

CHAMBER HEARING

March 2016

MATTERS DEALT WITH ON PAPER

Before: The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Case Name: Marlon Ho-Tack
v
Alice Ho-Tack

**[ANUMCVAP2015/0002]
(Antigua and Barbuda)**

Date: Tuesday, 22nd March 2016

On paper:

Applicant: Marshall & Co.

Respondent: Ms. Joanne M. Massiah

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

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall serve a copy of the notice of application on the respondent within 14 days of the date of this order and provide proof of service.**
- 2. The application is adjourned for further consideration at the next chamber hearing scheduled for 26th April 2016.**

Reason:

The Court noted the order of Blenman JA dated 25th February 2016 directing the appellant/applicant to serve a copy of the notice of application on the respondent within 14 days and provide proof of service and that no such proof has been filed.

Case Name: **Robin Kensworth Montgomery Yearwood**
v
Christiana Yearwood

[ANUHC VAP2015/00018]
[ANUHC VAP2015/00019]
(Antigua and Barbuda)

Date: **Tuesday, 22nd March 2016**

On paper:

**Appellant/
Respondent:** **Dr. David Dorsett (Watt, Dorsett & Company)**

**Respondent/
Applicant:** **Marshall & Co.**

Issue: **Application for unless order**

Result / Order: **IT IS HEREBY ORDERED THAT:**
**1. The appellant/respondent shall file and serve his
skeleton argument within 21 days of the date of this
order.**
2. There shall be no order as to costs.

Reason: **The Court noted that the notice of application for an
unless order did not specify the rule or order that the
appellant/respondent has not complied with and the
nature of the alleged breach. The Court also treated
the notice of application as an application to fix the
time for the appellant/respondent to file his skeleton
arguments.**

Case Name:

**Joseph Horsford
as sole administrator of the Estate
of William Horsford, (deceased)**

v

**[1] Geoffrey Croft
[2] Eric Construction & Heavy Equipment
Services Ltd.**

**[ANUHCVP2014/0028]
(Antigua and Barbuda)**

Date:

Tuesday, 22nd March 2016

On paper:

**Appellant/
Applicant:**

In person

1st Respondent:

Mr. John Fuller

2nd Respondent:

Ms. Samantha Marshall

Issue:

**Application for extension of time to file skeleton
arguments and record of appeal**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The appellant/applicant shall serve the notice of application on the respondent and file an affidavit of service within 21 days of the date of this order.**
- 2. Unless the appellant/applicant serves the notice of application on the respondent and files an affidavit of service within the time specified by this order, then the notice of application is dismissed and struck out pursuant to CPR 26.4(7).**
- 3. Further hearing of the application, if necessary, is adjourned to the next chamber hearing scheduled for 26th April 2016.**

Reason:

The Court noted that the appellant/applicant has not complied with the order of Blenman JA dated 25th February 2016, directing service of the notice of application on the respondent.

Case Name:

**Gregory Gordon
v
Jacqueline Havener**

**[ANUHCVAP2015/0030]
(Antigua and Barbuda)**

Date:

Tuesday, 22nd March 2016

On paper:

Applicant: Ms. Samantha May

Respondent: Mr. Dane Hamilton, QC

Issues:

**Application for extension of time to file skeleton arguments, record of appeal and chronology –
Application for relief from sanctions**

Result / Order:

**IT IS HEREBY ORDERED THAT:
The notice of application filed on 26th October 2015 for extension of time to file skeleton arguments, record of appeal and chronology and for relief from sanctions is dismissed with no order as to costs.**

Reason:

The Court noted that the Registrar of the High Court has not issued a notice under rule 62.9(1)(a)(ii) of the Civil Procedure Rules 2000 that the transcript of the trial is unavailable thereby initiating a 42-day period for the appellant to file and serve his skeleton arguments.

Case Name:

**Canisby Limited
v
Flat Point Development Limited
[ANUHCVAP2016/0005]
(Antigua and Barbuda)**

Date: Tuesday, 22nd March 2016

Applicant: Ms. Michelle G. Sterling (Rika Bird and Associates)

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted leave to appeal the order of Master Raulston Glasgow made on 18th February 2016 staying the applicant's claim in favour of arbitration.
2. The notice of appeal shall be filed within 21 days of this order.
3. Costs of the application shall be costs in the appeal.

