

CHAMBER HEARING

July 2013

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

MATTERS DEALT WITH ON PAPER

Case Name: Grenville Radio Limited
v
Jacqui Quinn-Leandro
[ANUHCVP2011/0033]
(Antigua and Barbuda)

Date: Tuesday, 23rd July 2013

On paper:

Appellant / Respondent:	Mr. Steadroy C. O. Benjamin (Steadroy C. O. Benjamin & Co.)
Respondent / Applicant:	Ms. C. Debra Burnette (Henry & Burnette)

Issues: Application to dismiss notice of appeal

Result / Order & Reason: IT IS HEREBY ORDERED THAT:
1. The appeal is dismissed for non-compliance with CPR 2000 and Practice Directions.
2. Costs assessed in the sum of EC\$800.00.

Case Name: Grenville Radio Limited
v
Harold Lovell

**[ANUHCVAP2011/0034]
(Antigua and Barbuda)**

Date: Tuesday, 23rd July 2013

On paper:

**Appellant /
Respondent:** Steadroy C. O. Benjamin & Co.

**Respondent /
Applicant:** Ms. C. Debra Burnette (Henry & Burnette)

Issues: Application to dismiss notice of appeal

**Result / Order
& Reason:** IT IS HEREBY ORDERED THAT:
1. The appeal is dismissed due to non-compliance
with CPR 2000 and Practice Directions.
2. Costs assessed in the sum of EC\$800.00.

Case Name: FBO 2000 Antigua Limited
v
Eastern Caribbean Civil Aviation Authority

**[ANUHCVAP2013/0008]
(Antigua and Barbuda)**

Date: Tuesday, 23rd July 2013

On paper:

**Appellant /
Respondent:** Lake & Kentish

**Respondent /
Applicant:** Ms. C. Kamilah Roberts (Roberts & Co.)

Issues: Application to dismiss notice of appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application to strike out the notice of appeal is dismissed.
2. Costs assessed in the sum of EC\$800.00.

Reason:

The applicant sought to have the notice of appeal struck out on the ground that leave (which had not been sought or obtained by the appellant) was required to appeal the decision of the learned master. The Court held that pursuant to section 31(2)(g) of the Eastern Caribbean Supreme Court Act (Cap. 143 of the Revised Laws of Antigua and Barbuda 1992) no leave is required to appeal against the refusal of an interim order and therefore, in the present case, the appellant did not need leave to bring the appeal.

Case Name:

**Caribbean Developments (Antigua) Limited
v
Stuart Coleman**

**[ANUHCVP2013/0011]
(Antigua and Barbuda)**

Date:

Tuesday, 23rd July 2013

On paper:

Applicant:

Ms. Fidela Corbin Lincoln (Simon Rogers Murdoch)

Issue:

Application for leave to appeal and stay of execution

Result / Order:

IT IS DIRECTED THAT:

1. The application for leave to appeal cannot be heard until the applicant complies with clause (2) of the order of Michel JA dated 20th June 2013.
2. Further leave is granted to the applicant to file a copy of the order which is to be appealed on or before 30th August 2013.

3. The matter is adjourned for further consideration at the next chamber hearing on 24th September 2013.

Reason:

The applicant had not yet filed a copy of the order that he wished to appeal (as had been directed by the order of Michel JA dated 20th June 2013).

Case Name:

**Esmond James
v
Mark Anthony
t/a MDA Trucking & Equipment Services**

**[ANUHCVAP2013/0012]
(Antigua and Barbuda)**

Date:

Tuesday, 23rd July 2013

On paper:

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

Respondent: Peyton J. V. Knight & Associates

Issues:

Application for leave to appeal

**Result / Order
& Reason:**

IT IS DIRECTED THAT:

1. The matter is adjourned for consideration at the next chamber hearing on 24th September 2013, upon receipt of either the Master's order or reasons for the decision.
2. Time is extended to 30th August 2013 for the applicant to provide the order of the court or the Master's reasons for the decision.

Reason:

Neither the master's order (which the applicant wished to appeal), nor the reasons for the decision had been received by the Court.

