

CHAMBER HEARING

Tuesday, 21st February 2012

MATTERS DEALT WITH ON PAPER

Before: The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Case Name: [1] Citus C. Hunte
v
[1] Heirs of Anthanize Bonne Hippolyte, Anita John (nee Hippolyte)
[2] Felicia Hippolyte
[3] Mary Hippolyte

[High Court Civil Appeal No. 36 of 2011]
(Saint Lucia)

Date: Tuesday, 21st February 2012

On paper:

Appellant:	In person
Respondent:	Fraser & Co

Issue: Application to strike out appeal

Result / Order: Unless the appellant show satisfactory cause why the appeal should not be struck out, the appeal shall stand dismissed.

Reason: There is no evidence that either the application or the affidavit was served. Additionally, there has been no compliance by either party with the notice from the Chief Registrar of 1st February 2012.

Case Name:

[1] Citus C. Hunte

v

[1] Heirs of Julienna Adda Charles

[2] Anita Bonne Hippolyte (Deceased)

[3] Julian Titte Graham

[4] Julian Ritina Clarke

[5] Magarite Monplasil

[6] Mathurin Charles Heirs of Anthanize

Bonne Hippolyte

[7] Anita John (nee Hippolyte)

[8] Felicia Hippolyte

[9] Mary Hippolyte

**[High Court Civil Appeal No. 37 of 2011]
(Saint Lucia)**

Date:

Tuesday, 21st February 2012

On paper:

Appellant:

In person

Respondent:

Chong & Co

Issue:

Application to strike out appeal

Result / Order:

Unless the appellant show satisfactory cause why the appeal should not be struck out, the appeal shall stand dismissed.

Reason:

There is no evidence that either the application or the affidavit was served. Additionally, there has been no compliance by either party with the notice from the Chief Registrar of 1st February 2012.

Case Name:

[1] Alvin Edward

v

**[1] Eddie Monlouis
[2] Attorney General**

**[High Court Civil Appeal No. 44 of 2011]
(Saint Lucia)**

Date: Tuesday, 21st February 2012

On paper:

Appellant: Winston Hinkson & Associates

Respondent: Ms. Jans Drysdale

Issue: Application for leave to appeal

Result / Order: Adjourned to the next chamber hearing 29th March 2012 at the request of both parties.

Reason: The Court noted that the transcript of proceedings was not available as yet.

Case Name:

**[1] General Aviation Services Ltd.
[2] Silvanus Ernest**

v

**[1] The Director General of the Eastern
Caribbean Civil Aviation Authority
[2] The Eastern Caribbean Civil Aviation
Authority**

**[High Court Civil Appeal No. 6 of 2012]
(St. Lucia)**

Date: Tuesday, 21st February 2012

On paper:

Appellant: Mr. Alberton Richelieu

Respondent: Mr. Renee Williams with Mr. Mark Maragh

Issue: Application for leave to appeal

Result / Order: The hearing of the application for leave to appeal be fixed before a single judge at the next chamber hearing scheduled for 29th March 2012.

Reason: The Court was minded to refuse leave owing to the fact that the legal practitioner for the applicant did not comply with the request from the Chief Registrar of 8th February 2012 to comply with the relevant Rules and Practice Directions.

Case Name: Marcelinus Gustave v The Police
[Magistrate Criminal Appeal No. 3A,B,C,D of 2011]
(Saint Lucia)

Date: Tuesday, 21st February 2012

On paper:

Appellant: In Person

Respondent: Director of Public Prosecutions

Issue: Withdrawal of appeal

Result / Order / Reason: The appeal having been withdrawn is accordingly dismissed.

Case Name: Hubert Jn. Baptiste v Saint Lucia Electricity

Service
[High Court Civil Appeal No. 28 of 2011]
(Saint Lucia)

Date: **Tuesday, 21st February 2012**

On paper:

Appellant: **In person**

Respondent: **McNamara & Co**

Issue: **Case management of appeal**

Result / Order:

- 1. The appellant shall serve the notice of appeal upon the respondent on or before 6th March 2012.**
- 2. The appellant is to show cause why the appeal should not be dismissed on or before 6th March 2012, for being filed out of time, failing which this appeal shall stand dismissed.**
- 3. Further case management is adjourned to 29th March 2012.**

Reason:

The appellant filed the appeal three (3) years late. Furthermore, he did not comply with the rules for the filing of an appeal.

