

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
CHAMBER HEARING

Tuesday, 29th July 2025

APPLICATIONS AND APPEALS

Case Name:

- [1] Tomaz Slivnik
- [2] Satay Limited
- [3] Helen Bayer Constable
- [4] Patrick Constable
- [5] Walter Bayer II
- [6] Teresa Bayer
- [7] Sunny Days Management Corporation
- [8] Rhino LLC
- [9] Diamont Company N.V
- [10] Synetics Capital Corp.
- [11] Ihatsu Fudosan Capital Limited
- [12] Duna Holding Limited
- [13] Mars Exploration Inc.
- [14] Estate of David A. Crowley
- [15] Equipment Leasing Ltd.
- [16] International Mortgages Limited
- [17] The Little Ship Company Limited
- [18] Estate of Raymond Longbottom
- [19] Marlam Limited
- [20] Monique Baussan

v

- [1] Martin Dinning (as Conservator)
- [2] Hudson Carr (as Conservator)

[3] Shawn Williams (as Conservator)
[4] Robert Miller (as Conservator)
[5] Eastern Caribbean Central Bank
[6] Anguilla Financial Services
Commissions
[7] Attorney General of Anguilla
[8] Foreign, Commonwealth and
Development Office
[9] National Bank of Anguilla
Limited (in Receivership)
[10] Caribbean Commercial Bank
Limited (in Receivership)
[11] Gary Moving (as Receiver of
NBA and CCB)
[12] National Commercial Bank of
Anguilla Limited

[AXAHCVAP2025/0002]
Anguilla

Date: Tuesday, 29th July 2025

Before: The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

On paper:

Appellant: In person

Respondents: Ms. Navine Fleming

Issues: Application to amend notice of appeal - Application
for an extension of time to file skeleton arguments -
Application for a stay of execution of orders

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to amend the notice of appeal and skeleton arguments in support filed on 10th June 2025 is granted.
2. The amended notice of appeal, filed on 13th June 2025, the amended skeleton argument, filed on

13th June 2025 and the re-amended notice of appeal, filed on 18th June 2025 are deemed properly filed.

3. The application for an extension of time to file and serve skeleton arguments in opposition to the appellant's re-amended notice of appeal is granted.

4. The application for a stay is granted.

Reason:

The Court considered Rule 62.5(7) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023, which provides that the appellant may amend the grounds of appeal once without permission at any time within 28 days from receiving notice under rule 62.12(1)(a), (b) or (c) that a transcript of the evidence and the judgment have been prepared, as well as the grounds of the application for leave to amend.

The Court was of the view that it was in the interests of justice that the applicant be permitted to amend the notice of appeal filed on 10th June 2025.

The Court also considered the principles on which a stay is granted, including (i) the party seeking a stay must provide cogent evidence that its appeal will be stultified or rendered nugatory unless a stay is granted; (ii) the exercise of the court's discretion to grant a stay will depend on all the circumstances of the case, and (iii) the essential question is whether there is a risk of injustice to one or both parties if a stay is granted or refused.

The Court was of the view that it was in the interests of justice that the application for a stay should be granted in order to avoid potentially different or conflicting decisions of this Court.

Case Name:

**[1] Tomaz Slivnik
[2] Satay Limited
[3] Helen Bayer Constable
[4] Patrick Constable**

- [5] Walter Bayer II**
- [6] Teresa Bayer**
- [7] Sunny Days Management Corporation**
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- [13] Mars Exploration Inc**
- [14] Estate of David A. Crowley**
- [15] Equipment Leasing Ltd**
- [16] International Mortgages Limited**
- [17] The Little Ship Company Limited**
- [18] Estate of Raymond Longbottom**

v

- [1] Martin Dinning (as Conservator)**
- [2] Hudson Carr (as Conservator)**
- [3] Shawn Williams (as Conservator)**
- [4] Robert Miller (as Conservator)**
- [5] Eastern Caribbean Central Bank**
- [6] Anguilla Financial Services Commission**
- [7] Attorney General of Anguilla**
- [8] Foreign, Commonwealth and Development Office**
- [9] National Bank of Anguilla Limited (in Receivership)**
- [10] Caribbean Commercial Bank Limited (in Receivership)**
- [11] Gary Moving (as Receiver of NBA and CCB)**

[AXAHCVAP2023/0005]

Anguilla

Date: Tuesday, 29th July 2025

Before: The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

On paper:

Appellant: In person

Respondents: Ms. Navine Fleming

Issue: Application for a stay of the proceedings

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application for a temporary stay of proceedings in the court below is dismissed.

Reason: The Court considered the principles on which a stay is granted, including (i) the party seeking a stay must provide cogent evidence that its appeal will be stultified or rendered nugatory unless a stay is granted; (ii) the exercise of the court's discretion to grant a stay will depend on all the circumstances of the case, and (iii) the essential question is whether there is a risk of injustice to one or both parties if a stay is granted or refused.

