

CHAMBER HEARING

January 2018

MATTERS DEALT WITH ON PAPER

Before: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal

Case Name: Henry Owens III
v
Anguilla Partnership Enterprises Limited

[AXAHCVAP2016/0023]
(Anguilla)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: Ms. Tara Carter

Respondent: CR Hodge & Associates

Issue: Application for stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:

The application for a stay of execution of the judgment of Master Glasgow dated 9th November 2017 pending the hearing and determination of the appeal is granted.

Reason: The Court was satisfied that the applicant had met the requisite threshold for the grant of a stay of execution. The Court formed the view that the applicant had proffered cogent evidence going towards the risk of injustice if the stay were refused.

Case Name: Edward Croft
As Director of the Office of National Drug and
Money Laundering and Control Policy
v
[1] Hopeton White
[2] Elvis “Kenny” Chance
[3] Damien Scott

[ANUHCVP2017/0017]
(Antigua and Barbuda)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: Ms. Joy Dublin (The Attorney General’s Chambers)

Respondents: Mr. Lawrence Daniel (Daniels Phillips & Associates)

Issue: Application for stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:
The application for an order for a stay of execution of the
order of Master Wallace (Ag.) is refused.

Reason: The Court was mindful that a stay is the exception rather
than the rule and the grant or refusal of a stay is a matter
for the exercise of the Court’s discretion, and depends
on all the circumstances. The essential question being
whether there would be a risk of injustice to one or both
parties if it grants or refuses a stay.

The Court formed the view that it would be unjust to
grant a stay against the second respondent as he has
not been served with the notice of appeal and
application for stay. The Court was further mindful that
cogent evidence must be advanced in support of the
application for a stay and noted that the evidence of the
applicant is wholly inadequate to support the grant of a
stay.

Case Name: Norman Aviation Flight Training Academy Inc.
v
[1] Leroy Smith
[2] Dulani Smith

[ANUHCVAP2017/0006]
(Antigua and Barbuda)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: Ms. Grace Norman

Respondents: Ms. Kema M.L.M. Benjamin (Marshall & Co.)

Issue: Application for adjournment and vacation of hearing date

Result / Order: IT IS HEREBY ORDERED THAT:
The application for adjournment and for vacation of the date of hearing is refused as no proper evidential basis having been proffered in support of the application.

Reason: The Court noted that there was no affidavit of service of the notice of application for adjournment of the appeal.

Case Name: Courtney Burton
v
Erica O'Garro

[ANUMCVAP2017/0003]
(Antigua and Barbuda)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: Ms. Kathleen A. Bennett (Lake & Kentish)

Respondent: In person

Issues: Application for extension of time to file notice of appeal
– Application for leave to serve notice of appeal on respondent and magistrate

Result / Order: IT IS HEREBY ORDERED THAT:
The appellant shall serve a copy of the notice of application on the respondent within 14 days of the date of this order together with a copy of this order.
The applicant shall furnish this Court with proof of service within 21 days of this order.
The application is adjourned for further consideration at the next Chamber Hearing which is scheduled for 20th February 2018.

Reason: The Court noted that there was no affidavit of service of the notice of application on the respondent.

Case Name: Maverick Development Antigua Limited
v
[1] Mr. Gregory Walter
[2] Dr Jinks Walter
[3] Trustees of the Estate of Marietta Walker
(Gregory Walter (the First Defendant)
Jinks Walter (the Second Defendant)
Paul Lennox Walter
Clifford Walter
Devon Walter
Norris Walter
Eugene Walter
Roma Martin Walter
Jean Walter Terry
Avonelle Walter Haywood)

**[ANUHCVP2017/0028]
(Antigua and Barbuda)**

Date: Tuesday, 23rd January 2018

On paper:

Applicant: Mr. Sylvester Carrott

Issue: Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

Leave is granted to appeal the order of Master
Fidela Corbin Lincoln dated 14th November 2017.

The applicant is to file and serve its notice of
appeal within 21 days of this order.