Case Name:

[1] The Attorney General
[2] Chief Immigration Officer
v
[1] Clive Oliveira

[High Court Civil Appeal No. 18 of 2009]
(Antigua and Barbuda)

Date: **Tuesday, 21st February 2012**

On paper:

Appellant: **Attorney General's Chambers**

Respondent: Ms. Bridget Nelson

Issue: Application for appeal to be dismissed

Result / Order: The application to dismiss the appeal is adjourned to the next chamber hearing on 29th March 2012 to permit a copy of the notice of appeal to be transmitted to the Court's Headquarters.

Reason: A copy of the notice of appeal was not transmitted to the Court of Appeal.

Case Name:

**[1] Landmark Ltd.
[2] Woods Development Ltd.
v
[1] American International Bank (In
Receivership)**

**[High Court Civil Appeal No. 3 of 2010]
(Antigua and Barbuda)**

Date: Tuesday, 21st February 2012

On paper:

Appellant: Dane Hamilton & Associates

Respondent: Marshall & Co.

Issue: Application for extension of time to comply with Order of 19th September 2011

Result / Order: Time is extended to one month from today's date to comply with the Order of the Court dated 19th September 2011.

Reason: The Court noted that there were problems in the preparation of the Record as such the time set for the Record to be transmitted, which was 90 days from the date of the Order, expired on 18th December 2011.

Case Name: [1]Gaden Brooks
V
[1] Sonel Kirwan
[2] Orie Cole
[3] Dorien Cole

[High Court Civil Appeal No. 38 of 2011]
(Antigua & Barbuda)

Date: Tuesday, 21st February 2012

On paper:

Appellant: Richards & Co.

Respondent: Mr. Steadroy C.O. Benjamin

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

Result / Order:

1. Time is extended to 21st March 2012 to comply with the directions of the Court dated 24th January 2012.
2. In the event that there is no transcript of the argument at the hearing, the Master's notes or reasons for decision be transmitted on or before 21st March 2012.
3. The application is adjourned to 29th March 2012.

Reason: The Court took into consideration the fact that the draft order has only just been filed and also that there was no transcript of the proceedings before the

Master at the hearing on 23rd November 2011 as the hearing was not recorded.

Case Name: Robin Mark Darby v Liat (1974) Limited
[High Court Civil Appeal No. 2 of 2012]
(Antigua & Barbuda)

Date: Tuesday, 21st February 2012

On paper:

Appellant:	Dane Hamilton & Associates
Respondent:	Lake & Kentish

Issue: Application for leave to appeal against order by master dismissing an application for relief from sanctions

Result / Order: The application for leave to appeal is adjourned to the next chamber hearing on 29th March 2012.

Reason: The Court noted that, although a fax was sent by the Chief Registrar on 8th February 2012 requiring compliance with the relevant Rules and Practice Directions, there was no such compliance. Additionally, there was no copy of the order being appeal against attached to the application, nor any submissions in writing.

Case Name:

[1] Sea Star Limited
v
[1] Timothy Dupont-Stinedurf
[2] Blue A Design Company Inc.

**[High Court Civil Appeal No. 3 of 2012]
(Antigua & Barbuda)**

Date: Tuesday, 21st February 2012

On paper:

Appellant: Henry & Burnette

Respondent: Mr. Anthony Greer, Esq.

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

Result / Order: The application for leave to appeal and stay of execution is adjourned to the next chamber hearing on 29th March 2012.

Reason: There was a faxed notice, dated 6th February 2012, by the Chief Registrar advising of the hearing on 21st February 2012 and requiring compliance with the relevant Rules and Practice Directions. Notwithstanding this, there has been no compliance with the relevant Rules and Practice Directions.

