

EASTERN CARIBBEAN SUPREME COURT

COURT OF APPEAL SITTING

**CHAMBER HEARING
TUESDAY 28TH APRIL 2026**

MATTERS DEALT WITH ON PAPER

Case Name:

Eric David Shargel

v

[1]The Attorney General of Dominica

[2]The Physical Planning Division

**[3]China Railway No. 5 Engineering Group
Caribbean Ltd**

**[4]Montreal Management Consultants
Development Ltd**

**[5]Dominica Water and Sewage Company
Ltd (DOWASCO)**

**[6]Minister of Housing and Urban
Development**

**[DOMHCVAP2026/0002]
(Dominica)**

Date: **Tuesday 28th April 2026**

Before: **The Hon. Mde. P. Nicola Byer, Justice of Appeal**

Appearances:

Applicant: **In person**

Respondents: Ms Tameka Burton for the first respondent, second and sixth respondent
Mr. Jeffrey Douglas-Murdock for the fifth respondent
No appearance for the third respondent

Issues: Application for an extension of time to file and/or serve a notice of appeal

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application for an extension of time to file the notice of appeal filed on 12th March 2026 is refused.
2. The notice of appeal filed on 12th March 2026 therefore stands struck out.
3. Each party to bear their own costs.

Reason: The Court considered the applicant's application for an extension of time to file and/or serve the notice of appeal and was cognisant of rules 62.6(1) and 62.19(1)(c) of the Civil Procedure Rules (Revised Edition) 2023, together with the principles governing the grant of an extension of time as enunciated in *Carleen Pemberton v Mark Brantley SKBHCVP2011/0009* and *John Cecil Rose v Anne Marie Uralis Rose SLUHCVP2011/0013*, namely the length of the delay, the reasons for the delay, the chances of the appeal succeeding if the extension is granted and the degree of prejudice to the respondent.

The Court noted that the ruling sought to be appealed was delivered on 11th February 2026 and that the notice of appeal was filed on 12th March 2026. The Court further noted that, the decision being interlocutory in

nature, the applicable period for filing was 21 days and that the resulting delay of 7 days could not be regarded as inordinate.

The Court nevertheless observed that, although the applicant, who appeared as a litigant in person, had advanced reasons for the delay, he had failed to provide sufficient particulars to enable the Court properly to assess those reasons. The Court further determined that the proposed appeal did not appear arguable and disclosed no realistic prospect of success, as the applicant appeared to have misconstrued the principles applicable to the grant of interlocutory injunctive relief and the nature of the order made by the court below. While the respondents had not demonstrated any substantial prejudice, the absence of a realistic prospect of success rendered that consideration of little significance. The Court was therefore not satisfied that the applicant had met the threshold for the grant of an extension of time and refused the application.

Case Name:

**[1]Velita Heholt
[2]Dauvel Heholt
v
Jeanille St.Jean
[SLUHCVP2026/0002]
(Saint Lucia)**

Date:

Tuesday 28th April 2026

Before:

The Hon. Mde. P. Nicola Byer, Justice of Appeal

Appearances:

Applicants: Ms. Diana Thomas Hunte and Ms. Cleopatra McDonald
for the first and second applicants

Respondent: No appearance

Issues: Application for leave to appeal

Result/Order: IT IS HEREBY ORDERED THAT:

1. The leave application is granted.
2. The notice of appeal is to be filed within 21 days of today's date.
3. Thereafter, the appeal shall proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.

Reason: The Court considered the applicants' application for leave to appeal the order of Saunders M dated 15th January 2026. The Court was cognisant of rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 which provides that leave to appeal may be granted only where the Court considers that the appeal would have a realistic prospect of success or there is some other compelling reason why the appeal should be heard. The Court also considered the principles governing the grant of leave to appeal as stated in Othneil Sylvester v Faellleseje Civil Appeal No. 5 of 2005 and Cage St. Lucia Limited v Treasure Bay (St. Lucia) Limited, including that an applicant must demonstrate that the proposed appeal has a realistic prospect of success.

The Court reviewed the application, the affidavits filed in support and the proposed notice of appeal and was

satisfied that the applicants had met the applicable threshold for the grant of leave to appeal.

The Court therefore granted the application for leave to appeal and directed that the notice of appeal be filed within 21 days, following which the appeal is to proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.