The appeal shall thereafter proceed in accordance
with CPR 2000.

Reason:

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

Case Name:

Marcus Matthew

v

The State

**[DOMHCRAP2017/0004]
(Commonwealth of Dominica)**

Date: Tuesday, 23rd January 2018

On paper:

Applicant: In person

Issue: Application for leave to appeal against conviction and
sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

The Registrar of the High Court shall provide the

court with a copy of the minute of conviction and sentence within 14 days of the date of this order. The Registrar of the High Court shall serve a copy of the notice of appeal on the Director of Public Prosecutions within 14 days of the date of this order.

The application is adjourned to the next Chamber Hearing scheduled to be held on 20th February 2018.

Reason: The Court noted that the minute of conviction and sentence was not attached to the application.

Case Name:

- [1] Yvonne John
- (Otherwise known as Yvonne John nee Williams and Meryl John)
- [2] Hensley Williams
- v
- Paul John
-
- [GDAHCVAP2017/0019]
- (Grenada)

Date: Tuesday, 23rd January 2018

On paper:

Applicants: Mr. Anselm B. Clouden

Respondent: In person

Issues: Application for extension of time to file notice of appeal
— Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application is to be listed for hearing before the Court at its sitting in Grenada during the week

commencing 29th January 2018.

Reason: The Court noted the affidavit of the respondent filed on 17th January 2018 in reply to the appellant's application.

Case Name: Jessamy Environmental Consulting & Research
Caribbean Incorporated
v
Grenada Cooperative Bank Limited

[GDAHCVAP2017/0020]
(Grenada)

Date: Tuesday, 23rd January 2018

On paper: **Applicant:** Mr. Jerry Edwin

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The applicant is granted leave to appeal the order of Adrien-Roberts J dated 23rd November 2017.
The applicant is to file and serve the notice of appeal within 21 days 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: Javid Glasgow
v
The Queen

**[GDAHCRAP2017/0021]
(Grenada)**

Date: Tuesday, 23rd January 2018

On paper:

Applicant: In person

Issue: Application for leave to appeal against sentence

Result / Order: **IT IS HEREBY ORDERED THAT:**
The Registrar of the High Court shall provide the court with a copy of the minute of conviction and sentence within 14 days of the date of this order. The Registrar of the High Court shall serve a copy of the notice of application on the Director of Public Prosecutions within 14 days of the date of this order.
The application is adjourned to the next chamber hearing scheduled to be held on 20th February 2018.

Reason: The Court noted that the minute of conviction and sentence was not attached to the application.

Case Name: Handel Stafford
v
The Queen

**[GDAHCRAP2017/0022]
(Grenada)**

Date: Tuesday, 23rd January 2018

On paper:

Applicant: Mr. Darshan Ramdhani

Issue: Application for leave to appeal against sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

The Registrar of the High Court shall provide the court with a copy of the minute of conviction and sentence within 14 days of the date of this order. The Registrar of the High Court shall serve a copy of the notice of application on the Director of Public Prosecutions within 14 days of the date of this order.

The application is adjourned to the next Chamber Hearing scheduled to be held on 20th February 2018.

Reason:

The Court noted that the minute of conviction and sentence was not attached to the application.

Case Name:

**Edward Joseph
v
The Queen**

**[GDAHCRAP2017/0023]
(Grenada)**

Date:

Tuesday, 23rd January 2018

On paper:

Applicant:

In person

Issue:

Application for leave to appeal against sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

The Registrar of the High Court shall provide the Court with a copy of the minute of conviction and sentence within 14 days of the date of this order.

The Registrar of the High Court shall serve a copy of the notice of application on the Director of Public Prosecutions within 14 days of the date of this order.

The application is adjourned to the next Chamber Hearing scheduled to be held on 20th February 2018.

Reason: The Court noted that the minute of conviction and sentence was not attached to the application.