Case Name:

**[1] Vernon O'brien
[2] Attorney General of the Commonwealth of
Dominica
v
[1] Yohanna George**

**[High Court Civil Appeal No. 22 of 2010]
(Dominica)**

Date: Tuesday, 21st February 2012

On paper:

Appellant: Attorney General's Chambers

Respondent: Ms. Dawn Yearwood-Stewart

Issues: Application for extension of time to file submissions in support of appeal – Application for stay of execution

Result / Order:

1. Time is extended to file submissions in support of the appeal and the record of appeal.
2. The submissions filed on 20th January 2012 are deemed to be validly filed.
3. The record of appeal be filed and served on or before 24th April 2012.
4. Thereafter, the relevant Rules of the Court shall apply.
5. A stay of execution pending appeal is granted.

Reason: There was no objection to the applications.

Case Name: Joseph Raphael LeBlanc v The Public Service Commission
[High Court Civil No. 13 of 2011]
(Dominica)

Date: Tuesday, 21st February 2012

On paper:

Appellant: Mr. Wayne Norde

Respondent: Attorney General's Chambers

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

Result / Order: The application for extension of time to file a notice of appeal is dismissed.

Reason: There was no draft copy of the proposed notice of appeal exhibited, nor was there any indication that the appeal has a real prospect of success.

Case Name: [1] Catherine Daniel
[2] Mr. Forbes Parillon
v
[1] Ann Langlias

[High Court Civil Appeal No. 25 of 2011]
(Dominica)

Date: Tuesday, 21st February 2012

On paper:

Appellant: Mr. Lennox Lawrence

Respondent: Dyer & Dyer

Issues: Application for extension of time to file record of appeal – Application for leave to amend skeletal arguments

Result / Order:

1. The application for extension of time to file the record of appeal and for leave to amend skeletal submissions, chronology and the notice of appeal is granted.
2. The record of appeal to be filed and served on or before 30th April 2012.

Reason: The application was served and there was no response by way of notice of opposition or otherwise.

Case Name: [1] Leonard Alexander
v
[1] Denroy Charles
[2] David Corriette trading as Lindo Park Car Rental

[High Court Civil Appeal No. 28 of 2011]
(Dominica)

Date: Tuesday, 21st February 2012

On paper:
Appellant: Dyer & Dyer
Respondent: DeFreitas, DeFreitas and Johnson

Issue: Application for leave to appeal

Result / Order / Reason: Notice of discontinuance having been filed, the application for leave to appeal is dismissed.

Case Name: [1] Anison Rabess
[2] Joyce Rabess
v
[1] National Bank of Dominica

[High Court Civil Appeal No. 30 of 2011]
(Dominica)

Date: Tuesday, 21st February 2012

On paper:
Appellant: Mr. Lennox Lawrence
Respondent: Mr. Kevin Williams

Issue: Application for leave to appeal

Result / Order: The application for leave to appeal is granted.

Reason: The Court noted that the judgment in default was entered for a greater sum than was due.

Case Name: Antoine Raffoul v Yvette Raffoul
[High Court Civil Appeal No. 37 of 2011]
(Dominica)

Date: Tuesday, 21st February 2012

On paper:

Appellant:	Ms. Singoalla Blomqvist-Williams
Respondent:	Ms. Hazel Johnson

Issue: Application for leave to appeal

Result / Order: Leave to appeal the orders of Justice Birnie Stephenson-Brooks dated 28th January 2011, 10th June 2011 and Order of Justice Brian Cottle dated 16th June 2011 is granted.

Reason: The Court took into consideration that the mediation was ordered by the court and was not one that was requested by the parties.

Case Name:

[1] Clemeta Bleau
v
[2] Lena Durand
[3] Sandra Luke

**[High Court Civil Appeal No. 8 of 2009]
(Dominica)**

Date: Tuesday, 21st February 2012

On paper:

Appellant: Dyer & Dyer

Respondent: Ms. Singoalla Blomqvist-Williams

Issue: Application to strike out appeal

Result / Order: The application of the respondent to strike out the appeal is adjourned to the Court of Appeal sitting in the Commonwealth of Dominica during the week of 30th April 2012.

Reason: The Court decided to list the appeal for hearing as it was evident that the appeal would be ready to be heard after some 17 years.