The Court also noted the delivery of the judgment in AXAHCVAP2023/0005. The Court was of the view that the said judgment renders the application for a stay otiose.

Case Name: Gweneth P. Williams

v

Alton Alcender

**[ANUMCVAP2025/0002]
Antigua and Barbuda**

Date: Tuesday, 29th July 2025

Before: The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

On paper:

Appellant: Mr. Wayne Benjamin

Respondent: Mr. Lawrence Daniels

Issue: Application for costs

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for costs is granted and the applicant is awarded the reduced sum of EC\$3,000, inclusive of costs of this application.
2. The appellant/respondent shall pay the respondent/applicant's costs in the sum of EC\$3,000 within 21 days of the date of this order.
3. The Registrar of the High Court shall serve a copy of this order on the parties and provide proof of service within 7 days of the date of this order.

Reason: The Court had regard to the order of Ellis, J.A dated 27th May 2025.

Further, the Court considered rule 62.30(1) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023, which provides that unless the parties agree or the court orders otherwise, an appellant who discontinues is liable for the costs incurred by the respondent against whom the claim is discontinued, on or before the date on which the notice of discontinuance was served.

The court also noted that the costs estimate exhibited by the respondent was for legal costs incurred up to the discontinuance of the appeal and that the said estimate includes costs of EC\$2,500 for drafting and preparation of the notice of opposition and affidavit in support and EC\$2,500 for drafting and preparation of the application of costs, among other thing.

The Court, then, considered that the cost estimate of EC\$6,181.50 was excessive and unreasonable in all the circumstances.

Case Name:

Sir McLean Emanuel

v

**[1] Anthony Ivor Emanuel
[2] Judy Aliso Sandra McCoy**

**[ANUHCVP2024/0021]
Antigua and Barbuda**

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

On paper:

Appellant: Ms. Jan Peltier

Respondents: Mr. Wendel Alexander

Issue:

Application for extension of time to pay costs

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant shall file the order of Williams, J dated 5th July 2024, within 14 days of the date of this order.**
- 2. The respondents shall file written submissions in support of their notice of opposition within 14 days of the date of this order.**
- 3. The application for extension of time is set down for further consideration at the next chamber sitting of this Court scheduled for 23rd September 2025.**

Reason: The Court noted that the order of Williams, J being appealed was not attached to the notice of appeal in accordance with rule 62.5(2) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 and the respondents filed a notice of opposition, but no written submissions in opposition to the appeal have been filed in accordance with rule 62.13(5) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023.

Case Name: Tedson Knowles

v

The King

**[ANUHCRA2024/0009]
Antigua and Barbuda**

Date: Tuesday, 29th July 2025

Before: The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

On paper:

Appellant: In person

Respondent: No appearance

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal filed on 15th November 2024 is dismissed.
2. The Registrar of the High Court shall serve a copy of this order on the applicant and the respondent within 7 days of the date of this order and shall provide proof of service thereof.

Reason: The Court noted that the return of service of C. Miller evidences service of the notice of appeal and minute

of conviction on the Chambers of the Director of Public Prosecutions on 9th July 2025, there has been no response or skeleton argument filed by the Director of Public Prosecutions on behalf of the respondent in relation to the notice of application, the notice of application seeking leave to appeal against conviction and sentence filed on 15th November 2024, indicates incorrectly that the applicant was convicted on 5th June 2024 and sentenced on 31st July and the minute of conviction indicates that the matter was concluded on 31st July 2021, and the applicant was sentenced to 30 years imprisonment.

The Court also considered section 48(1) of the Eastern Caribbean Supreme Court Act, Cap. 143, which provides that “where a person convicted desires to appeal under this Act to the Court of Appeal or to obtain the leave of the Court of Appeal, he shall give notice of appeal of his application for leave to appeal in such manner as may be directed by rules of court within fourteen days of the date of conviction” and section 9 of the Eastern Caribbean Supreme Court of Appeal Rules which empowers the court to “enlarge or abridge the time appointed by these Rules, or fixed by an order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed, or the Court may direct a departure from these Rules in any other way where this is required in the interests of justice”.

Further, the Court noted that the notice of application for leave to appeal was filed on 15th November 2024, which is three (3) years after the applicant was convicted and sentenced and thus well outside of the statutory period of 14 days and the applicant did not file an application for an extension of time for leave to appeal and an affidavit in support accounting for the delay.

The Court considered that the application for leave to appeal was out of time and the period of delay was inordinate in the circumstances and, in any event, there was no application for an extension of time to

apply for leave to appeal and accordingly no reasons advanced for the inordinate delay by the applicant.