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

Case Name: Ultramarine (Antigua) Ltd.
v
Sunsail (Antigua) Ltd.
[ANUHCVP2016/0004]
(Antigua and Barbuda)

Date: Tuesday, 22nd March 2016

On paper:

Applicant: Dr. David Dorsett (Watt, Dorsett & Co.)

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

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted leave to appeal against the order of Henry J contained in paragraph 29 of the

judgment delivered on 5th February 2016.

2. A stay is granted of paragraph 1 of the said order, pending the hearing and determination of the appeal.
3. The notice of appeal is to be filed within 21 days of the date of this Order.

Reason:

The Court was satisfied that the applicant had met the threshold requirements for the grant of leave to appeal and for a stay of execution.

Case Name:

**Remy Lawrence
trading as Rejens Services
v
Willem Nico
also known as Wilco Brouwer**

**[DOMHCVAP2013/0015]
(Commonwealth of Dominica)**

Date:

Tuesday, 22nd March 2016

On paper:

**Appellant/
Respondent:**

Mr. Lennox Lawrence

**Respondent/
Applicant:**

Mr. Jeffrey L. Douglas-Murdock

Issue:

Application to strike out notice of appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The appellant shall file and serve his skeleton argument on the respondent, Heather L. Felix Chambers, within 21 days of the date of this order.
2. Unless the appellant files and serves his skeleton argument as directed and within the time specified by this Order, the notice of appeal filed on 10th July 2013 shall stand struck out and dismissed for want

of prosecution.

3. Costs of this application of \$1,500.00 to the respondent.

Reason:

The Court noted that the Registrar's notice issued pursuant to rule 69.2(1)(a)(ii) of the Civil Procedure Rules 2000 was received by the legal practitioners for the parties on 9th February 2015 and that the appellant has not complied with rule 62.11(1) by filing his skeleton argument within the 42 days allowed by the rules after receipt of the Registrars notice, or at all.

Case Name:

Cleaver Burton

v

The State

**[DOMHCRAP2016/0001]
(Commonwealth of Dominica)**

Date:

Tuesday, 22nd March 2016

On paper:

Applicant:

Mr. Darius Jones

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 against the sentence imposed by Thomas J made on 13th March 2015.
2. The applicant shall file and serve the notice of appeal within 7 days of the date of this order.
3. The execution of the order of Thomas J dated 13th March 2015 is stayed pending the hearing and determination of the appeal.

Reason:

The Court was satisfied that the applicant had met the threshold requirements for the grant of an extension of

time.

Case Name:

John Charles

v

The Queen

**[GDAHCRAP2011/0001]
(Grenada)**

Date:

Tuesday, 22nd March 2016

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
filed on 17th February 2016 is dismissed.**

Reasons:

**The Court noted that the appeal against conviction and
sentence was dismissed on 28th April 2015.**

Case Name:

The Attorney General of Grenada

v

[1] Maria Ytterholm

[2] Sebastian Isaac

[3] Darshan Ramdhani

**[GDAHCVAP2016/0006]
(Grenada)**

Date:

Tuesday, 22nd March 2016

On paper:

Applicant: Mr. Dwight Horsford, Solicitor General (Attorney General's Chambers)

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

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal against the two orders made by Wallbank J [Ag.] on 11th February 2016 and for a stay of the said orders is dismissed.
2. There shall be no order as to costs.

Reasons: The Court noted the affidavit of service filed on 1st March 2016 evidencing the service of the Court of Appeal's notice for consideration of the applicant's application for leave to appeal on 22nd March 2016. The Court further noted that the application for leave to appeal relates to orders made by Walbank J that are concerned with the liberty of the respondents and the custody of an infant and that pursuant to section 33(2)(g)(i) of the West Indies Associated States Supreme Court (Grenada) Act, the applicant does not require leave to appeal.

Case Name:

**The Permanent Secretary of the
Ministry of Finance
v
Financial Investment Consultancy Services
[GDAHCVAP2016/0001]
(Grenada)**

Date: Tuesday, 22nd March 2016

On paper:

Applicant: Mr. Dwight Horsford, Solicitor General (Attorney General's Chambers)

Issue: Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal is granted against the order of Adrien-Roberts J dated 17th December 2015.
2. The applicant shall file and serve the notice of appeal within 21 days of the date of this order.
3. Costs of this application shall be in the appeal.

