

CHAMBER HEARING
Tuesday, 20th November 2012

HEARING
(ST. LUCIA)

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

Case Name: Urban St. Brice
v
The Attorney General

[High Court Civil Appeal No. 27 of 2012]

Appearances:

Appellant:	Mr. Martinus Francois
Respondent:	Mr. Dwight Lay

Issues: Case management – Application for stay of all proceedings in the criminal division in the High Court – Application for appeal to be heard as a summary appeal

Result / Order: [Oral delivery]

1. The respondent is to file a response to the affidavit of Urban St. Brice on or before 25th November 2012.
2. The appellant/applicant is to file submissions and authorities in support to the application on or before 12th December 2012.
3. The respondent is to file and serve skeleton arguments and authorities in response on or before 4th January 2013.
4. The application will be heard by a single Judge of the Court on paper.
5. The Registrar of the High Court is to arrange for a transcript of the proceedings in this matter before the High Court to be prepared and give notice to all parties that copies of the transcript are available on or before 5th December 2012.

Reason: The Court took into consideration that the respondent did not have an opportunity to respond to the appellant's affidavit. In addition, the notice of transcript was not made available to the appellant. Consequently, the Court was minded to make the above order.

MATTERS DEALT WITH ON PAPER

Case Name: [1] Vincent Clerice
v
[1] The Chief of Police
[2] The Director of Public Prosecutions
[Magisterial Criminal Appeal No. 5 of 2012]
(Saint Christopher and Nevis)

On paper:

Appellant:	Chelsey Hamilton & Associates
Respondent:	The Director of Public Prosecutions

Issue: Application for extension of time

Result / Order: The time limited for the applicant to file a notice of appeal against the decision of the Learned Senior Magistrate in Criminal Case Nos. OR137/2012; OR138/2012 and OR39/2012 THE CHIEF OF POLICE v VINCENT CLERICE be extended to a period of 14 days from the date of this Order, i.e. to 5th December 2012.

Case Name: [1] Vernon S. Viera

[2] Vernon S. Viera and Associates

v

[1] Guy Mitchell

[2] Amy Mitchell

**[High Court Civil Appeal No. 21 of 2012]
(Saint Christopher and Nevis)**

On paper:

Appellant: Vernon S. Veira and Associates

Respondent: Webster Dyrud Mitchell

Issues:

**Application for service out of jurisdiction –
Application for solicitors to be removed from the
record**

Result / Order:

- 1. Leave is granted for the applicant to serve a notice of application to be removed from the record, draft Order and affidavit in support and subsequent Order out of the jurisdiction on Guy and Amy Mitchell in the following manner:**
 - a. On Guy Mitchell at his usual address at 4763 South West 82 Street, Miami, Florida, United States of America and/or c/o Jáuregui, Navarrette y Nader, S.C. Torre Arcos, Paseo de los Tamarindos 400-B, Pisos 7, 8 y 9, Bosques de las Lomas 05120, México, D. F.**
 - b. On Amy Mitchell at her usual address at 4763 South West 82 Street, Miami, Florida, United States of America and/or c/o Jáuregui, Navarrette y Nader, S.C. Torre Arcos, Paseo de los Tamarindos 400-B, Pisos 7, 8 y 9, Bosques de las Lomas 05120, México, D. F.**
- 2. Leave is also granted for the applicant to serve a notice of application to be removed from the record, draft order and affidavit in support and subsequent Order on Guy and Amy Mitchell in the following manner: at their usual email address: firstchoice01@aol.**

Case Name:

Janice Reynolds-Greene

v

The Bank of Nova Scotia

**[High Court Civil Appeal No. 22 of 2012]
(Antigua & Barbuda)**

On paper:

Appellant: In person

Respondent: No appearance

Issue:

Application for leave to appeal

Result / Order:

The hearing of the application for leave to appeal to be listed for hearing before the Full Court at the next sitting in Antigua and Barbuda scheduled for the week of 25th February to 1st March 2013.

Reason:

The Court was minded to refuse leave. Consequently, pursuant to rule 62.2(5) of the Civil Procedure Rules 2000, the Court listed the hearing before the Full Court.

Case Name:

Ultramarine (Antigua) Ltd.

v

Sunsail (Antigua) Ltd.

**[High Court Civil Appeal No. 23 of 2012]
(Antigua and Barbuda)**

On paper:

Appellant: Mr. Carden Conliffe Clarke

Respondent: Roberts & Co.

