of the judgment of the Honourable Justice Godfrey Smith dated 25th January 2018 is refused.**
- 3. The application for an order that the applicant be granted the costs of this application is also refused.**

Reason:

The Court was mindful to refuse leave.

The Court was also mindful that a stay is an exception rather than the rule; and whether the court should exercise its discretion to grant a stay depends on all the circumstances of the case.

The Court noted that that no cogent evidence has been advanced in support of the stay demonstrating a risk of injustice if a stay is refused.

The Court also noted that there is no proper basis upon which it should make an order for the respondents to

pay the applicant's costs of this application.

Case Name:

**Paul Eloise
v
First National Bank Saint Lucia Limited**

**[SLUHCVAP2018/0007]
(Saint Lucia)**

Date:

Tuesday, 27th March 2018

On paper:

Applicant: Mr. Sahleem B. K. Charles (Fosters)

Respondent: Floissac Flemming & Associates

Issues:

Application for leave to appeal - Application for stay of execution

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. Leave is granted to appeal the order of Cenac-Phulgence J dated 8th February 2018.**
- 2. The applicant is granted a stay of execution of the order of Phulgence J dated 8th February 2018 for the judicial sale dated 24th October 2017 in relation to Block and Parcel 1248B 578 until the determination of the appeal.**
- 3. The applicant is to file and serve its notice of appeal within 21 days of this order.**
- 4. The appeal shall thereafter proceed in accordance with CPR 2000.**

Reason:

The Court was mindful that a stay is an exception rather than the rule; and whether the Court should exercise its discretion to grant a stay depends on all the circumstances of the case, but the essential question is whether there is a risk of irreparable harm if the Court

grants or refuses a stay. The Court was satisfied that that the evidence advanced in support of the stay shows a risk of injustice as the appeal would be rendered nugatory if a stay is refused.

The Court reviewed the affidavit evidence and being of the opinion that the applicant has met the requirements for the grant of a stay of execution based on the principles outlined in cases such as C-Mobile Services Limited v Huawei Technologies Co. Limited (BVIHCMAP2014/0017, delivered 2nd October 2014, unreported). The Court was satisfied that that the applicant has met the threshold for the grant of leave to appeal.

Case Name:	Mc Hale S. C. Andrew v The Board of Directors of Invest Saint Lucia [SLUHCVAP2017/0009] (Saint Lucia)
Date:	Tuesday, 27th March 2018
On paper:	Applicant: Mr. Leslie Mondesir (Gordon & Gordon)
Issues:	Application for leave to appeal
Result / Order:	IT IS HEREBY ORDERED THAT: The application for leave to appeal the order of the Smith J dated 25th January 2018 is set for hearing before the Full Court at the sitting of the Court of Appeal in Saint Lucia during the week commencing 14th May 2018.
Reason:	The Court was minded to refuse leave.

Case Name:

**David Ferguson
v
Carol Gideon Clovis
[SLUHCVP2015/0001]
(Saint Lucia)**

Date: Tuesday, 27th March 2018

On paper:

Applicant: In person

Respondent: In person

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

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The notice of appeal filed on 14th January 2015 is deemed to be filed without leave of the Court and is therefore a nullity.
2. The applicant is directed to serve the application for extension of time to file a notice of appeal and affidavit on the respondent within 14 days of the date of this order.
3. Proof of service is to be furnished within 14 days of the date of this order.
4. The application for extension of time to file a notice of appeal is adjourned for further consideration at the next Chamber Hearing which is scheduled for 24th April 2018.

Reason:

The Court read the order of Pereira CJ dated 15th December 2017 in which her Ladyship indicated that the appellant is to produce by filing with the court a sealed copy of the order granting leave to appeal by 31st January 2018 and that failure to do so shall render the notice of appeal filed on 14th January 2015 deemed to be filed without leave of the Court and therefore a nullity and noted that the applicant has not complied with the

said order.

The Court noted that it has a discretion to extend time and that in exercising its discretion the factors for consideration are: the length of the delay, the reasons for the delay, the chances of the appeal succeeding if the extension is granted and the degree of prejudice if the application is granted.

The Court also noted that there is no evidence of service by the applicant of the application for extension of time with affidavit in support.

Case Name: **Sol EC Ltd.**
v
Rubis West Indies Limited
[SLUHCVP2017/0052]
(Saint Lucia)

Date: **Tuesday, 27th March 2018**

On paper: **Applicant:** **DuBoulay Anthony & Co.**

Respondent: **Ms. Renee St. Rose (Fosters)**

Issue: **Application for stay of execution**

Result / Order: **IT IS HEREBY ORDERED THAT:**
1. The application for a stay of execution of the order is refused.
2. Costs to the respondent in the sum of \$750.00.