Case Name:

Mary John

v

The King

**[ANUHCRA2024/0004]
Antigua and Barbuda**

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

On paper:

Appellant:

Mr. Wendel Alexander

Respondent:

Mrs. Shannon Jones-Gittens

Issue:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal filed on 3rd July 2024 is granted.**
- 2. The application for leave to appeal against conviction and sentence is deemed to be the notice of appeal.**
- 3. The Registrar of the High Court shall serve a copy of this order on the parties within 7 days of the date of this order and shall provide proof of service thereafter.**

Reason:

The Court considered the applicant's grounds of appeal.

The Court was also cognisant of rule 55 of the Eastern Caribbean Court of Appeal Rules, which states that a

notice of application for leave to appeal duly served and in Form 1 and in Appendix C may serve as a notice of appeal.

The Court was of the view that that the applicant had met the threshold for the grant of leave to appeal against conviction and sentence.

Case Name:

Lionel Waldron Jr.

v

The King

[ANUHCRA2024/0006]

Antigua and Barbuda

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

On paper:

Appellant:

Mr. Wendel Alexander

Respondent:

Mrs. Shannon Jones-Gittens

Issue:

Application for leave to appeal

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal filed on 30th July 2024 is dismissed.**

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

Reason:

The Court noted that the applicant filed the application 43 days after his conviction as outlined by the minute of conviction and sentence and that the applicant has not filed an application for the extension of time to apply for leave to appeal before this Court.

Further, the Court considered section 48(1) of the Eastern Caribbean Supreme Court Act (CAP. 143), which mandates that an application for leave to appeal must be submitted within fourteen days of conviction and rule 9 of the Eastern Caribbean Supreme Court Court of Appeal Rules 1968, which grants the Court the power to enlarge or abridge the time appointed by these rules or fixed by an order, for doing any act or taking any proceeding upon application, even if such an application is made after the expiration of the time.

The Court was of the view that the application for leave to appeal was filed outside the prescribed statutory time limit and therefore, the single judge has the authority to dismiss it as a nullity.

Case Name:

[1] Chantelle Winter
[2] Pigs Paradise Ltd

v

[1] Vernon Hall and John Hall, in
their capacities as Joint
Personal Representatives of the
Estate of Robert L.V Hall,
deceased
[2] J. Ray Hall as Personal
Representative of the Estate of
Albert Victor Hall, deceased

[ANUHC VAP2025/0019]
Antigua and Barbuda

Date: Tuesday, 29th July 2025

Before: The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

On paper:

Appellant: Mr. Kevon Benjamin

Respondent: Ms. E. Ann Henry

Issue: Application for a stay of execution of the order

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application for a stay of execution pending the determination of the appeal filed on 21st May 2025 is refused.

Reason: The Court considered the relevant principles which a court should apply when deciding whether to exercise its discretion to grant a stay stated in *Hammond Suddard Solicitors v Agrichem International Holdings Limited* [2001] ECWA Civ 2065 and *C-Mobile Services Limited v Huawei Technologies Co. Limited* BVIH CMAP2014/0017 (delivered 2nd October 2014, unreported) and which include *“The first is that the court should take into account all the circumstances of the case. Second, a stay is the exception rather than the general rule. Third, the party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted. Fourth, in exercising its discretion, the court applies what is in effect a balance of harm test in which the likely prejudice to the successful party must be carefully*

considered. The fifth is that the court should also take into account the prospect of the appeal succeeding, but only where strong grounds of appeal or a strong likelihood the appeal will succeed is shown (which would usually enable a stay to be granted)”.

The Court was also mindful that whether the court should exercise its discretion to grant a stay will depend on all the circumstances of the case, and the essential question is whether there is a risk of injustice to one or both parties if it grants or refuses a stay and that cogent evidence is required in support of a stay and that evidence should go to the risk of injustice if a stay is granted or refused.

The Court was of the view that the appellants had not advanced strong grounds of appeal to demonstrate that there is a strong likelihood that the appeal would succeed, the appellants had not demonstrated that the appeal would be stifled or rendered nugatory unless a stay is granted and the respondent was likely to suffer prejudice if the stay was granted.

Case Name:

Sandra Ishmael

v

Michael Victor

[DOMMCVAP2018/0005]

Dominica

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

On paper:

Appellant: Mrs. Gina Dyer Munro

Respondent: Mrs. Dawn Yearwood Stewart

Issue: Application to be removed as solicitor on record

Result/Order: IT IS HEREBY ORDERED THAT:

1. The applicant shall cause a copy of the affidavit of service evidencing proof of service on the defendant within 7 days of the date of this order.
2. The matter is adjourned for further consideration on a date to be fixed by the Chief Registrar.

Reason: The Court was of the view that the applicant had not provided the required evidence to confirm that the defendant/applicant was properly served.