Issue: Application for leave to appeal

Result / Order:

1. The application for extension of time to file an appeal is hereby granted.
2. The application for a stay of execution of the Order of Michel J dated 29th August 2012 is hereby refused, there being no appeal before the Court.
3. The relevant Rules and Practice Directions to follow.

Reason: Pursuant to rule 62.16(1)(b) of the Civil Procedure Rules 2000, the Court noted that there was no appeal before it, as such a stay of execution of the order would be a nullity. The Court further noted the non-compliance with the directions of Blenman JA dated 23rd October 2012.

Case Name: Hartford Randall-John
v
Bernadette Belle-John

[High Court Civil Appeal No. 25 of 2012]
(Antigua and Barbuda)

On paper:

Appellant: Peyton J. V. Knight & Associates

Respondent: Henry & Burnette

Issues: Application for stay of execution – Application for notice of appeal to be deemed properly filed – Application for notice of appeal to be struck out

Result / Order:

1. The applicant/respondent is to comply with Practice Directions Nos. 2 & 3 of 2008.
2. The matter is adjourned to the next chamber hearing scheduled for 18th December 2012 for considerations of the applications.

Reason:

The Court noted that the applicant/respondent still had time to comply with Practice Direction Nos. 2 & 3 of 2008 in relation to the application to strikeout.

Case Name:

**Police Service Commission
v
Clifford Jackson**

**[High Court Civil Appeal No. 28 of 2012]
(Antigua and Barbuda)**

On paper:

Appellant:	Watt, Dorsett & Company
Respondent:	Ms. Samantha Marshall

Issue:

Application for a stay of execution

Result / Order:

The application for stay of execution pending determination of the appeal is refused.

Reason:

The Court noted the respondent's submissions objecting to the application for a stay of execution. Moreover, the appellant did not meet the requirements for the granting of a stay and failed to properly show any risk of injustice if the application for a stay of execution was not granted.

Case Name:

State Insurance Corporation

v

Robert Josiah

**[High Court Civil Appeal No. 39 of 2011]
(Antigua and Barbuda)**

On paper:

Appellant: Hill & Hill

Respondent: Hugh Marshall & Co.

Issues:

Application for relief from sanctions – Application for extension of time to file skeleton arguments

Result / Order:

- 1. The application for an extension of time to file the skeleton arguments and for relief from sanctions is granted.**
- 2. The skeleton arguments filed on 16th October, 2012 are deemed validly filed.**

Reason:

The respondent did not object to the application.

Case Name:

Charles Joseph

v

Antigua Commercial Bank

**[High Court Civil Appeal No. 30 of 2012]
(Antigua and Barbuda)**

On paper:

Appellant: In person

Respondent: No appearance

Issue: Application for leave to appeal

Result / Order: The notice of appeal is struck out as being a nullity.

Reason: The Court took into consideration that the appeal was filed without first obtaining leave of the Court.

Case Name: APS Holdings Limited
v
Aida-Gestao E Investmentos, LDA
[High Court Civil Appeal No. 32 of 2012]
(Antigua and Barbuda)

On paper:

Appellant: Peyton J. V. Knight & Associates

Respondent: Jonas Parillon & Co.

Issues: Application for notice of appeal to be deemed filed in time – Application for stay of execution

Result / Order:

1. The notice of motion for an order that the notice of appeal filed on 31st October 2012 be deemed filed in time is dismissed.
2. The applicant is to show cause on or before 7th December 2012 why the appeal in this matter should not be struck out as being a nullity having been filed without leave of the Court.
3. The matter is adjourned for further consideration to the Chamber Hearing scheduled for 18th December 2012.

Reason: The appellant did not apply for leave of the Court before filing of the appeal. Further, the Court was of

the opinion that the motion filed was unnecessary and that there was no proper application for a stay filed which the Court can properly consider.

Case Name:

**Joseph Raphael Le Blanc
v
Lucretia Gabriel Nee Scotland**

**[High Court Civil Appeal No. 16 of 2012]
(Dominica)**

On paper:

Appellant: In person

Respondent: Goeffrey Letang

Issue:

Application for extension of time to file notice of appeal

Result / Order:

- 1. The Registrar of the High Court is to file evidence showing that paragraph 1 of the Directions dated 23rd October 2012 were complied with and if it has not, to do so on or before 30th November 2012.**
- 2. The applicant is to serve a copy of the application and supporting documents on the respondent and file evidence of service.**
- 3. The application is adjourned to the next Chamber Hearing scheduled for 18th December 2012**

Case Name:

**Eudine John nee Amade
v
Everol John**

[High Court Civil Appeal No. 3 of 2012]

(Grenada)

On paper:

Appellant: G.E.D. Clyne
Respondent: Ciboney Chambers

Issue: Case management of interlocutory appeal

Result / Order: The appeal be listed for status hearing at the next sitting of the Court in Grenada scheduled for the week of 28th January to 1st February 2013.