Reason:

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

Case Name:

Sherwin Shane Buckmire

v

The Queen

**[GDAHCRAP2016/0003]
(Grenada)**

Date:

Tuesday, 22nd March 2016

On paper:

Applicant:

Mr. Anslem Clouden

Issues:

Application for leave to appeal – Application for extension of time within which to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant is granted an extension of time to appeal against the sentence.
2. The notice of appeal dated 1st February 2016 and filed 9th February 2016 is deemed properly filed.

Reason:

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

Case Name:

Eugene John

v

David Thomas

**[GDAHCVAP2016/0008]
(Grenada)**

Date:

Tuesday, 22nd March 2016

On paper:

Applicant:

Mr. Ruggles Ferguson (Ciboney Chambers)

Issues:

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

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant is granted leave to appeal against the order of Aziz J dated 15th December 2015, entering judgment for the respondent on his fixed date claim form, refusing the applicant an extension of time to file his defence and deeming the defence already filed as being improperly filed.**
- 2. The applicant shall file his notice of appeal within 21 days of the date of this order.**
- 3. Costs of the application shall be costs in the appeal.**

Reason:

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

Case Name:

Daphne McIntosh

v

[1] Sandra Bridgeman

[2] Attorney General of Grenada

**[GDAHCVAP2016/0007]
(Grenada)**

Date: Tuesday, 22nd March 2016

On paper:

Applicant: Ms. Brenda Wardally-Beaumont

Respondents: Ms. Sandra Bridge (Attorney General's Chambers)

Issues: Application for extension of time to file notice of appeal
– Application for relief from sanctions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted an extension of time to file a notice of appeal against the order of Aziz J dated 7th December 2015.
2. The notice of appeal filed on 24th February 2016 is deemed to be properly filed and is to stand as the notice of appeal in this appeal.
3. Costs of the application shall be in the appeal.

Reason: The Court was satisfied that the applicant had met the threshold requirements for the grant of an extension of time.

Case Name: Eurella Grant
v
Superintendent of Her Majesty's Prison
[MNILTAP2015/0002]
(Montserrat)

Date: Tuesday, 22nd March 2016

On paper:

Applicant: In person

Issue: Case management of case stated appeal

Result / Order: IT IS HEREBY ORDERD THAT:
Unless the applicant complies within 21 days of the date of this order with paragraph 1 of the order of

Blenman JA dated 25th February 2016 and with the requirements of the Labour Code and the Civil Procedure Rules 2000 for prosecuting this matter, the purported appeal shall stand dismissed for want of prosecution.

Reasons:

The Court noted that the applicant did not comply with paragraph 1 of the order of Blenman JA dated 25th February 2016, to file and serve submissions within 14 days on the issue of whether there has been compliance with the relevant statute and the Civil Procedure Rules 2000.

Case Name:

Junction Trucking Limited

v

**Deswick Halley
[MNILTAP2016/0001]
(Montserrat)**

Date:

Tuesday, 22nd March 2016

On paper:

Applicant:

In person

Issue:

Case management of case stated appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant is directed to take all necessary steps under the Labour Code and Part 61 of the Civil Procedure Rules 2000 to constitute and prosecute the appeal.**
- 2. The matter is adjourned to the next chamber hearing scheduled for 26th April 2016.**

Case Name:

Interisland Dredging Co. Ltd.

v
C.O. Williams Construction (St. Lucia) Ltd.

[SLUHCVP2016/0002]
(Saint Lucia)

Date: Tuesday, 22nd March 2016

On paper:

Applicant: Ms. Antonia Auguste-Charlemange (Greene, Nelson and Associates)

Respondent: Floissac, Flemming & Associates

Issues: Application for leave to appeal – Application that hearing of application for leave to appeal be treated as the appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court is directed to obtain a copy of the transcript of the judge's decision made on 2nd February 2016 and to make it available to the applicant.
2. The hearing of the application for leave to appeal is adjourned to be heard by the Full Court at its next sitting in Saint Lucia during the week of 17th May 2016.

Reasons:

The Court noted that the transcript of the judge's oral decision delivered on 2nd February 2016 did not form a part of the Court's file as directed by the judge in her order.

Case Name:

Clement Tisson
v
Queen

[SLUHCRA2015/0001]
(Saint Lucia)

Date: **Tuesday, 22nd March 2016**

On paper:
**Appellant/
Applicant:** **Mr. Sandy John**

Issue: **Application for bail**

Result / Order: **IT IS HEREBY ORDERED THAT:**
1. The appellant/applicant shall serve the application for bail on the respondent within 14 days of the date of this order.
2. The application is adjourned to the next chamber hearing scheduled for 26th April 2016.