Case Name: [1] Lucia Toussaint
[2] Alana McPherson
[3] Sekai Myster Nkozi

v

Gildon Richards
[DOMHCVAP2025/0009]
Dominica

Date: Tuesday, 29th July 2025

Before: The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

On paper:

Appellant: Mr. Stephen Isidore

Respondent: In person

Issue: Application for leave to appeal

Result/Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall procure a settled and approved copy of the decision of Jawara-Alami, J made on 2nd June 2025 forthwith.
2. The application for leave to appeal is adjourned for further consideration on the papers pending receipt by the Court of Appeal of the settled and approved copy of the said order for hearing before a single judge at the next Chamber Hearing scheduled for 23rd September 2025.

Reason: The Court noted that a copy of the order of Jawara-Alami, J dated 2nd June 2025, which is the subject of the proposed appeal, had not yet been issued or officially reduced into writing and that applicants had undertaken to provide the written order once it was issued by the High Court.

The Court also considered that rule 62.5(2) of the Eastern Caribbean Supreme Court Civil Procedure

Rules (Revised Edition) 2023 mandates that a copy of the judgment or order which is the subject of the appeal must wherever practicable be attached to the notice of appeal.

The Court was of the view that the absence of the written order, which is the subject of the application, directly impacted the Court's capacity to determine whether the applicant has a realistic prospect of success of appeal.

Case Name:

Clem Isaac

v

The State

[DOMHCRAP2025/0001]

Dominica

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

On paper:

Appellant:

In person

Respondent:

No appearance

Issue:

Application for leave to appeal

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal against sentence is granted.**
- 2. The application for leave to appeal is deemed to be the notice of appeal.**
- 3. The Registrar of the High Court shall serve a copy of this order on the applicant and the office of the Director of Public Prosecutions and provide proof of service within 7 days of the date of this order.**

Reason:

The Court noted that the applicant was a litigant In person.

Further, the Court considered rule 55 of the Court of Appeal Rules, which empowers the Court, when it is minded to grant leave to appeal, to deem the application for leave to appeal as the notice of appeal.

The Court was of the view that the threshold for the grant of leave to appeal has been met.

Case Name:

Eastern Caribbean Collective Organization for Music (ECCO Inc.)

v

[1] Neon Briggs

**[2] Attorney General of
Dominica**

**[DOMHCVAP2025/0001]
Dominica**

Date:

Tuesday, 29th July 2025

Before: The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

On Paper:

Appellant: Mr. Dane Elliott-Hamilton

1st Respondent: In person

2nd Respondent: In person

Issue: Application for an extension of time for service of the
notice of appeal by alternate means

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application for extension of time and service by alternate means is granted.
2. Leave is granted to the applicant pursuant to rules 5.14 and 62.9 of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 to serve the notice of interlocutory appeal filed on 10th March 2025 on the first respondent by publishing it in a newspaper of wide circulation in the island of Antigua for two (2) consecutive weeks.
3. Costs in the cause.
4. The applicant to provide proof of service of the notice of interlocutory appeal and supporting documents on the second respondent within 28 days of the date of this order.

- 5. The appeal shall proceed in accordance with the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023.**

Reason:

The Court considered:

- i. rule 5.14(1) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023, which provides that the court may direct that a claim form served by a method specified in the court's order be deemed to be good service;**
- ii. rule 5.14(2) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which provides that than application for an order to serve by a specified method may be made without notice but must be supported by evidence on affidavit (a)specifying the method of service proposed; and (b) showing that that method of service is likely to enable the person to be served to ascertain the contents of the claim form and statement of claim;**
- iii. rule 26.1(2)(k) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which allows the court to extend or shorten the time for compliance with any rule, practice direction, order or direction of the court even if the application for an extension is made after the time for compliance has passed;**
- iv. rule 26.1(2)(y) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which allows the court to take any other step, give any other direction, or make any other order for the purpose of managing the case and furthering the overriding objective;**
- v. rule 26.1(2)(y) of the Eastern Caribbean Supreme Court Civil Procedure Rules**

(Revised Edition) 2023 which allows the court to take any other step, give any other direction, or make any other order for the purpose of managing the case and furthering the overriding objective;

- vi. rule 62.9(1) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which provides that the notice of appeal must be served on (a) all parties to the proceedings, (b) any other person if the court directs, or if required by law; and (c) in the case of an interlocutory appeal, on the legal practitioner for the respondent to the appeal; and
- vii. rule 62.9(2) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which provides that the notice of appeal must be served within 14 days, or within such period as prescribed by law, or order, after the notice has been filed;

The Court also had regard to the contents of the affidavit of Rowan Charles regarding the efforts made to serve the first respondent personally and the first respondent's response that his attorneys are to receive documents on his behalf, the fact that the notice of interlocutory appeal and supporting documents were served on the first respondent's legal practitioner on 10th March 2025 and the fact that the applicant's request is for service via newspaper publication in the island of Antigua where the first respondent resides.