Case Name: Mahendranaught Dass
v
The Queen

[GDAHCRAP2017/0024]
(Grenada)

Date: Tuesday, 23rd January 2018

On paper:
Applicant: In person

Issue: Application for leave to appeal against sentence

Result / Order: IT IS HEREBY ORDERED THAT:
The Registrar of the High Court shall provide the court with a copy of the minute of conviction and sentence within 14 days of the date of this order.
The Registrar of the High Court shall serve a copy of the notice of application on the Director of Public Prosecutions within 14 days of the date of this order.
The application is adjourned to the next Chamber Hearing scheduled to be held on 20th February 2018.

Reason: The Court noted that the minute of conviction and sentence was not attached to the application.

Case Name: Colin Hooper
v

The Queen

**[GDAHCRAP2017/0025]
(Grenada)**

Date: Tuesday, 23rd January 2018

On paper:
Applicant: In person

Issue: Application for leave to appeal against sentence

Result / Order: **IT IS HEREBY ORDERED THAT:**
The Registrar of the High Court shall provide the court with a copy of the minute of conviction and sentence within 14 days of the date of this order. The application is adjourned to the next Chamber Hearing scheduled for 20th February 2018.

Reason: The Court noted that the minute of conviction and sentence was not attached to the application.

Case Name: **Finbar Derick Purcell
v
The Queen**

**[GDAHCRAP2017/0026]
(Grenada)**

Date: Tuesday, 23rd January 2018

On paper:
Applicant: In person

Issue: Application for leave to appeal against sentence

Result / Order: **IT IS HEREBY ORDERED THAT:**
The Registrar of the High Court shall provide the

Court with a copy of the minute of conviction and sentence within 14 days of the date of this order. The Registrar of the High Court shall serve a copy of the notice of application on the Director of Public Prosecutions within 14 days of the date of this order. The application is adjourned to the next Chamber Hearing scheduled to be held on 20th February 2018.

Reason: The Court noted than the minute of conviction and sentence was absent from the file.

Case Name: Osafi Bobb
v
The Queen

[GDAHCRAP2017/0027]
(Grenada)

Date: Tuesday, 23rd January 2018

On paper:
Applicant: In person

Issue: Application for leave to appeal against sentence

Result / Order: IT IS HEREBY ORDERED THAT:
The Registrar of the High Court shall provide the Court with a copy of the minute of conviction and sentence within 14 days of the date of this order. The Registrar of the High Court shall serve a copy of the notice of application on the Director of Public Prosecutions within 14 days of the date of this order. The application is adjourned to the next Chamber Hearing scheduled to be held on 20th February 2018.

Reason: The Court noted that there was no minute of conviction and sentence attached to the application.

Case Name: Kevin Horstwood
v
Adam Bilzerian

[SKBHCVAP2017/0021]
(Federation of Saint Christopher and Nevis)

Date: Tuesday, 23rd January 2018

On paper:
Applicant: In person

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The applicant is granted leave to appeal the order of Master Actie made on 15th November 2017.
The applicant is to file the notice of appeal within 21 days of this order.

Reason: The Court was satisfied that the applicant had met the requirements for leave to appeal.

Case Name: Arthur Bradshaw
v
The Licensing Authority

[SKBMCRAP2017/0009]
(Federation of Saint Christopher and Nevis)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: Mr. John Cato

Respondent: The Licensing Authority

Issue: Application for permission to file notice of appeal out of time

Result / Order: IT IS HEREBY ORDERED THAT:
The application for permission to file application for leave to appeal out of time is refused.

Reason: The Court was of the view that there was no proper evidential basis in support of the application.

Case Name: Elvis Butler
v
Paula Connor

[SKBMCVAP2017/0009]
(Federation of Saint Christopher and Nevis)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: In person

Respondent: Mr. Hesketh Benjamin

Issue: Application for permission to file notice of appeal out of time

Result / Order: IT IS HEREBY ORDERED THAT:
The applicant is granted 14 days within which to file a copy of the order being appealed.