Case Name:

ABI Bank Limited

v

[1] Avonelle Watson

[2] Margaret Francis

**[ANUHCVP2013/0015]
(Antigua and Barbuda)**

Date:

Tuesday, 23rd July 2013

On paper:

**Appellant /
Applicant:**

Ms. C. Debra Burnette (Henry & Burnette)

Respondents:

**Mr. Charlsworth O. D. Brown (for the first
respondent)**

Issues:

**Application for stay of order of the court –
Procedural appeal**

Result / Order:

IT IS HEREBY ORDERED THAT:

**A stay of the order of the learned master dated 28th
May 2013 is granted.**

Reason:

**The Court was satisfied that the applicant had
satisfied the requirements for the exercise of the
Court's discretion to grant a stay.**

Case Name:

Jessie Bruney (nee) Paul

**as Personal Representative of St. Ford Peter
Paul, Deceased**

v

**[1] Jules Carriere
[2] Leona Charles
[3] Charles Fabien**

**[DOMHCVAP2011/0007]
(Commonwealth of Dominica)**

Date: **Tuesday, 23rd July 2013**

On paper:

**Appellant /
Respondent:** **Mr. Michael Bruney**

**Respondents /
Applicants:** **Ms. Dawn Yearwood-Stewart**

Issues: **Application for directions – Notice of discontinuance
of application for directions**

**Result / Order
& Reason:** **IT IS HEREBY ORDERED THAT:**
**1. The notice of discontinuance of the application
dated 13th June 2013 being filed, the application
stands dismissed.**
2. No order as to costs.

Case Name: **Emmanuel Parillon
v
Jonathan Joseph**

**[DOMHCVAP2011/0027]
(Commonwealth of Dominica)**

Date: **Tuesday, 23rd July 2013**

On paper:

Appellant: **Dyer & Dyer Chambers**

Respondent: **Mr. Michael Bruney**

Issues: For report

Result / Order: IT IS DIRECTED THAT:
1. The matter is further adjourned for the Registrar to comply with the directions on or before 30th August 2013.
2. The matter is fixed for further consideration at the next chamber hearing scheduled for 24th September 2013.

Reason: The Registrar had not yet indicated to the Chief Registrar the status of the transcript of proceedings in claim no. DOMHCV2010/0350.

Case Name: [1] Francis St. Romain
[2] Kenrick Yearwood
v
Louis Copiel c/o Customs and Excise
Division

[DOMMCVAP2013/0007]
(Commonwealth of Dominica)

Date: Tuesday, 23rd July 2013

On paper:
Applicants: Dyer & Dyer

Issues: Application for extension of time to file recognizance and relief from sanctions

Result / Order: IT IS HEREBY ORDERED THAT:
1. The appellants are granted extension of time to sign their recognizances on or before 30th August 2013.

2. Relief of sanctions is also granted.

Case Name:

Mervin Henderson

v

The Police

**[DOMMCRAP2013/0020]
(Commonwealth of Dominica)**

Date:

Tuesday, 23rd July 2013

On paper:

Applicant:

Ms. Diana Vincia Auguiste

Respondent:

Office of the Director of Public Prosecutions

Issues:

Application for notice of appeal to be deemed properly filed

Result / Order:

IT IS DIRECTED THAT:

- 1. The applicant is granted further leave to comply with the Practice Directions 2 and 3 on or before 30th August 2013.**
- 2. The matter is adjourned to the next chamber hearing on 24th September 2013.**

Reason:

It was necessary that the applicant comply with Practice Directions 2 and 3 before the Court could deem the notice of appeal properly filed.

Case Name:

Kyle David

v

**[1] The Attorney General of the
Commonwealth of Dominica**

**[2] Oscar George
[3] Josiah Cornelius
[4] Egbert Charles**

**[DOMHCVAP2013/0004]
(Commonwealth of Dominica)**

Date: **Tuesday, 23rd July 2013**

On paper:

**Appellant /
Respondent:** **Dyer & Dyer**

**Respondents /
Applicants:** **Ms. Tameka Hyacinth**

Issues: **Application for extension of time to file written submissions in opposition to the appellant's appeal**

Result / Order: **IT IS HEREBY ORDERED THAT:**
1. The respondents shall comply with the relevant Practice Directions.
2. The matter is adjourned for further consideration at the next chamber hearing on 24th September 2013.