Case Name: **Xavier Corey Francis**
v
The Director of Public Prosecutions
[SKBHCRAP2024/0005]
(Saint Kitts and Nevis)

Date: **Tuesday 28th April 2026**

Before: **The Hon. Mde. P. Nicola Byer, Justice of Appeal**

Appearances:
Applicant: **In person**
Respondent: **No appearance**

Issues: **Application for leave to appeal against sentence**

Result/Order: **IT IS HEREBY ORDERED THAT:**
The application for leave to appeal is dismissed.

Reason:

The Court considered the applicant's application for leave to appeal against sentence and noted that the applicant sought to challenge the sentence imposed on 23rd May 2024 for the offence of possession of a firearm. The Court further noted that, notwithstanding service of the application and accompanying documents on the office of the Director of Public Prosecutions, no opposition to the application had been filed.

The Court reviewed the ground advanced by the applicant in support of the proposed appeal, namely that the sentence imposed could have been lighter as it was a first offence. The Court was of the view that the ground as formulated was inadequate and did not provide a sufficient basis upon which the viability of the proposed appeal could properly be assessed.

The Court therefore determined that it was unable to assess whether the proposed appeal disclosed any realistic prospect of success and, in those circumstances, was not satisfied that the applicant had met the threshold for the grant of leave to appeal. The application for leave to appeal was accordingly dismissed.

Case Name:

Adrian Bart
v
The Director of Public Prosecutions
[SKBHCRAP2024/0002]
(Saint Kitts and Nevis)

Date:

Tuesday 28th April 2026

Before:

The Hon. Mde. P. Nicola Byer, Justice of Appeal

Appearances:

Applicant: In person
Respondent: No appearance

Issues: Application for legal aid

Result/Order: IT IS HEREBY ORDERED THAT:

The application for legal aid by the applicant is refused

Reason:

The Court considered the applicant's application for legal aid and was cognisant of section 55 of the Eastern Caribbean Supreme Court (Saint Christopher and Nevis) Act which provides that the Court of Appeal may assign a solicitor and counsel to an appellant where it appears desirable in the interests of justice that the appellant should have legal aid and where the appellant has insufficient means to obtain legal representation.

The Court noted that, by order dated 31st March 2026, the applicant had been directed to file affidavit evidence of his financial means and that an affidavit of means was subsequently filed in compliance with that order. The Court reviewed the affidavit and the evidence placed before it concerning the applicant's financial circumstances.

The Court was, however, of the view that the applicant had failed to provide cogent evidence demonstrating his impecuniosity or otherwise establishing that he lacked sufficient means to obtain legal representation. The Court was therefore not satisfied that the statutory

requirements for the grant of legal aid had been met and accordingly refused the application.

Case Name: **Arron Miller**
v
The King
[SVGHCRAP2026/0002]
(Saint Vincent and the Grenadines)

Date: **Tuesday 28th April 2026**

Before: **The Hon. Mde. P. Nicola Byer, Justice of Appeal**

Appearances:

Applicant: **In person**
Respondent: **Mr. Cornelius Tittle**

Issues: **Application for legal aid**

Result/Order: **IT IS HEREBY ORDERED THAT:**

1. The High Court in St. Vincent and the Grenadines is again ordered to assist the applicant with filing at the court office, affidavit evidence of his financial means within 14 days of the date of this order.
2. The request for legal aid is adjourned for further consideration at the next Chamber Hearing of this Court scheduled for 26th May 2026.

3. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions and shall provide proof of service within 7 days of the date of this order.

Reason:

The Court considered the applicant's request for legal aid in connection with his proposed appeal and was cognisant of section 51 of the Eastern Caribbean Supreme Court (Saint Vincent and the Grenadines) Act which empowers a judge of the Court of Appeal to assign legal aid to an applicant where the statutory requirements are met.

The Court noted that, by order dated 31st March 2026, the applicant had been directed to provide affidavit evidence of his financial means and that the High Court had been directed to assist the applicant in that regard. The Court further noted that, notwithstanding service of that order on the applicant, no affidavit evidence of his financial means had been filed.

The Court was of the view that, in the absence of evidence concerning the applicant's financial circumstances, it was unable properly to determine the request for legal aid. The Court further noted that there was no indication as to why the assistance directed to be provided by the High Court had not been afforded. The Court therefore directed the High Court to again assist the applicant in filing affidavit evidence of his financial means and adjourned the request for legal aid for further consideration at the next Chamber Hearing of the Court.