The application is adjourned for further consideration at the next Chamber Hearing which is scheduled for 20th February 2018.

Reason: The Court noted that the applicant had not filed a copy of the order being appealed as directed by paragraph 1 of the orders of Michel JA, Blenman JA and Webster JA [Ag.] dated 9th November 2017, 30th November 2017 and 19th December 2017, respectively.

Case Name: Karin Colt
v
Gary Colt

[SKBHCVAP2017/0024]
(Federation of Saint Christopher and Nevis)

Date: Tuesday, 23rd January 2018

On paper:

Applicant:	Ms. Sherry-Ann Liburd-Charles (Gonsalves Parry)
Respondent:	Ms. Michelle Slack (Daniel Brantley & Associates)

Issue: Application for stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:
Clauses 1 and 2 of the order of Williams J dated 4th December 2017 are stayed, pending determination of the appeal.

Reason: The Court was mindful that the well-being and welfare of the minor child is of paramount importance and was a factor which ought to have played a critical role in the judge's determination. The Court noted that no reason was advanced by the learned judge in granting joint custody and considering all the circumstances, the most

significant of which being the well-being of the minor child and paying regard to that very relevant consideration, the Court was of the view that on the evidence presented that it is in the best interest of the minor child to grant a stay.

Case Name: Kelvin Daly

v

[1] Shawn Richards

[2] Vance Amory

[3] ZIZ Broadcasting Corporation

[SKBHCVAP2017/0018]

(Federation of Saint Christopher and Nevis)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: Ms. M. Angela Cozier (Cozier and Associates)

Respondents: First and second respondents in person
Mr. Dane Elliott-Hamilton (Elliott MacClure Attorneys-at-Law) for the third respondent

Issues: Application for leave to appeal - Application for extension of time

Result / Order: IT IS HEREBY ORDERED THAT:

The application for extension of time to file an application for leave to appeal is granted.
Leave is granted to appeal the order of Master Actie delivered on 17th October 2017 ordering counsel for the applicant to pay costs in the sum of \$1000.00 to the 2nd respondent and costs in the sum of \$750.00 to the 3rd respondent.

Reason: The Court took notice of the respondents' affidavit and submissions in opposition to the application for leave to

appeal and noted the very short period of delay in filing the application for leave to appeal. The Court was satisfied that the applicant had met requirements for the grant of an extension of time to file an application for leave to appeal and was satisfied that the appellant met the threshold for leave to appeal to be granted.

Case Name:

**Marie Honora Algene Phillips (nee Simeon)
Legal Representative for the Estate of Joseph
Simeon aka Reginald Baptiste**

v

**[1] Gabriel Fevriere (appointed
representative of Lincoln Volney, Phillip
Volney and Queznal Fevriere)**

**[2] Agnes Campbell, deceased, (by her
Legal Representatives Clarence Joseph
and Euralis Joseph)**

**[3] Gilbert Reynold (appointed
representative of Bernata Reynold)**

**[SLUHCVAP2017/0054]
(Saint Lucia)**

Date:

Tuesday, 23rd January 2018

On paper:

Applicant: Ms. Wauneen Louis-Harris

**Respondents: Mr. Horace Fraser for the first and second respondents
Third respondent in person**

Issues:

**Application for leave to appeal – Application for
extension of time – Application for relief from sanctions
– Application for directions – Application for stay of
execution**

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant is granted an extension of time to file

the notice of appeal.

2. The notice of appeal is to be filed within 14 days from the date of this order

3. The application for a stay is refused there being no cogent evidence in support thereof.

Reason:

The Court was of the view that the applicant satisfied the requirements for a grant of extension of time to file the notice of appeal. However, the Court was of the view that there was no cogent evidence in support of a grant of stay of execution.