Reason: The Court noted that leave to appeal was granted on 29th March 2012.

Case Name:

**Warren Cassell
v
The Queen**

**[High Court Criminal Appeal No. 1 of 2012
(Montserrat)]**

On paper:

Appellant: Leon C. Symister
Respondent: The Director of Public Prosecutions

Issue: Application for bail pending appeal

Result / Order: The application for bail pending appeal is adjourned to a date to be notified by the Court's Headquarters for the hearing of the application by teleconference.

Case Name: **National General Insurance [NAGICO]**
v
Nicholas Francis
[High Court Civil Appeal No. 1 of 2012]
(Montserrat)

On paper:
Appellant: **Hogarth Sergeant**
Respondent: **Jean E H Kelsick Chambers**

Issue: **Application to strike out notice of appeal**

Result / Order: **The notice of appeal is struck out as being a nullity.**

Reason: **The notice of appeal was filed without first obtaining leave of the Court.**

Case Name: **[1] The Central Tenders Board**
[2] The Attorney General
v
[1] Vernon White (Trading as White Construction Services)
[High Court Civil Appeal No. 8 of 2012]
(Montserrat)

On paper:
Appellant: **The Attorney General Chambers**
Respondent: **Allen Markham and Associates**

Issues: **Application for interim injunction to be discharged –**

Application for relief from sanctions – Application for permission to deem affidavit properly filed

Result / Order:

1. The respondent's affidavit opposing the appellant's applications to stay the judgment of Justice John Benjamin [Ag.] and discharging the injunction of Justice Septimus Rhudd of 27th April 2012 is deemed properly filed and served.
2. There be a stay of execution of the judgment of Benjamin J [Ag.] dated 16th July 2012 pending the determination of the appeal.

Reason:

The Court was satisfied that the appellants have a realistic prospect of success in the appeal and found that the appellants would suffer substantial prejudice if a stay was not granted.

In addition, the Court noted that the respondent did not appeal against the failure of the judge to quash the decision to revoke the award of the tender. Further, the Court was of the view that there was no proper basis for the continuation of the injunction.

Case Name:

**River Doree Holdings Limited
v
Attorney General of St. Lucia**

**[High Court Civil Appeal No. 28 of 2012]
(Saint Lucia)**

On paper:

Appellant: McNamara & Co
Respondent: Attorney General Chambers

Issue:

Application for extension of time to file skeleton argument

Result / Order: The application for an extension of time to file the skeleton arguments is granted to 24th December 2012.

Reason: The respondent agreed with the granting of the extension of time.

Case Name: Fast Kaz Auto Supplies Limited
v
Customs and Excise Department
[High Court Civil Appeal No. 31 of 2012]
(Saint Lucia)

On paper:

Appellant:	Fraser and Company
Respondent:	Attorney General Chambers

Issue: Application for leave to appeal

Result / Order: The application for leave to appeal the decision of the master dated 2nd October 2012 is granted.

Reason: The appellant satisfied the requirements for leave to appeal.

Case Name: Curtis Hudson
v
Customs and Excise Department
[High Court Civil Appeal No. 32 of 2012]

(Saint Lucia)

On paper:

Appellant: Fraser and Company

Respondent: Attorney General Chambers

Issue: Application for leave to appeal

Result / Order: The application for leave to appeal the decision of the master dated 2nd October 2012 is granted.

Reason: The appellant satisfied the requirements for leave to appeal.

Case Name:

**Paul Cadette
v
Jane Kangal**

**[High Court Civil Appeal No. 24 of 2012]
(Saint Lucia)**

On paper:

Appellant: Theodore & Associates

Respondent: Michel & Co.

Issues: Application for extension of time – Application for relief from sanctions

Result / Order:

1. The application for extension of time to file and serve a notice of appeal and for relief from sanctions is granted.
2. The notice of appeal filed on 24th October 2012 is deemed validly filed as of today's date, 20th November 2012.

3. The matter to follow the rules of court thereafter.

Reason:

The Court noted that the respondent filed a notice of non-opposition to the application for an extension of time to appeal.