Case Name:

Sergey Gudko
v
Viktor Yehupov
[SVGHCVAP2026/0001]

(Saint Vincent and the Grenadines)

Date: Tuesday 28th April 2026

Before: The Hon. Mde. P. Nicola Byer, Justice of Appeal

Appearances:

Appellant/Applicant: Mr. Maxron Holder

Respondent: Mr. Mikhail Charles

Issues: Application for a stay of execution pending the hearing and determination of the appeal

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application for a stay of execution of the decision of Cenac-Dantes J dated 4th December 2025 is hereby dismissed.

Reason: The Court considered the principles governing the grant of a stay of execution as established in *C-Mobile Services Ltd. v Huawei Technologies Co. Ltd.* BVIHCMAP2014/0017 (delivered 2nd October 2014, unreported), namely that the Court must consider all the circumstances of the case; that a stay is the exception rather than the general rule; that the applicant must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted; that the likely prejudice to the successful party must be carefully considered; and that the prospects of success on appeal become relevant where strong grounds of appeal or a strong likelihood of success is shown.

The Court noted that the application for a stay was filed some 63 days after the judgment sought to be appealed and only on the morning of the report hearing ordered below, notwithstanding that no stay had been sought when the notice of appeal was filed or when urgency had previously been sought. The Court further noted that no satisfactory explanation had been advanced for that delay.

The Court also noted the respondent's contention that the application was procedurally flawed and constituted an attempt to circumvent earlier case management directions and the refusal of urgency. More significantly, the Court was of the view that the applicant had failed to adduce cogent evidence demonstrating that the appeal would be stifled or rendered nugatory if a stay were refused. In particular, the revocation of the emergency nil grant did not prevent the applicant from making a fresh application for letters of administration under the applicable probate rules and, accordingly, the alleged vacuum in the administration of the estate was unsustainable. The Court was therefore not satisfied that the threshold for the grant of a stay of execution had been met and dismissed the application.

Case Name:

Lendon Abraham

v

The Commissioner of Police

[SVGMCRAP2025/0011]

(Saint Vincent and the Grenadines)

Date:

Tuesday 28th April 2026

Before:

The Hon. Mde. P. Nicola Byer, Justice of Appeal

Appearances:

Applicant: In person
Respondent: Mr. Cornelius Tittle

Issues:

Application for an extension of time within which to appeal

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The Registrar of the High Court is directed to comply forthwith with the order of this Court dated 31st March 2026 and shall provide a report to the Court as to the allegations contained in the application of the applicant within 3 days of this Order.**
- 2. If the Registrar shall fail to do so in the time indicated, the court will determine the application as filed on the next chamber hearing of this court.**
- 3. Further consideration of the application for an extension of time within which to appeal is adjourned to the next Chamber Hearing of this Court scheduled for 26th May 2026.**
- 4. The Registrar of the High Court shall serve a copy of this Order on the applicant and the Director of Public Prosecutions and provide proof of service within 7 days of the date of this Order.**

Reason:

The Court considered the applicant's application for an extension of time within which to appeal and was

cognisant of section 48(2) of the Eastern Caribbean Supreme Court (Saint Vincent and the Grenadines) Act which empowers the Court of Appeal to extend the time within which a notice of appeal or notice of an application for leave to appeal may be given.

The Court noted the applicant's contention that he had completed and submitted the necessary appeal forms following his sentence but that the documents were never processed by the Registry. The Court further noted the respondent's submission that the explanation advanced by the applicant for the delay consisted of little more than bald assertions.

The Court was, however, of the view that the delay may have been occasioned by an administrative oversight within the Registry. The Court further noted that, by an earlier order dated 31st March 2026, the Registrar of the High Court had been directed to provide a report addressing the allegations made by the applicant, but that no such report had been filed.

The Court therefore directed the Registrar of the High Court to comply forthwith with the earlier order and provide the required report, determining that it could not fairly adjudicate upon the application without that information. Further consideration of the application for an extension of time was accordingly adjourned to the next Chamber Hearing of the Court.

Case Name:

**Rosanno Theobalds
v
The King
[SVGHCRAP2025/0004]
(Saint Vincent and the Grenadines)**

Date: Tuesday 28th April 2026

Before: The Hon. Mde. P. Nicola Byer, Justice of Appeal

Appearances:

Applicant: In person

Respondent: Ms. Maria Jackson

Issues: Application for leave to appeal against conviction and sentence – Application for legal aid

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal is dismissed.
2. The application for leave to appeal having been dismissed, the application for legal aid consequentially falls away.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions within 7 days of the date of this order and provide proof of service thereafter.