Case Name:

[1] Justin Augustin

[2] Levista Augustin

v

Joseph Oberius

[SLUHCVAP1999/0002]

(Saint Lucia)

Date:

Tuesday, 23rd January 2018

On paper:

**Applicant/
Respondent:**

Ms. Antoinette Oberius

**Respondents/
Appellants:**

Ms. Shirley Lewis

Issue:

Application for appointment as executor

Result / Order:

IT IS HEREBY ORDERED THAT:

**The applicant, Antoinette Oberius, is appointed
Executor of the Estate of Joseph Oberius.**

Reason:

The Court was satisfied that the applicant met the legal requirements to be appointed an executor.

Case Name: Ferdinand James
v
[1] Planviron (Caribbean Practice) Limited
[2] Rodney Bay Marina Limited

[SLUHCVAP2017/0050]
(Saint Lucia)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: Ms. Sherene Francis (George & Co.)

Respondents: Mr. Geoffrey DuBoulay (Floissac Flemming & Associates)

Issues: Application for extension of time to file notice of appeal
– Application for stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:
The applicant is granted an extension of time to file the notice of appeal and skeleton arguments in support on or before the 2nd February 2018.
The applicant is relieved from any sanctions for failure to file the notice of appeal within time.
The proceedings in Claim No. SLUHCV2009/0766 in the High Court are stayed pending the hearing of the appeal.

Reason: The Court read the affidavits of service filed on 12th January 2018 and noted the order of Webster JA (Ag.) dated 19th December 2017.
The Court was of the view that the applicant satisfied the requirements to be granted an extension of time to file the notice of appeal and skeleton arguments in support. The Court was further satisfied that the applicant should be relieved from any sanctions for failure to file the notice of appeal within time, and that on the evidence, a

stay of proceedings should be granted.

Case Name: **The Beacon Insurance Company Limited**
v
[1] Valencia Delaire aka Valencia Changoo
in the capacity as Administratrix of the
estate of the late Lenson Skelly and Tutrix
of the minor child Rochelle Tamara Skelly
[2] Anel Chedy (by his personal
representative Paula Chedy)

[SLUHCVAP2016/0030]
(Saint Lucia)

Date: **Tuesday, 23rd January 2018**

On paper:

Applicants: **Mrs. Maureen John Xavier**

Respondent: **Mr. Leslie Prospere (Gordon Gordon & Co.)**

Issue: **Application for notice of appeal to be struck out**

Result / Order: **IT IS HEREBY ORDERED THAT:**
The application for an order to strike out the notice of
appeal filed 27th January 2017 is refused.

Reason: **The Court was not satisfied on the evidence that the**
notice of appeal should be struck out.

Case Name: **Christopher John Bristol**
v

Wendy Andrea Erica Bristol (nee Winter)

**[SLUHCVAP2017/0048]
(Saint Lucia)**

Date: **Tuesday, 23rd January 2018**

On paper:

Applicant: **Ms. Ann-Alicia Fagan (Peter I. Foster & Co.)**

Respondent: **In person**

Issues: **Application for extension of time to serve respondent with notice of appeal – Application for leave to serve respondent outside the jurisdiction**

Result / Order: **IT IS HEREBY ORDERED THAT:**
The applicant is granted an extension of time to serve the respondent with the notice of appeal filed 13th November 2017.
The applicant is granted leave to serve the respondent with the notice of appeal filed 13th November 2017 outside the jurisdiction.
The notice of appeal is to be served within four weeks of the date of this order.

Reason: **The Court noted the affidavit of service filed on 11th January 2018. The Court was of the view that the applicant satisfied the requirements to be granted an extension of time to serve the respondent with the notice of appeal and met the threshold for leave to serve the respondent outside of the jurisdiction to be granted.**

Case Name: **Jevonne Samuel
v
The Queen**

**[SVGHCRA2017/0016]
(Saint Vincent and the Grenadines)**

Date: Tuesday, 23rd January 2018

On paper:

Applicant: In person

Issue: Application for leave to appeal sentence

Result / Order:

IT IS HEREBY ORDERED THAT:

The Registrar of the High Court is directed to cause the minute of conviction and sentence to be prepared and filed copies thereof to be served on the applicant and the Director of Public Prosecutions within 21 days of this order.