Reason: **The Court was mindful that a stay is an exception rather than the rule; and whether the Court should exercise its discretion to grant a stay depends on all the circumstances of the case, but the essential question is whether there is a risk of irreparable harm if it grants or**

refuses a stay. The Court was dissatisfied that the evidence advanced in support of the stay shows that the appeal would be rendered nugatory if a stay is refused.

The Court reviewed the affidavit evidence and was of the opinion that the applicant has not met the requirements for the grant of a stay of execution based on the principles outlined in cases such as C-Mobile Services Limited v Huawei Technologies Co. Limited (BVIHCMAP2014/0017, delivered 2nd October 2014, unreported).

Case Name:

Mathilda Nelson

v

Alexis Alcide

**[SLUHCVAP2018/0002]
(Saint Lucia)**

Date:

Tuesday, 27th March 2018

On paper:

Applicant: Theodore & Associates

Respondent: Ms. Wauneen Louis-Harris

Issues:

**Application for extension of time to file notice of appeal
- Application for stay of execution of order**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant is granted an interim stay of execution of the order of Phulgence J dated 12th June 2017 until 14th May 2018.**
- 2. The application for the stay of execution of the order of Phulgence J dated 12th June 2017 is referred for hearing before the Full Court at the sitting of the Court of Appeal in Saint Lucia on 14th May 2018.**

Reason:

The Court was mindful that a stay is an exception rather than the rule; and whether the Court should exercise its discretion to grant a stay depends on all the circumstances of the case, but the essential question is whether there is a risk of irreparable harm if it grants or refuses a stay. The Court was satisfied that the evidence advanced in support of the stay shows that the appeal would be rendered nugatory if a stay is refused.

The Court reviewed the affidavit evidence and was of the opinion that the applicant has not met the requirements for the grant of a stay of execution based on the principles outlined in cases such as C-Mobile Services Limited v Huawei Technologies Co. Limited (BVIHCMAP2014/0017, delivered 2nd October 2014, unreported).

Case Name:

**Mathilda Nelson
v
Alexis Alcide**

**[SLUHCVAP2018/0002A]
(Saint Lucia)**

Date:

Tuesday, 27th March 2018

On paper:

Applicant: Theodore & Associates

Respondent: Mrs. Wauneen Louis-Harris

Issues:

**Application for extension of time to file notice of appeal
– Notice of opposition to application for extension of time to file notice of appeal**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant is directed to file submissions together with authorities within 14 days of the date this order on whether or not the extension of time that was granted by Thom JA dated 20th February 2018 should be varied, discharged or revoked.**
- 2. The respondent is directed to file submissions together with authorities within 14 days thereafter on whether or not the extension of time that was granted by Thom JA dated 20th February 2018 should be varied, discharged or revoked.**
- 3. The matter is referred for hearing before the Full Court at the sitting of the Court of Appeal in Saint Lucia on 14th May 2018.**

Reason:

The Court read the amended order of Thom JA dated 20th February 2018 in which Her Ladyship indicated that there was no opposition to the notice of application for extension of time.

The Court read the notice of opposition to the extension of time filed on 19th February 2018 and received by the Court of Appeal on 27th February 2018, after Thom JA had considered and granted the extension of time to file the notice of appeal.

The Court read the application filed on 27th March 2018 for an order from the Full Court to reconsider the application for an extension of time in light of the notice of opposition filed on 19th February 2018 or in the alternative for an order of the Full Court varying, discharging or revoking the order of Thom JA made on 20th February 2018.

Case Name:

**Vernantius Popo
v
St Lucia Seamen Waterfront
and General Workers Union**

**[SLUHCVAP2018/0002A]
(Saint Lucia)**

Date: Tuesday, 27th March 2018

On paper:

Applicant: Ms. Lydia B. Faisal

Respondent: Mr. Gerard Williams

Issue: Application for extension of time to file and serve submissions in opposition to the appeal

Result / Order: **IT IS HEREBY ORDERED THAT:**
The applicant is granted an extension of time to file and serve skeleton arguments in support of the opposition to the appeal.

Reason: The Court noted the order of Thom JA dated 20th February 2018 requiring that the applicant to provide proof of service in support of the application.