Reason: **The Court noted that the respondent was not served with the application for bail.**

Case Name:
[1] Rosalind Nicholls
[2] Constance V. Mitcham
[3] Pearline O. Sylvester

v

[1] Richard Rowe and Mark Secrist
(and those whom they represent)
[2] Roy and Glen Benton
[3] Paul and Chae Dunn

and

[1] The Attorney General of St. Christopher and Nevis
[2] The Authorised Officer for the Angelus Resort

**[SKBHCVAP2011/0015]
(Saint Christopher and Nevis)**

Date: Tuesday, 22nd March 2016

On paper:

Applicants: Mitcham & Benjamin

Respondents: Ms. Elizabeth Harper (Daniel Brantley & Associates)

Issue: Application for extension of time to file submissions on costs

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicants are granted an extension of time to file their submissions on costs.
2. The applicants shall file their submissions on costs within 14 days of the date of this Order.
3. The applicants shall pay the costs of this application in the sum of \$1,500.00 within 14 days of the date of this Order.

Reason:

The Court was satisfied that the applicants had met the threshold requirements for the grant of an extension of time.

Case Name:

**[1] Anjie Investments Limited
[2] Tian Li Holdings Limited
v
[1] Cheng Nga Yee
[2] Cheng Nga Ming Vincent**

**[BVIHCMAP2016/0003]
(Territory of the Virgin Islands)**

Date: Tuesday, 22nd March 2016

On paper:

Applicants: Mr. Richard Evans (Conyers, Dill & Pearman)

Issues: Application for leave to appeal – Application for stay of proceedings

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted leave to appeal against the decision of Farara J [Ag.] dated 29th January 2016.
2. All further proceedings in the court below are stayed pending the determination of the appeal or further order of this Court.
3. The applicant shall file its notice of appeal within 21 days of the date of this order.
4. Costs of the application shall be in the appeal.

Reason: The Court was satisfied that the applicants had met the threshold requirements for the grant of leave to appeal and the grant of a stay of proceedings.

Case Name: Violet Delville Hodge
v
The Commissioner of Police
[BVIMCRAP2015/0005]
(Territory of the Virgin Islands)

Date: Tuesday, 22nd March 2016

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

Issue: Case management of appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The case is remitted to the Magistrate's Court to complete the trial by sentencing the defendant.

Case Name:

Walter Maduro
V
The Commissioner of Police
[BVIMCRAP2014/0009]
(Territory of the Virgin Islands)

Date:

Tuesday, 22nd March 2016

On paper:

Applicant:

Mr. Patrick Thompson (PST Law)

Issue:

Application for extension of time to file grounds of appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The appellant is granted leave to amend his notice of appeal filed on 5th June 2014.**
- 2. The amended notice of appeal filed on 17th June 2014 is deemed properly filed.**

Reason:

The Court noted the affidavit of service filed on 29th February 2016 and correspondence from the Office of the Director of Public Prosecutions, stating that the Crown did not object to the application.

Case Name:

Romel Diamond
V
The Commissioner of Police
[SVGMCRAP2016/0008]
(Saint Vincent and the Grenadines)

Date: Tuesday, 22nd March 2016

On paper:

Applicant: In person

Issue: Application for extension of time to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant shall serve the application on the respondent within 21 days of the date of this order.
2. The application is adjourned for further consideration at the next chamber hearing scheduled for 26th April 2016.

Reason:

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

Case Name:

**Hypolite Austrie
v
Corporal Clement Fan Fan**

**[DOMMCVAP2016/0001]
(Commonwealth of Dominica)**

Date: Tuesday, 22nd March 2016

On paper:

Applicant: In person

Issue: Application for stay of execution pending appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The appellant shall serve the notice of application for a stay of execution of the order of the magistrate on the respondent and file an affidavit of service within 21 days of this order.
2. Unless the appellant serves the notice of application

on the respondent and files an affidavit of service within the time specified by this order, the notice of application shall stand struck out pursuant to CPR 26.4(7).

3. Further hearing of this application, if necessary, is adjourned to the next chamber hearing scheduled for 26th April 2016.

Reason:

The Court noted that the applicant had not complied with the order of Blenman JA dated 25th February 2016 to serve the notice of application on the respondent.