The Registrar of the High Court is directed to cause the notice of application for leave to be served on the Director of Public Prosecutions within 21 days of this order.

The application is adjourned to the next Chamber Hearing of this Court which is scheduled for 20th February 2018.

Reason:

The Court noted that the minute of conviction and sentence was not attached to the application and the application was not served on the Director of Public Prosecutions.

Case Name:

**Symcy Williams
v
The Queen**

[SVGHCRA2017/0011]

(Saint Vincent and the Grenadines)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: In person

Issue: Application for leave to appeal against sentence

Result / Order: IT IS HEREBY ORDERED THAT:
The application for leave to appeal against sentence is granted.
The appellant shall file and served his notice of appeal within 21 days of the date of this order.

Reason: The Court read the minute of conviction dated 16th January 2018 and was of the view that the applicant met the threshold for the grant of leave to appeal against sentence.

Case Name: Angus Dennie
v
Saint Vincent and the Grenadines Small Business and Microfinance Co-operative Ltd.

[SVGHCVP2017/0013]
(Saint Vincent and the Grenadines)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: Mr. Emery Robertson (Robertson & Robertson)

Respondent: Mr. Julian Jack (Regency Law Firm)

Issues: Application for stay of execution – Application for stay of proceedings

Result / Order:

IT IS HEREBY ORDEDRED THAT:

The respondent shall comply with the order of Webster JA [Ag.] dated 19th December 2017 within 14 days of the date of this order.

The application for a stay is adjourned for further consideration at the next Chamber Hearing which is scheduled for 20th February 2018.

Reason:

The Court noted that the application was served on the respondent on 27th November 2017. The Court further noted that there was no evidence that the applicant had applied for and obtained leave to appeal and that the order of Webster JA [Ag.] dated 19th December 2017 had not been complied with by the respondent.

Case Name:

Anthony Edwards

v

The Queen

[SVGHCRAP2018/0001]

(Saint Vincent and the Grenadines)

Date:

Tuesday, 23rd January 2018

On paper:

Applicant:

In person

Issue:

Application for leave to appeal against conviction

Result / Order:

IT IS HEREBY ORDEDRED THAT:

The Registrar of the High Court is directed to cause the minute of conviction and sentence to be prepared and filed copies thereof to be served on the applicant and the Director of Public Prosecutions within 21 days of this order.

The application is adjourned to the next Chamber Hearing of this Court which is scheduled for 20th

February 2018.

Reason: The Court noted that the minute of conviction and sentence was not attached to the application.

Case Name: Danley Matthews
v
The Queen

[SVGHCRA2018/0002]
(Saint Vincent and the Grenadines)

Date: Tuesday, 23rd January 2018

On paper:
Applicant: In person

Issue: Application for leave to appeal against conviction and sentence

Result / Order: IT IS HEREBY ORDEDRED THAT:
The Registrar of the High Court is directed to cause the minute of conviction and sentence to be prepared and filed copies thereof to be served on the applicant and the Director of Public Prosecutions within 21 days of this order.
The application is adjourned to the next Chamber Hearing of this Court which is scheduled for 20th February 2018.

Reason: The Court noted that the minute of conviction and sentence was not attached to the application.

Case Name: Collin Williams

v
Commissioner of Police

[SVGMCRAP2018/0001]
(Saint Vincent and the Grenadines)

Date: **Tuesday, 23rd January 2018**

On paper:

Applicant: **In person**

Respondent: **The Director of Public Prosecutions**

Issue: **Application for extension of time to appeal**

Result / Order: **IT IS HEREBY ORDEDRED THAT:**
The Registrar of the High Court is directed to cause the minute of conviction and sentence to be prepared and filed copies thereof to be served on the applicant and the Director of Public Prosecutions within 21 days of this order.
The application is adjourned to the next Chamber Hearing of this Court which is scheduled for 20th February 2018.