Case Name:

**Cuthbert Felix
v
The Director of Public Prosecutions**

**[High Court Criminal Appeal No. 29 of 2012]
(Saint Lucia)**

On paper:

Appellant: The Jacobian Co. Law Office

Respondent: The Director of Public Prosecutions

Issues:

Application for leave to appeal – Application for stay of order pending determination of the appeal

**Result / Order /
Reason:**

The application for leave to appeal having been discontinued, stands dismissed.

Case Name:

**Cotton Bay Resorts Limited
v
Marilyn Stewart Consulting Group Ltd.**

**[High Court Civil Appeal No. 33 of 2012]
(Saint Lucia)**

On paper:

Applicant / Intended Monplaisir and Company

Appellant:

Respondent: Peter I. Foster & Associates

Issue: Application for leave to appeal

Result / Order: The applicant shall file a copy of the judgment or order being appealed and the application to set aside the default judgment which was before the lower Court at the Court's Headquarters on or before 23rd November 2012.

Reason: The Court noted that the applicant did not file the judgment or order being appealed against with the filed notice of appeal.

Case Name: Ivan O'Neal
v
Central Water and Sewerage Authority
[High Court Civil Appeal No. 5 of 2012]
(Saint Vincent and the Grenadines)

On paper:

Appellant: In person

Respondent: G. Grahame Bollers

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

Result / Order: The application for leave to appeal the Order of Master Kimberly Cenac-Phulgence [Ag.] dated 27th September 2012 and for stay is refused.

Reason: The Court was of the opinion that the applicant did not demonstrate a reasonable prospect of success on the appeal and did not meet the requisite threshold for granting a stay.

Case Name: **Julious Rodgers**
v
The Commissioner of Police

[Magisterial Criminal Appeal No. 34 of 2012]
(Saint Vincent and the Grenadines)

On paper:

Appellant:	In person
Respondent:	The Director of Public Prosecutions

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

Result / Order:

- 1. The application for extension of time within which to file notice of appeal is granted.**
- 2. The notice of appeal is to be filed on or before 19th December 2012.**

Reason: The Court took into consideration that the appellant was in person.

Case Name: **Darren Phillips**
v
The Queen

[High Court Criminal Appeal No. 18 of 2012]
(Saint Vincent and the Grenadines)

On paper:

Appellant:

In person

Respondent:

The Director of Public Prosecutions

Issue:

Application for extension of time to appeal

Result / Order:

1. The applicant is granted an extension of time within which to appeal.
2. The notice of appeal is to be filed on or before 20th December 2012.
3. The order is to be served on the Director of Public Prosecutions.

Reason:

The Court took into consideration that the appellant was in person.

Case Name:

Meshack Lewis

v

The Police

**[Magisterial Criminal Appeal No. 35 of 2012]
(Saint Vincent and the Grenadines)**

On paper:

Appellant:

In person

Respondent:

The Director of Public Prosecutions

Issue:

Application for extension of time to appeal

Result / Order:

1. The applicant is granted an extension of time within which to appeal.
2. The Notice of application for extension of time within which to appeal dated 11th October 2012 is

deemed a valid notice of appeal.

3. A certified copy of the record of proceedings, notes of evidence and reasons for decision is to be prepared.
4. The order is to be served on the Senior Magistrate and the Director of Public Prosecutions.

Reason:

The Court took into consideration that the appellant was in person.

Case Name:

Cukurova Holding A.S.

v

Sonera Holding B.V.

**[High Court Civil Appeal No. 29 of 2012]
(Territory of the Virgin Islands)**

On paper:

Appellant:

Maples and Calder

Respondent:

McW Todman & Co.

Issues:

Application to strike out notice of appeal –
Application for leave to appeal – Application for
extension of time to appeal – Application for relief
from sanctions

Result / Order:

Judgment reserved.

Case Name:

Irvine Fletcher Scatliffe

v

Dora Scatliffe

[High Court Civil Appeal No. 4 of 2012]

(Territory of the Virgin Islands)

On paper:

Appellant: Rosan Law

Respondent: O'Neal Webster

Issue:

Application for legal practitioner to be removed from the record

Result / Order:

- 1. That the legal practitioner, Rosan Law shall serve a copy of the application to be removed from the record and supporting documents in accordance with rule 63.6, CPR 2000.**
- 2. The application is adjourned to the next Chamber hearing scheduled for 18th December 2012.**

Reason:

The Court noted that there was no evidence of service of the application on the parties to the matter.