Case Name: Josephine Charles v Zelinak Charles
**[High Court Civil Appeal No. 9 of 2006]
(Dominica)**

Date: Tuesday, 21st February 2012

On paper:

Appellant: DeFreitas, DeFreitas and Baron

Respondent: Dyer & Dyer

Issue: Application for substitution as claimant

Result / Order: 1. The application for substitution for the applicant,

Micah Charles, personal representative of the estate of Josephine Charles, be substituted as the Claimant in place of Josephine Charles, deceased, is granted.

2. The record of appeal to be filed and served on or before 31st May 2012.
3. Thereafter, the Rules of the Court to be followed.

Reason:

The appellant is now deceased so her personal representative was substituted in place of her.

Case Name:

[1] Rholda Bhola
[2] Lenore Bhola
v
[1] Ashandi Edwards

[High Court Civil Appeal No. 1 of 2012]
(Grenada)

Date:

Tuesday, 21st February 2012

On paper:

Appellant: The Law Office of G.E.D Clyne

Respondent: Derick F. Sylvester & Associates

Issues:

Application for leave to appeal – Application for extension of time to amend grounds of appeal

Result / Order:

The application for leave to appeal, extension of time to appeal and for leave to amend the grounds of appeal as stated in the notice of appeal is dismissed.

Reason:

The Court, having read all the submissions of the applicant, decided to uphold the submissions of the respondent and dismiss the applications.

Case Name: Christopher Gerald v Lilan Riley
[High Court Civil Appeal No. 2 of 2011]
(Montserrat)

Date: Tuesday, 21st February 2012

On paper:

Appellant: Allen Markham & Associates

Respondent: Attorney General's Chambers

Issue: Application for stay of execution

Result / Order: The application for stay of execution of the decision of Octave J, dated 23rd June 2011 delivered 27th June 2011 pending the outcome of the appeal is dismissed.

Reason: There was no compliance with the Practice Directions and no evidence that service of the application was effected on the respondent.

Case Name: [1] Lindsay Fitz Patrick Grant
V
[1] Rupert Herbert
[2] Leroy Benjamin
[3] Wentford Rogers
[High Court Civil Appeal No. 1 of 2012]
(Saint Christopher & Nevis)

Date: Tuesday, 21st February 2012

On paper:

Appellant: Seaton & Foreman
Respondent: Mr. Arudranauth Gossai

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

Result / Order:

1. The application for extension of time to file an application for leave to appeal, relief from sanctions, and stay of execution of the judgment of 21st December 2011 is granted.
2. The application for leave to appeal filed on 24th January 2012 is deemed to have been properly filed.
3. Leave to appeal is granted.

Reason: The Court took into consideration that the judgment was written in draft and counsel request to see the written final judgment in preparation of his application for leave to appeal.

Case Name:

[1] Eugene Hamilton
v
[1] Cedric Liburd
[2] Leroy Benjamin
[3] Wayland Vaughn

[High Court Civil Appeal No. 25 of 2011]
(Saint Christopher & Nevis)

Date: Tuesday, 21st February 2012

On paper:

Appellant: Mitcham & Benjamin
Respondent: Delano Bart & Co. for first respondent

Mr. Arudranauth Gossai for second respondent

Issue: **Application for leave to appeal**

Result / Order: **The application for leave to appeal the decision of Thomas J [Ag.] in the judgment delivered on 2nd December 2011 is granted.**

Reason: **Notwithstanding the notice from the Chief Registrar requesting compliance with the relevant Rules and Practice Directions, there were no submissions or authorities filed in support of the application for leave, nor any indication under what statute or Rule the application is made. However, the Court noted that the Practice Direction was relatively new.**

Case Name: **[1] Resenda Browne
V
[1] Nigel Romney
[2] Lionel Patrick**

**[High Court Civil Appeal No. 26 of 2011]
(Saint Christopher & Nevis)**

Date: **Tuesday, 21st February 2012**

On paper:

Appellant:	Mr. Sylvester Anthony
Respondent:	Mr. Adrian Scantlebury

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

Result / Order: **1. Time be extended retroactively to 20th January 2012 for the filing of the respondents'/cross-**

appellants' counter notice of appeal.
2. No order as to costs.

Reason: The Court took into consideration that the counter notice of appeal was filed on 20th January 2012, which was the date the respondent requested the extension of time to file counter notice of appeal be extended to.