Case Name:

Corrine Clara

v

Mable Phillips

**[GDAHCVAP2025/0011]
Grenada**

Date: Tuesday, 29th July 2025

Before: The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

On paper:

Appellant: Mr. Deloni Edwards

Respondent: In person

Issue: Application for leave to appeal

Result/Order: IT IS HEREBY ORDERED THAT:

1. The applicant shall file written submissions in support of her application for leave to appeal within 14 days of the date of this order.
2. The application for leave to appeal is set down for further consideration at the next chamber sitting of this Court scheduled for 23rd September 2025.

Reason: The Court noted that the respondent's legal practitioner was served with the notice of interlocutory appeal and supporting documents on 3rd July 2025 but has not filed a response thereto.

The Court also considered rule 62.2(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which states that leave to appeal may be given only where - (a) the court considers that the appeal would have a realistic prospect of success; or (b) there is some other compelling reason why the appeal should be heard and rule 62.13(1) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which provides that on an interlocutory appeal, the appellant is required to file and serve with the notice of appeal, written submissions in support of the appeal.

The Court was of the view that the applicant had not addressed the factor(s) set out in the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 and ought to file written submissions as required by rule 62.13(1) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 for the Court to properly consider and determine whether leave to appeal should be granted.

Case Name:

Martinus Francois

v

The Hon. Andy Daniel

**[SLUHCVP2023/0010]
Saint Lucia**

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

On paper:

Appellant: In person

Respondent: In person

Issues: Application for extension of time to serve the notice of appeal – Application for an extension of time to file and serve skeleton arguments – Application for an extension of time to file the record of appeal - Application to adduce fresh evidence

Result/Order: IT IS HEREBY ORDERED THAT:

1. The extension of time application filed by the applicant on 5th August 2024 is refused.
2. The fresh evidence application filed by the applicant on 6th December 2024 accordingly falls away and is dismissed.
3. Upon the application for an extension of time being refused, there is no valid appeal properly before this Court.

Reason: The Court considered rule 62.9 of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which states that the notice of appeal must be served on all parties to the proceedings within 14 days after the notice has been filed and the principles on which an extension of time should be granted as enunciated in Lindsay F.P Grant et al. v Tanzania Tobin Tanzil SKBHCVAP2020/0004 (delivered 6th July 2020, unreported) and the factors to be considered by the court namely: (i) the nature of the

failure and the consequential effect; (ii) the length of the delay and whether any good explanation has been put forward for excusing it; (iii) weighing the prejudice to the parties in the context of the failure and the delay; and (iv) whether the appeal has a realistic prospect of success.

The Court noted that the applicant filed his appeal on 13th April 2023 but only served his application on 5th August 2024 and the authorization codes in November 2024 according to the affidavit of the respondent which means that the delay is in excess of one year, the delay is inordinate and the applicant has provided no good excuse for the delay save for 'financial hardship', even after the applicant sold his private property to alleviate the financial hardship he was facing pursuing this appeal, the authorization codes were not served promptly, and even more time would be required to file the skeleton arguments and record of appeal and the applicant has not presented strong grounds of appeal or evidence that there is a strong likelihood of success on appeal.

The Court also determined that the delay in the filing of the application for extension of time was inordinate, the applicant had not advanced a good reason for the length of the delay, the respondents were unlikely to suffer prejudice if an extension of time was granted and there was no other good reason advanced by the applicant whereby the interest of justice would require that the application be granted.

The Court was of the view that if the application for an extension of time was refused, the application to adduce fresh evidence would have fallen away, stood dismissed and consequently no proper appeal would have been before the Court.

Case Name:

The Development Control Authority

v
Mondesir Estates Limited

[SLUHCVAP2025/0011]
Saint Lucia

Date: **Tuesday, 29th July 2025**

Before: **The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

On paper:

Appellant: **Mr. Kurt Satney**

Respondent: **In person**

Issue: **Application for leave to appeal**

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

- 1. The application filed on 17th June 2025 for leave to appeal the decision of Cenac-Phulgence J on 27th May 2025 is granted.**
- 2. The applicant shall file and serve the notice of appeal within 21 days of the date of this order.**
- 3. The appeal shall proceed in accordance with the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023.**

Reason:

The Court considered rule 62.2(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which states that leave to appeal may be given only where (a) the court considers that the appeal would have realistic prospect of success or (b) there is some other compelling reason why the appeal should be heard and the application of the principles for the grant of leave to appeal in Othneil Sylvester v Faelleseje Civil Appeal No.5 of 2005 (delivered 20th February 2006, unreported) and Cage St. Lucia Limited v Treasure Bay (St. Lucia) Limited Saint Lucia Civil Appeal No. 45 of 2011 (delivered on 23rd January 2012, unreported).