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

Case Name: **Recardo Bacchus**
v
Commissioner of Police

[SVGMCRAP2018/0005]
(Saint Vincent and the Grenadines)

Date: **Tuesday, 23rd January 2018**

On paper:

Applicant: In person
Respondent: The Director of Public Prosecutions

Issue: Application for extension of time to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

The Registrar of the High Court is directed to cause the minute of conviction and sentence to be prepared and filed copies thereof to be served on the applicant and the Director of Public Prosecutions within 21 days of this order. The application is adjourned to the next Chamber Hearing of this Court which is scheduled for 20th February 2018.

Reason: The Court noted that the minute of conviction and sentence was not attached to the application.

Case Name: Brian Samuel
v
Commissioner of Police

[SVGMCRAP2018/0003]
(Saint Vincent and the Grenadines)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: In person
Respondent: The Director of Public Prosecutions

Issue: Application for extension of time to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:
The Registrar of the High Court is directed to cause the minute of conviction and sentence to be prepared and filed copies thereof to be served on the applicant and the Director of Public Prosecutions within 21 days of this order. The application is adjourned to the next Chamber Hearing of this Court which is scheduled for 20th February 2018.

Reason:

The Court noted that the minute of conviction and sentence was not attached to the application.

Case Name:

Grafton McMillian
v
Commissioner of Police

[SVGMCRAP2018/0006]
(Saint Vincent and the Grenadines)

Date:

Tuesday, 23rd January 2018

On paper:

Applicant: In person

Respondent: The Director of Public Prosecutions

Issue:

Application for extension of time to appeal

Result/Order:

IT IS HEREBY ORDERED THAT:
The Registrar of the High Court is directed to cause the minute of conviction and sentence to be prepared and filed copies thereof to be served on the applicant and the Director of Public Prosecutions within 21 days of this order. The application is adjourned to the next Chamber Hearing of this Court which is scheduled for 20th February 2018.

Reason: The Court noted that the minute of conviction and sentence was not attached to the application.

Case Name: Noel Lewis
v
Commissioner of Police

[SVGMCRAP2018/0004]
(Saint Vincent and the Grenadines)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: In person

Respondent: The Director of Public Prosecutions

Issue: Application for extension of time to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The Registrar of the High Court is directed to cause the minute of conviction and sentence to be prepared and filed copies thereof to be served on the applicant and the Director of Public Prosecutions within 21 days of this order. The application is adjourned to the next Chamber Hearing of this Court which is scheduled for 20th February 2018.

Reason: The Court noted that the minute of conviction and sentence was not attached to the application.

Case Name: David Richards
v
Commissioner of Police

[SVGMCRAP2017/0054]
(Saint Vincent and the Grenadines)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: In person

Respondent: The Director of Public Prosecutions

Issue: Application for leave to withdraw appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The applicant is granted leave to discontinue the appeal.

Reason: The Court noted the order of Blenman JA dated 30th November 2017 in which Her Ladyship granted the applicant leave to appeal and read the letter of the applicant dated 4th November 2017 indicating that he no longer intends to proceed with his appeal. The Court was satisfied that the applicant should be granted leave to discontinue the appeal.

Case Name: [1] Falcon House UVH (BVI) Limited
[2] Mechiel Georg Kotze and Ian Paulus Van Zyl
(as Trustees of the De Witt Trust)
[3] Canon Bridge Holdings Limited
Appellants
v

[1] CH Trustees SA
Applicant/Respondent

**[2] Omega Services Group Limited
Respondent**

**[BVIHCMAP2017/0001]
(Territory of the Virgin Islands)**

Date: Tuesday, 23rd January 2018

On paper:

Appellants: Mr. Olwyn Barry (Appleby)

Respondents: Mr. Richard Baird (Forbes Hare)

Issues: Application for removal of solicitors from the record as acting for the appellants – Application for costs to be assessed

Result / Order:

IT IS HEREBY ORDERED THAT:

In relation to the application for removal of solicitors:

Appleby be removed from the Court record as acting for the appellants.