Case Name: **Neville Sylvester Kirwan
v
Mildred Agnita Kirwan**
**[MNIHCVAP2012/0002]
(Montserrat)**

Date: **Tuesday, 23rd July 2013**

On paper:

**Appellant /
Applicant:** **Mr. Khari Markham (Allen Markham & Associates)**

Respondent: Mr. Sylvester Carrott

Issues: Application to amend notice of appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. Leave to amend the notice of appeal is granted.
2. The applicant is to file and serve the amended notice of appeal within 7 days of the date of this order.
3. The applicant to file and serve further skeleton arguments if necessary within 14 days of this order.
4. The respondent is granted leave if necessary to file and serve further written submissions within 28 days of receipt of the further skeleton arguments.

Case Name: [1] Lemon Grove Company, Limited
[2] Adam Bilzerian
v
First Caribbean International Bank
(Barbados) Ltd.
[SKBHCVAP/2013/0013]
(Saint Christopher and Nevis)

Date: Tuesday, 23rd July 2013

On paper: Applicants / Respondents: Mr. John Tyme

Respondent / Applicant: Myrna R. Walwyn & Associates

Issues: Application for leave to appeal and stay of execution
– Application to strike out portions of the applicant's

affidavit

Result / Order:

IT IS HEREBY ORDERED THAT:

The applications for leave to appeal and stay of execution, having been discontinued, are hereby dismissed.

Reason:

A notice of discontinuance was filed by the applicant on 22nd July 2013.

Case Name:

**[1] Caribbean Building Systems (St. Kitts)
Ltd.**

[2] Adam Bilzerian

v

**First Caribbean International Bank
(Barbados) Limited**

**[SKBHCVAP2013/0011]
(Saint Christopher and Nevis)**

Date:

Tuesday, 23rd July 2013

On paper:

**Applicants /
Respondents:**

Mr. John Tyme

**Respondent /
Applicant:**

Kelsick, Wilkin & Ferdinand

Issues:

**Application for leave to appeal and stay of execution
– Application to strike out notice of application for
stay of execution**

Result / Order:

IT IS DIRECTED THAT:

- 1. The appellant is to file a draft order of the Master being appealed with the Registrar of the High Court within seven (7) days of today's order.**

2. The Registrar of the High Court of St. Kitts & Nevis, shall make every effort to bring the draft order to the attention of the Master for the Master's approval within fourteen (14) days of the filing of the order.
3. Upon approval, the Registrar of the High Court of St. Kitts & Nevis, shall have the order drawn up pursuant to CPR 42.6(1) and immediately make a copy of the said order available to the parties and a copy sent to headquarters.
4. The matter is adjourned to the next chamber hearing scheduled for 24th September 2013.

Reason:

The applicants had not filed a copy of the order being appealed as had been directed by the full Court (by an order dated 10th June 2013). They indicated to the Court however, that they did attempt to obtain this order but just had not been able to do so.

Case Name:

[1] Caribbean Building Systems (St. Kitts) Ltd.

[2] Adam Bilzerian

v

First Caribbean International Bank (Barbados) Limited

**[SKBHCVAP2013/0007]
(Saint Christopher and Nevis)**

Date:

Tuesday, 23rd July 2013

On paper:

**Applicants /
Respondents:**

Mr. John Tyme

**Respondent /
Applicant:**

Kelsick, Wilkin & Ferdinand

Issues: Application for leave to appeal – Application for stay of execution – Application to strike out applications for leave to appeal and stay of execution

Result / Order: IT IS DIRECTED THAT:

1. The appellant shall file a draft order of the master being appealed with the Registrar of the High Court within seven (7) days of today's order.
2. The Registrar, High Court of St. Kitts & Nevis, shall make every effort to bring the draft order to the attention of the master for the master's approval within fourteen (14) days of the filing of the draft order.
3. Upon approval, the Registrar of the High Court of St. Kitts & Nevis, shall have the order drawn up pursuant to CPR 42.6(1) and immediately make a copy of the said order available to the parties and a copy sent to headquarters.
4. The matter is adjourned to the next chamber hearing scheduled for 24th September 2013.

Reason: The applicants had not filed a copy of the order being appealed as had been directed by the full Court (by an order dated 10th June 2013). They indicated to the Court however, that they did attempt to obtain this order but just had not been able to do so.