The Court determined that the applicant had met the threshold for a grant of leave to appeal.

Case Name:

Yannick Pelage

v

PC 785 Mario Chiquot

**[SLUMCRAP2023/0002]
Saint Lucia**

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

Appearances:

Appellant: Mr. Horace Fraser

Respondent: No appearance

Issues:

Application for an extension of time to make payments

Result/Order:

IT IS HEREBY ORDERED THAT:

1. The application filed by the applicant on 18th June 2025 seeking an extension of time to comply with order of the Court dated 8th May 2025 is granted.
2. The applicant shall pay the fines in the order of the Court dated 8th May 2025 on or before 29th August 2025 or in default the applicant will serve a term of imprisonment of 6 months.

Reason:

The court considered the principles on which an extension of time should be granted as enunciated in *Lindsay F.P. Grant et al v Tanzania Tobin Tanzil SBHCVAP2020/0004* (delivered 6th July 2020, unreported) including (i) the nature of the failure and the consequential effects; (ii) the length of the delay and whether any good explanation has been put forward for excusing it, (iii) weighing the prejudice to the parties in the context of the failure and the delay, and (iv) whether the appeal has a realistic prospect of success.

The Court noted that the applicant filed his application for an extension of time within 12 days of the payment becoming due, and therefore the length of the delay was not inordinate; that the applicant had provided reasons for the short delay; and that the respondent has not opposed the application for an extension of time.

Therefore, the court determined that the applicant had met the threshold for a grant of an extension of time to comply with the order dated 8th May 2025.

Case Name:

**[1]Cleious Deterville
[2]Pernette Jn Marie Deterville**

v

Tellis Joseph Edward

**[SLUHCVP2023/0009]
Saint Lucia**

Date: Tuesday, 29th July 2025

Before: The Hon. Mr. Gerard St. C Farara, Justice of Appeal [Ag.]

Appearances:

Appellant:	Mr. Dexter Theodore
Respondent:	In person

Issue: Application for an order validating a method of service

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application filed by the applicants on 27th May 2025 is granted.
2. Service of the:
 - a. Record of Appeal filed on 21st June 2023;
 - b. Hearing Bundle filed on 2nd May 2025;
 - c. Skeleton Argument of the Applicants with authorities filed on 30th September 2024;
 - d. Certificate of Result of Hearing of 20th May 2025;
 - e. This application and affidavit in support;
 - f. This order;
 - g. The Notice of Hearing of Appeal during the week commencing 27th October 2025;by sending the said documents via WhatsApp Instant Messaging Service to the Respondent at telephone number +17587247461 shall be good and sufficient service of the appeal herein on the Respondent.
3. The applicants shall provide proof of service in accordance with Rule 5.15 of the Eastern Caribbean Supreme Court Civil Procedure Rules 2023 Revised upon effecting service;
4. Costs of this application shall be costs in the appeal.

Reason: The Court in granting the application considered that: Rule 5.14 (1) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 ('CPR'), states that the court may direct that a claim form served by a method specified in the court's order be deemed to be good service; CPR 5.14(2) states that an application for an order to serve by a specified method may be made without notice but must be supported by evidence on affidavit (a) specifying the method of service proposed and (b) showing that the method of service is likely to enable the person to be served to ascertain the contents of the claim form and statement of claim; and Rule 5.15 which states that service is proved by an affidavit made by the person who served the document showing that the terms of the order have been carried out.

Case Name: Clayton Laws

v

The Director of Public Prosecutions

[SKBHCRAP2018/0003]
Saint Christopher and Nevis

Date: Tuesday, 29th July 2025

Before: The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

Appearances:

Applicant: Ms. Zoie Hamilton

Respondent: No appearance

Issues: Application for the grant of bail pending the determination of the appeal

Result / Order: IT IS HEREBY ORDERED THAT:

The Application for bail pending the determination of the appeal is dismissed.

Reason:

The Court noted the Committal Warrants of Criminal Cases SKBHCR2012/0045, SKBHCV2012/0047, SKBHCR2017/0006 respectively.

It was also noted that the sentence imposed in SKBHCV2012/0047 of 15 years was to run concurrently with the sentences in SKBHCR2012/0045 of 25 years whereas the sentence imposed in SKBHCR2017/0006 of 6 years and 1 month was to run consecutively to the sentences imposed in SKBHCV2012/0047 and SKBHCR2012/0045.

The Court further noted the affidavit of service by Jahilah Lowery filed on 13th June 2025 evidencing service of the notice of application for bail, affidavit in support and the certificate of exhibits on the Office of the Director of Public Prosecutions; and that the appellant had not been provided with his transcript of proceedings.