Case Name: Hollis Young v The Commissioner of Police
[Magisterial Criminal Appeal No. 55 of 2011]
(Saint Vincent & the Grenadines)

Date: Tuesday, 21st February 2012

On paper:

Appellant: In Person

Respondent: Director of Public Prosecutions

Issue: Application for extension of time to appeal

Result / Order / Reason: The application is adjourned for the Chief Registrar to find out from the Registrar of the High Court what steps have been taken to comply with the orders of the Court dated 20th December 2011 and 24th January 2012.

Case Name: David Frederick v The Commissioner of Police
[Magisterial Criminal Appeal No. 1 of 2012]
(Saint Vincent & the Grenadines)

Date: Tuesday, 21st February 2012

On paper:

Appellant: In Person

Respondent: Director of Public Prosecutions

Issue: Application for extension of time to appeal

Result / Order:

1. The application for extension of time is granted.
2. The notice of appeal filed on 4th January 2012 is deemed validly filed.

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

Case Name: Romencia Lewis v The Commissioner of Police
[Magisterial Criminal Appeal No. 2 of 2012]
(Saint Vincent & the Grenadines)

Date: Tuesday, 21st February 2012

On paper:

Appellant: In person

Respondent: The Director of Public Prosecutions

Issue: Application for extension of time to appeal

Result / Order:

1. The application for extension of time to appeal is granted.
2. The notice of appeal filed 4th January, 2012 is deemed validly filed.

Reason: The Court took into consideration that at the time of her conviction the appellant, who was a first time

offender, was pregnant and was not told of her right to appeal.

Case Name: Mary Duncan v Christopher Adams
[High Court Civil Appeal No. 15 of 2011]
(Saint Vincent & the Grenadines)

Date: Tuesday, 21st February 2012

On paper:

Appellant:	Mr. Sylvester-Raymond Cadette
Respondent:	Mr. Stephen McA Huggins

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

Result / Order:

1. The application for extension of time to appeal and leave to appeal is granted.
2. Stay of execution is granted pending the hearing of the appeal.

Reason: The Court noted that, although a copy of the judgment was served on the appellant personally, the appellant's attorney was never served with a copy.

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

Case Name: [1] HMB Holdings Limited
V
[1] The Attorney General of Antigua and

Barbuda
[2] David Mathias

[High Court Civil Appeal No. 7 of 2010]
(Antigua & Barbuda)

Date: **Tuesday, 21st February 2012**

On paper:

Appellant: **Richards and Co.**

Respondent: **Attorney General's Chambers**

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

Result / Order:

- 1. The respondents/applicants are granted leave to appeal to Her Most Excellent Majesty in Council in respect of the Order made on 5th December 2011, whereby, inter alia, the appellant's appeal against the Order made by the Board comprising the Hon. Justice David Harris, Chairman, Mr. Victor Michael and Mrs. Joyce Kentish, Members dated 5th January 2010.**
- 2. The respondents/applicants shall within 90 days of the date of this Order enter into good and sufficient security to the satisfaction of the Court in the sum of £500 (or its US dollar equivalent) for the due prosecution of the appeal and the payment of all such costs as may become payable by the respondents/applicants in the event of their not obtaining an order granting them final leave to appeal or of the appeal being dismissed for non-prosecution or the Judicial Committee ordering them to pay the costs of the appeal (as the case may be).**
- 3. The record should be prepared in accordance with Rules 18-20 of Rules of the Judicial Committee (Appellate Jurisdiction) Rules Order 2009 and its Practice Directions 4.2.1 to 4.3.2 and Practice Direction 5; the same to be transmitted to the Registrar of the Judicial Committee of the Privy Council without delay where final permission to appeal has been granted.**

4. The respondents/applicants shall make an application to the Court for final leave to Her Majesty in Council, supported by the Certificate of the Registrar that the security for costs and the prosecution of the appeal ordered herein has been given within the time prescribed by this Order to the satisfaction of the Registrar.
5. The costs of and occasioned by this application be costs in the appeal to Her Majesty in Council.

Reason:

The appellants satisfied the requirements for leave to appeal to Her Majesty in Council.