Case Name: Lorenzo Williams
v
Adason Duncan
[SKBHCVP2013/0013]
(Saint Christopher and Nevis)

Date: Tuesday, 23rd July 2013

On paper: Appellant / Ms. Teshari John (Seaton & Foreman)

Applicant:

Issues: Application for extension of time to file skeleton arguments and for relief from sanctions

Result / Order: IT IS HEREBY ORDERED THAT:
The appeal having been discontinued by the appellant, it is accordingly dismissed.

Reason: A notice of discontinuance of the appeal was filed by the appellant on 15th July 2013.

Case Name: Development Bank of St. Kitts-Nevis
v
[1] Osbert Chapman
[2] Lionel R. Williams
[3] Prudence France
[SKBHCVAP2013/0015]
(Saint Christopher and Nevis)

Date: Tuesday, 23rd July 2013

On paper:

Applicant: Mr. Glenford Hamilton (Hamilton & Co.)

Respondents: Gonsalves Hamel-Smith (for the third respondent)

Issues: Application for leave to appeal and stay of execution

Result / Order: IT IS DIRECTED THAT:
1. The applicant shall serve the application for leave to appeal and stay of execution on the respondents within 7 days of today's order.
2. The applicant shall file and serve a bundle comprising of:

- a) The notice of application and supporting documents in the application dated 30th January 2013;
 - b) The amended application dated 4th March 2013 and documents in support filed in the court below.
3. The respondents shall file and serve submissions in response to the applicant's application for leave to appeal and stay of execution within 21 days of service of the application by the applicant.
 4. The applicant shall file and serve submissions in response, if any, within 7 days of service.
 5. The application is adjourned to the next chamber hearing on 24th September 2013.

Case Name:

Bilton Primus

v

The Queen

**[SVGHCRA2011/0015]
(Saint Vincent and the Grenadines)**

Date:

Tuesday, 23rd July 2013

On paper:

Applicant:

In person

Respondent:

Office of the Director of Public Prosecutions

Issues:

Application for bail

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for bail pending the determination on appeal is refused.
2. The Registrar of St. Vincent is to take all the necessary steps to make the record of appeal available to the parties prior to the next sitting of the Court in Saint Vincent & Grenadines.

Reason: The Court was of the view that the applicant had not identified any exceptional circumstances for the granting of bail pending the appeal.

Case Name: Cosmos Hackshaw
v
The Queen

[SVGHCRAP2012/0025]
(Saint Vincent and the Grenadines)

Date: Tuesday, 23rd July 2013

On paper:
Applicant: Ms. Vynnette A. Frederick (Fredericks Attorneys & Notary Public)

Issues: Application for counsel to be removed from record

Result / Order: IT IS DIRECTED THAT:
1. The applicant counsel shall serve the application to be removed from the record along with the accompanying affidavit in support on Cosmos Hackshaw and provide proof of service within 21 days of today's date.
2. The application is adjourned to the next chamber hearing date on 24th September 2013.

Reason: There was no evidence of service of the application on the appellant.

Case Name: Roland Hooper

v
The Queen

[SVGHCRA2012/0032]
(Saint Vincent and the Grenadines)

Date: **Tuesday, 23rd July 2013**

On paper:

Applicant: **In person**

Respondent: **Office of the Director of Public Prosecutions**

Issues: **Application for bail**

Result / Order:

IT IS DIRECTED THAT:

- 1. The Registrar of the High Court shall forward the notice of appeal referred to by the applicant to headquarters within fourteen (14) days of today's order.**
- 2. The Registrar shall serve a copy of the notice of appeal and the application for bail on the office of the Director of Public Prosecutions within fourteen (14) days of today's order.**
- 3. The Director of Public Prosecutions shall file and serve submissions in response to the application for bail within fourteen (14) days of service of the application for bail.**
- 4. The application for bail is adjourned to the next chamber hearing scheduled for 24th September 2013.**

Reason:

The Court had not had sight of the notice of appeal and neither had the Director of Public Prosecutions been served with the application for bail.

Case Name:

Osrick Young
v

The Queen

**[SVGHCRAP2013/0006]
(Saint Vincent and the Grenadines)**

Date: Tuesday, 23rd July 2013

On paper:

Applicant: Ms. Nicole O. M. Sylvester (Caribbean International Law Firm)

Respondent: Office of the Director of Public Prosecutions

Issues: Application for extension of time to apply for leave to appeal and to deem notice of appeal filed on 29th May 2013 properly filed

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant is granted an extension of time to file a notice of appeal.
2. The notice of appeal filed on 29th May 2013 is deemed to be properly filed.