The appellants pay the costs of this application within 14 days, to be assessed by a master, if not agreed.

In relation to the application for costs to be assessed:

The first respondent's costs of the appeal pursuant to paragraph 2 of the order dated 12th July 2017 are assessed in the amount of US\$153,488.41.

The appellant must lay the costs of this application, assessed summarily in the amount of US\$4,000.00.

Reason:

In relation to the application for removal of solicitors from the record, the Court read the second affidavit of Olwyn Barry filed on 18th January 2018 with supporting exhibits and was satisfied that on the evidence, Appleby should be removed from the Court record as acting for the appellants.

Case Name: **Jessroy McKelly**
v
The Queen

[BVIHCRAP2014/0002]
(Territory of the Virgin Islands)

Date: **Tuesday, 23rd January 2018**

On paper:

Applicant: **Mr. Patrick Thompson**

Respondent: **Mrs. Tiffany Scatliffe-Esprit, Principal Crown Counsel**
(The Director of Public Prosecutions)

Issues: **Application for leave to appeal against conviction and sentence – Application for leave to file amended notice of appeal**

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

Reason: **The Court noted that the application for leave to file the amended notice of appeal and the amended notice of appeal was served on the office of the Director of Public Prosecutions on 18th January 2018. The Court was of the view that the applicant had satisfied the requirements for a grant of leave to appeal against conviction and sentence.**

Case Name: **Raymond Harrison**
v
The Queen

[BVIHCRAP2014/0003]

(Territory of the Virgin Islands)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: In person

Respondent: Mrs. Tiffany Scatliffe-Esprit, Principal Crown Counsel
(The Director of Public Prosecutions)

Issues: Application for leave to appeal against conviction –
Application for leave to file amended notice of appeal

Result / Order: IT IS HEREBY ORDERED THAT:
Leave is granted to the applicant to file the
amended notice of appeal against conviction.
The amended notice of appeal is deemed validly
filed.

Reason: The Court noted that the application for leave to file the
amended notice of appeal and the amended notice of
appeal was served on the office of the Director of Public
Prosecutions on 18th January 2018. The Court was of the
view that the applicant had satisfied the requirements for
a grant of leave to appeal against conviction and
sentence.

Case Name: Kathryn Ma Wai Fong
v
[1] Wong Kie Yik
[2] Wong Kie Chie
[3] Successful Trend Investments Corporation

[BVIHCMAP2018/0002]
(Territory of the Virgin Islands)

Date: Tuesday, 23rd January 2018

On paper:

Applicant: Mr. James Noble (Harney, Westwood & Riegels)

Respondents: Mr. David Alexander, QC and Mr. Simon Hall (Maples and Calder) for the first and second respondents

Ms. Yegâne Güley (Walkers) for the third respondent

Issues: Application for leave to appeal – Application for extension of time to file notice of appeal – Application for stay of execution of costs order – Application for costs of the application

Result / Order: IT IS HEREBY ORDERED THAT:

The application for leave to appeal the refusal of the amendment application is set for hearing before the Full Court at the sitting of the Court of Appeal in the Territory of the Virgin Islands during the week commencing 26th February 2018.

The application for a stay of the costs order made against the applicant is refused.

The application for an order that the first and second respondents pay the costs of the present application to the Court of Appeal is also refused.

Reason: The Court noted that the application for the amendment was made on the last day of the trial during the applicant's oral closing argument. The Court also had regard to the reasons for Adderley J's decision in dismissing the amendment application.

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 injustice to one or both parties if it grants or refuses a stay. The Court noted that no cogent evidence has been advanced in support of the stay demonstrating a risk of injustice if a stay of the costs order is refused and further being of the view that the balance of justice does not favour the grant of a stay.

The Court was also of the opinion that there is no proper basis upon which it should make an order for the first and second respondents to pay the applicant's costs of

the application to the Court of Appeal.