Case Name:

**[1] Mohammad Sadek Atassi
(By His Attorney Malek Atassi)
[2] Chirin Atassi
(By Her Attorney Malek Atassi)
v
[1] Raghd Murtada
[2] Live Nevis Development Limited
[3] The Bank of Nevis Limited**

**[SKBHCVAP2018/0001]
(Saint Christopher & Nevis)**

Date: Tuesday, 27th March 2018

On paper:

Applicants: Cozier & Associates

Issue: Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. Leave is granted to appeal the order of Master Agnes Actie delivered on 12th January 2018.
2. The applicant is to file and serve its notice of appeal together with skeleton arguments within 21 days of this order.
3. The appeal shall thereafter proceed in accordance with CPR 2000.

Reason:

The Court noted the decision of Master Agnes Actie delivered on 12th January 2018 as well as the affidavit of service filed by the applicants on 23rd March 2018 evidencing service on the appellant on 2nd and 5th February 2018. The Court was satisfied that the applicant has met the threshold for the grant of leave to appeal.

Case Name:

Anne Hendricks Bass
v
[1] Director of Physical Planning
[2] Development Advisory
Committee
[3] Caribbean Development Consultant Limited

[SKBHCVAP2018/0002]
(Saint Christopher & Nevis)

Date: Tuesday, 27th March 2018

On paper:

Applicant: Kelsick, Wilkin & Ferdinand

Respondent: Ms. Jean Dyer (Byron & Byron)

Issue: Application for interim stay of planning permission

Result / Order: IT IS HEREBY ORDEDRED THAT:
1. The application for an interim stay of planning permission for the HTRIP Candy Resort Development is granted.
2. Costs to the applicant in the sum of \$800.00.

Reason: The Court noted the notice of opposition to the stay.

The Court was mindful that a stay is an exception rather than the rule; and whether the Court should exercise its discretion to grant a stay depends on all the circumstances of the case, but the essential question is whether there is a risk of irreparable harm if the Court grants or refuses a stay. The Court was satisfied that the evidence advanced in support of the stay shows that the appeal would be rendered nugatory if a stay is refused.

The Court reviewed the affidavit evidence and being of the opinion that the applicant has not met the requirements for the grant of a stay of execution based on the principles outlined in cases such as C-Mobile Services Limited v Huawei Technologies Co. Limited (BVIHCMAP2014/0017, delivered 2nd October 2014, unreported).

Case Name:

Ulrica Stevens

v

Althea Norman

**[SKBHCVAP2012/0007]
(Saint Christopher & Nevis)**

Date: Tuesday, 27th March 2018

On paper:

Applicant: Ms. Joanne Flemming (Myrna R. Walwyn & Associates)

Issue: Application to strike out notice of appeal – Application for extension of time

Result / Order: IT IS HEREBY ORDEDRED THAT:
1. The notice of application filed on 12th February 2018 is dismissed.
2. The notice of appeal filed on 15th September 2008 is struck out.
3. Costs to the respondent in the sum of \$800.00.

Reason: The Court noted that the decision sought to be appealed was handed down on 3rd September 2008 and that the applicant had 14 days within which to serve the notice appeal.

It appeared to the Court that the extent of the delay in serving the notice of appeal was significant, no satisfactory explanation was given for the failure to serve the notice on time and there is no indication that there is any chance of the appeal succeeding if an extension of time is granted to appeal.

Case Name: Elvis Butler
v
Paula Connor

[SKBHCVAP2012/0007]
(Saint Christopher & Nevis)

Date: Tuesday, 27th March 2018

On paper:

Applicant: In person

Issue: Application for permission to appeal out of time

Result / Order: IT IS HEREBY ORDEDRED THAT:
1. The applicant is granted an extension of 14 days within which to file a copy of the order being appealed.
2. The application is adjourned for further consideration at the next Chamber Hearing which is scheduled for 24th April 2018.

Reason: The Court noted that the applicant has not complied with the previous orders of the Court requiring that he file a copy of the order that is being appealed.

Case Name: Mervin Grant
v
Saint Kitts-Nevis Cable Communications Ltd.

[SKBHCVAP2018/0003]
(Saint Christopher & Nevis)

Date: Tuesday, 27th March 2018

On paper:
Applicant: Mr. John Cato
Respondent: In person

Issue: Application for leave to appeal – Application for stay of execution

Result / Order: IT IS HEREBY ORDEDRED THAT:
1. The applicant is to file an affidavit in support of this application within 14 days of the date of this order.