Case Name:

**Gytis Bookantas
v
The Commissioner of Police**

**[SVGHCRAP2013/0022]
(Saint Vincent and the Grenadines)**

Date: Tuesday, 23rd July 2013

On paper:

Applicant: In person

Respondent: Office of the Director of Public Prosecutions

Issues: Application for extension of time to appeal

Result / Order:

IT IS DIRECTED THAT:

1. The Registrar of the High Court shall obtain the notice of conviction of the applicant and forward it to headquarters within 21 days of today's order.
2. The Registrar of the High Court shall cause a copy of the letter to be brought to the attention of the Director of Public Prosecutions within 14 days of this order.
3. The application for the extension of time is adjourned to the next chamber hearing scheduled for 24th September 2013.

Case Name:

Elroy O' Kieffe

v

The Queen

[BVIMCRAP2013/0004]

(Territory of the Virgin Islands)

Date:

Tuesday, 23rd July 2013

On paper:

**Appellant /
Applicant:**

Orion Law

Respondent:

The Director of Public Prosecutions

Issues:

Application for notice of appeal to be deemed properly filed and for relief from sanctions

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The notice of appeal filed on 21st May is deemed properly filed.
2. Relief from sanctions is granted.

Case Name: **Ciban Management Corporation**
Appellant

v

[1] Citco (BVI) Limited
[2] Tortola Corporation Company Limited
Respondents

Albert Jackson Byington Neto
Additional Respondent

[BVIHCVAP2013/0001]
(Territory of the Virgin Islands)

Date: **Tuesday, 23rd July 2013**

On paper:

Appellant / **Mr. Malcolm Arthurs (Martin Kenney & Co.,**
Respondent: **Solicitors)**

Respondents / **Mr. Jeremy Child (Harney Westwood & Riegels)**
Applicants:

Issues: **Application for security for costs – Application for**
counsel to be removed from record

Result / Order: **IT IS DIRECTED THAT:**

- 1. Counsel shall provide evidence of service of the application to be removed from the record on the client in accordance with CPR 63.6(3).**
- 2. Counsel on record for the appellant shall serve the order of Michel JA dated 20th June 2013 on the appellant and shall provide proof of service within 21 days of this order.**
- 3. The applications are adjourned to the next sitting of the Court of Appeal scheduled for the week of 16th September 2013.**

Case Name:

Chang Ho Kwok David

v

[1] Winbless Inc

[2] Amazing Inc

[BVIHCVAP2013/00018]

(Territory of the Virgin Islands)

Date:

Tuesday, 23rd July 2013

On paper:

Applicant:

Mr. Ian Mann (Harney Westwood & Riegels)

Respondents:

Ms. Anthea L. Smith (Sabals Law – for the first respondent)

Issues:

Application for leave to appeal

Result / Order:

IT IS DIRECTED THAT:

- 1. The applicant/appellant shall serve the application for leave to appeal together with the supporting documents on the respondents on or before 31st July 2013.**
- 2. The respondents shall file and serve submissions in response to the application on or before 22nd August 2013.**
- 3. The applicant shall file and serve submissions in response, if any, on or before 6th September 2013.**
- 4. The application is adjourned to the next sitting of the Court during the week commencing 24th September 2013.**

Reason:

There was no compliance with a previous order of the Court, dated 20th June 2013.

Case Name:

Angus Jn. Baptiste

v
Oliver Sampson

[SLUMCVAP2013/0001]
(Saint Lucia)

Date: **Tuesday, 23rd July 2013**

On paper:

Applicant: **Mr. Alfred Alcide**

Respondent: **In person**

Issues: **Application for leave to appeal out of time**

Result / Order:

IT IS DIRECTED THAT:

- 1. The applicant is granted further leave of 21 days to provide a copy of the order being appealed against.**
- 2. The matter is adjourned for consideration at the next chamber hearing on 24th September 2013.**

Reason:

The applicant had not yet complied with previous orders of the court directing him to file a copy of the order being appealed.