Reason: The Court considered the applicant's application for leave to appeal against conviction and sentence together with his request for legal aid. The Court noted that, at the previous hearing of the application, the minute of conviction had not been filed or served and accordingly considered the minute of conviction and sentence subsequently filed together with the

respondent's submissions in opposition to the application.

The Court reviewed the grounds advanced by the applicant in support of the proposed appeal and was of the view that the applicant had failed to identify any ground upon which either his conviction or sentence could properly be challenged. The Court was therefore not satisfied that the applicant had met the threshold for the grant of leave to appeal.

The Court accordingly dismissed the application for leave to appeal. In light of that determination, the Court further concluded that the applicant's request for legal aid could no longer arise and therefore fell away consequentially.

Case Name:

**Uranus Cabral
v
The King
[SVGHCRA2025/0002]
(Saint Vincent and the Grenadines)**

Date:

Tuesday 28th April 2026

Before:

The Hon. Mde. P. Nicola Byer, Justice of Appeal

Appearances:

Applicant: In person

Respondent: Ms. Renee Simmons

Issues:

Application for legal aid

Result/Order:

IT IS HEREBY ORDERED THAT:

1. The High Court in St. Vincent and the Grenadines is again ordered to assist the applicant with filing at the court office, affidavit evidence of his financial means within 14 days of the date of this order.
2. The request for legal aid is adjourned for further consideration at the next Chamber Hearing of this Court scheduled for 26th May 2026.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions and shall provide proof of service within 7 days of the date of this order.
4. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions and shall provide proof of service within 7 days of the date of this order.

Reason:

The Court considered the applicant's request for legal aid and was cognisant of section 51 of the Eastern Caribbean Supreme Court (Saint Vincent and the Grenadines) Act which empowers a judge of the Court of Appeal to assign legal aid to an applicant. The Court further noted its earlier order dated 31st March 2026 directing the applicant to provide affidavit evidence of his financial means and directing the High Court to assist the applicant in that regard.

The Court noted that the order of 31st March 2026 had been served on the applicant on 8th April 2026 and that, notwithstanding that service, no affidavit evidence of

the applicant's financial means had been filed. The Court further noted that there was no indication as to why the assistance directed to be provided by the High Court had not been afforded.

The Court was of the view that, in the absence of evidence concerning the applicant's financial circumstances, it was unable properly to determine the request for legal aid. The Court therefore directed the High Court once again to assist the applicant in filing affidavit evidence of his financial means and adjourned the application for legal aid for further consideration at the next Chamber Hearing of the Court.

Case Name:

**The King
v
Nodu Emelandu
[BVIHCRA2026/0001]
(Territory of the Virgin Islands)**

Date:

Tuesday 28th April 2026

Before:

The Hon. Mde. P. Nicola Byer, Justice of Appeal

Appearances:

Applicant: Ms. Tiffany Scatliffe

Respondent: Ms. Valerie Gordon

Issues:

Application for leave to appeal – Application for an extension of time to apply for leave to appeal

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The leave application filed on 30th January 2026 and the extension of time application filed on 7th April 2026 are adjourned for an oral hearing to be conducted before a single judge of the court on a date fixed by the Chief Registrar.**
- 2. The Court shall serve the notice of hearing at least 14 days in advance with proof of service.**

Reason:

The Court considered the applicant's application for leave to appeal the decision of Schneider J [Ag.] dated 11th April 2025 together with the application for an extension of time to apply for leave to appeal. The Court also considered the applicant's amended skeleton argument in which a point of law was raised concerning the jurisdiction of the Court where a permanent stay of proceedings has been granted.

The Court was cognisant of section 52 of the Criminal Procedure Act, Cap. 18 and, in particular, section 52(1), which provides for appeals by the prosecution in specified circumstances, and sections 52(4) to (6), which permit the Director of Public Prosecutions, with leave of the Court, to refer a point of law arising in a criminal matter for the opinion of the Court of Appeal.

The Court noted that the relief sought by the applicant was not sufficiently clear from the applications and written submissions and that it appeared that the applicant's position had evolved during the course of the proceedings. In particular, it was unclear whether the applicant sought leave to appeal pursuant to section 52(1) of the Criminal Procedure Act or whether

the applicant sought a reference of a point of law pursuant to section 52(4) of the Act.

The Court was therefore of the view that the applications ought to be listed for an oral hearing in order to ascertain with precision the nature of the relief sought and to give such case management directions as may thereafter be appropriate. The applications were accordingly adjourned for oral hearing before a single judge of the Court.