Section 50(2) of the Eastern Caribbean (St. Christopher and Nevis) Supreme Court Act Chapter 3.11 was also noted as it provides that the Court may, if it deems fit, on the application of an appellant, admit the appellant to bail pending the determination of his or her appeal;

Further, it was considered the sentence imposed on the appellant and that the appellant had not received a date for the hearing of his appeal;

The Court found that, having considered the principles on which the Court would be minded to grant bail pending appeal as enunciated in *The State v Lynette Scantlebury* (1976) 27 WIR 103, i.e. that while the Court has the jurisdiction to grant bail pending the determination of an appeal, its discretion must be exercised judicially and only in very exceptional circumstances, such as where the appellant is likely to serve the sentence before the appeal is heard or where the grounds of appeal are so strong that prima facie the appeal is likely to succeed, the appellant had not provided sufficient evidence which revealed exceptional circumstances required for granting bail pending the hearing and determination of the appeal;

Case name:

Eurana Jean Herbert-Walters

v

Carla Hendrickson-Martin

[SKBHCVAP2025/0001]

Saint Christopher and Nevis

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

Appearances:

Applicant:

Mr. Leon Charles

Respondent:

In person

Issues:

Application for a leave to appeal — Application for a stay of proceedings in the court below pending the determination of the appeal

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The application filed by the applicant on 11th February 2025 for leave to appeal the decision of Saunders M dated 20th January 2025 is granted.**
- 2. The applicant shall file and serve the Notice of Appeal within 21 days of the date of this order.**
- 3. The respondent shall file submissions in response to the application for a stay of proceedings within 14 days of the date of this order.**
- 4. The application for a stay is adjourned for further consideration to the next Chamber Sitting of this Court scheduled for 23rd September 2025.**

Reason:

The Court considered several legal rules and principles.

First, Rule 62.2(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023, which states that leave to appeal may be given only where (a) the court considers that the appeal would have realistic prospect of success or (b) there is some other compelling reason why the appeal should be heard.

Second, the application of the principles for the grant of leave to appeal in Othneil Sylvester v Faelleseje Civil Appeal No. 5 of 2005 (delivered 20th February 2006, unreported) and in Cage St. Lucia Limited v Treasure Bay (St. Lucia) Limited Saint Lucia Civil Appeal No. 45 of 2011 (delivered on 23rd January 2012, unreported).

Last, the relevant principles which a court should apply when deciding whether to exercise its discretion to grant a stay adumbrated in Hammond Suddard Solicitors v Agrichem International Holdings Limited [2001] EWCA Civ 2065 applied in C-Mobile Services Limited v Huawei Technologies Co Limited BVIHCMAP2014/0017 (delivered 2nd October 2014, unreported) and which include the following: - “The first is that the court should take into account all the circumstances of the case. Second, a stay is the exception rather than the general rule. Third, the party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted. Fourth, in exercising its discretion, the court applies what is in effect a balance of harm test in which the likely prejudice to the successful party must be carefully considered. The fifth is that the court should also take into account the prospect of the appeal succeeding, but only where strong grounds of appeal or a strong likelihood the appeal will succeed is shown (which would usually enable a stay to be granted).”

Further, the Court being mindful; that whether the court should exercise its discretion to grant a stay will depend on all the circumstances of the case, and the essential question is whether there is a risk of injustice to one or both parties if it grants or refuses a stay; and that cogent evidence is required in support of a stay and that evidence should go to the risk of injustice if a

stay is granted or refused; found that the respondent to the stay application should be afforded an opportunity to respond.

The Court further found that the applicant had met the threshold for a grant of leave to appeal.

Case name:

Kevin A Horstwood

v

Adam Bilzerian

**[SKBHCVAP2025/0005]
Saint Christopher and Nevis**

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

In person

Respondent:

Mr. Derriann P. Charles

Issues:

**Application for a stay pending determination of the
appeal — Strike out application**

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for a stay of the decision of Saunders M dated 8th April 2025 pending the determination of the appeal and the notice of application to strike out the application for a stay are set down for hearing before the Full Court at the next sitting of the Court of Appeal on a date to be fixed by the Chief Registrar**
- 2. Until further consideration and determination of the stay application or until further Order of this Court, the decision of Saunders M dated 8th April 2025 in relation to SKBHCV2011/0320 and SKBHCV2016/031 is stayed.**

3. No order as to costs.

Reason:

The Court noted the notice of interlocutory appeal filed on 17th June 2025 to set aside the decision of Saunders M dated 8th April 2025.

Further, it was considered the principles governing the grant of a stay of execution elucidated in *C-Mobile Services Ltd. v Huawei Technologies Co. Ltd.* BVIHCMAP2014/0017 (delivered 2nd October 2014, unreported), that: (i) the court should take into account all the circumstances of the case; (ii) a stay is the exception rather than the general rule; (iii) the party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted; (iv) in exercising its discretion, the court applies what is in effect a balance of harm test in which the likely prejudice to the successful party must be carefully considered; and (v) the prospect of the appeal succeeding, but only where strong grounds of appeal or a strong likelihood the appeal will succeed is shown.