2. The applicant shall serve a copy of the application for the stay, together with the supporting affidavit on Saint Kitts-Nevis Cable Communications Limited within 7 days of the date of this order.
3. The application is adjourned for further consideration at the next Chamber Hearing which is scheduled for 24th April 2018.

Reason: The Court noted that no affidavit has been filed in support of the application and that the application for the stay has not been served on the respondent.

Case Name: Alpha Duporte
V
The Director of Public Prosecutions
[SKBHCRAP2013/011]
(Saint Christopher & Nevis)

Date: Tuesday, 27th March 2018

On paper:
Applicant: Ms. Natasha S. Grey (Grey's Legal Chambers)
Respondent: The Director of Public Prosecutions

Issue: Application to amend grounds of appeal

Result / Order: IT IS HEREBY ORDERED THAT:
Leave is granted to the applicant to file the amended grounds of appeal against conviction and sentence.

Reason: The Court noted that the application for leave to file the amend the grounds of appeal was served on the Office of the Director of Public Prosecutions on 19th February 2018.

Case Name:

**Terry Mars
v
Commissioner of Police**

**[SVGMCRAP2018/0011]
(Saint Vincent and the Grenadines)**

Date: Tuesday, 27th March 2018

On paper:

Applicant: In person

Issue: Application for extension of time to appeal against sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant is granted an extension of time to appeal.**
- 2. The applicant shall file the notice of appeal within 21 days of the date of this order.**

Reason: The Court was of the view that applicant should be granted an extension of time.

Case Name:

**Michael Wilson
v
Commissioner of Police**

**[SVGMCRAP2018/0010]
(Saint Vincent and the Grenadines)**

Date: Tuesday, 27th March 2018

On paper:

Applicant: In person

Issue:

Application for bail pending appeal

Result/Order:

IT IS HEREBY ORDERED THAT:

The notice of application for bail pending determination and hearing of the appeal is dismissed.

Reasons:

The Court was of the view that the application for bail does not disclose any exceptional circumstances for granting bail pending the hearing and determination of the appeal in the sense contemplated by the authorities including *R v Watton* (1979) 68 Cr. App. R. 293 and *Scantlebury v The State* (1976) 27 WIR 103.

The Court was not satisfied that the hearing of the appeal will not take place at the sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week commencing 16th July 2018.

Case Name:

**The Queen
v
McCathy Patterson**

**[SVGHCRA2018/0004]
(Saint Vincent and the Grenadines)**

Date:

Tuesday, 27th March 2018

On paper:

Applicant: In person

Respondent:

Issues:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. Leave to appeal is granted.**
- 2. The notice of appeal shall be filed and served within 21 days of this order.**

Case Name:

**Romaldo Williams
v
Commissioner of Police**

**[SVGMCRAP2018/0012]
(Saint Vincent and the Grenadines)**

Date:

Tuesday, 27th March 2018

On paper:

Applicant: In person

Issue:

Application for extension of time

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant is granted an extension of time to appeal against sentence.**
- 2. The applicant shall file the notice of appeal within 21 days of the date of this order.**

Reason:

The Court noted that the Director of Public Prosecutions has made no opposition to the application.

The Court was of the opinion that the applicant has met the requirements for an extension of time.

Case Name: **Alister Smith**
v
Commissioner of Police
[SVGMCRAP2016/0036]
(Saint Vincent and the Grenadines)

Date: **Tuesday, 27th March 2018**

On paper:
Appellant: **In person**

Issue: **Application to amend grounds of appeal**

Result / Order: **IT IS HEREBY ORDERED THAT:**
1. The application to amend the grounds of appeal is granted.
2. The applicant shall file and serve the amended grounds of appeal within 21 days of the date of this order.

Reason: **The Court noted that the Director of Public Prosecutions has made no opposition to the application.**

Case Name: **[1] Emmerson International Corporation & Others**
[2] Mikhail Abyzov & Others
v
Renova Industries Ltd. & Others
[BVIHCMAP2018/0004]
(Territory of the Virgin Islands)

Date: **Tuesday, 27th March 2018**

On paper:
Applicants: **Walkers**

Respondent: Advocates BVI

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

Result / Order: IT IS HEREBY ORDERED THAT:
1. The application for an extension of time for leave to appeal is hereby dismissed.
2. The appellant shall pay costs to the respondent in the sum of \$750.00.

Reason: The Court was not satisfied that the applicant has met the threshold for the grant of an extension of time for leave to appeal.