The Court ultimately found that the stay application and the application to strike out should be determined before the Full Court.

Case name:

Dr. Timothy Harris

v

[1]Philippe Martinez

[2]MSR Media SKN Ltd.

[SKBHCVAP2025/0007]

Saint Christopher and Nevis

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

Appearances:

Applicant:

Mr. Terence V. Byron

Respondents: No appearance

Issues: Application for leave to appeal

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal is adjourned for an oral hearing to be conducted before the Full Court on a date to be fixed by the Chief Registrar.

Reason: The Court noted that ground 1 of the grounds of the application indicated that the decision which the applicant was seeking leave to appeal was an interlocutory order for which leave to appeal was required pursuant to rule 62.2(1) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 ('CPR').

Further, the Court considered CPR 62.2(8) which states that leave to appeal may be given only where - (a) the court considers that the appeal would have a realistic prospect of success; or (b) there is some other compelling reason why the appeal should be heard;

The Court was also mindful of CPR 62.2(7) which obtains where a single judge hearing an application for leave to appeal is minded to refuse the application

Case Name: [1]Javin Kevin Vinc Johnson
[2]Sean Macleish

v

The Attorney General

**[1]The Incorporated Trustees of the
Seventh Day Adventist Church in
Saint Vincent**

- [2]The Incorporated Trustees of the
Evangelical Church of the West
Indies**
- [3]The New Testament Church of God**
- [4]The Archbishop and Primate
(Spiritual Baptist) of Saint Vincent
and the Grenadines**
- [5]The Church of God (Saint Vincent
and the Grenadines)**
- [6]The Incorporated Trustees of the
New Life Ministries**
- [7]The Light of the Truth Church of
God**
- [8]Kingstown Baptist Church of Saint
Vincent and the Grenadines.**
- [9]Living Water Ministries
International (Saint Vincent and the
Grenadines)**
- [10]Hope Evangelism Outreach
Ministries**
- [11]Vincychap Inc**

**[SVGHCVAP2024/0001]
Saint Vincent and the Grenadines**

Date:	Tuesday, 29th July 2025
Before:	The Hon. Mr. Gerard St. C Farara, Justice of Appeal [Ag.]
Appearances:	
Appellant:	Ms. Karen Duncan
Respondent:	Mr. Jomo Thomas
Interested Parties	No appearance
Issues:	Application for an extension of time to file skeleton arguments
Result/Order:	IT IS HEREBY ORDERED THAT:

- 1. The applicants' application to amend the application for an extension of time is granted.**
- 2. The applicants' application for an extension of time to file their skeleton arguments is granted.**
- 3. The applicants shall file their skeleton arguments on or before 1st September 2025.**

Reason:

The Court noted first, that pursuant to rule 62.14(2) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 (the 'CPR'), the applicants were required to file their skeleton arguments within 28 days of service, making their deadline for filing 23rd June 2025.

Second, that clause 3.1(a) of Practice Direction 62(D) No 2 of 2024 outlines that skeleton arguments must not normally exceed 10 pages in the case of an appeal on law, and 15 pages in the case of an appeal on facts, and as such, the respondents' 55- page Skeleton Argument exceeds the prescribed limits under the Practice Direction.

Third, that the applicants filed their amended notice of application 4 days before the date of hearing.

Fourth, that the respondents had no objections to the amended notice of application filed by the applicants.

Fifth, that the respondents had respectfully invited this Court to set 1st September 2025 in the new Court term as the deadline for the applicants to file their skeleton arguments.

Sixth, that no hearing date had been set for this appeal.

Further, the Court considered several provisions. CPR 11.13(2) which indicates that any amendment to an application made within 7 days of the date fixed for the hearing of the application must be made with the permission of the court;

It was also considered CPR 26.1(2)(k) which grants the Court a wide discretion to extend or shorten the time for compliance with any rule, practice direction, order

or direction of the court even if the application for an extension is made after the time for compliance has passed, alongside the principles adumbrated in the authorities of *Joseph Hyacinth v Allan Joseph* (2016) 89 WIR 303 and *Othneil Sylvester v Faelleseje, A Danish Foundation* Civil Appeal No.5 of 2005 (delivered on 20th February 2006, unreported), which indicate that the court must consider: the length of the delay; the reasons for the delay; the realistic prospect of the applicant's success if the extension is granted; and the degree of prejudice to the respondent if the application is granted;

Last, the overriding objective of the CPR, as set out in Part 1, which enables this Court to deal with cases justly, expeditiously, and in a manner proportionate to the importance and complexity of the issues involved;

The Court was therefore of the view that, first, permission ought to be granted for the applicants to amend their application, considering they do not wish to pre-empt this Court's decision by filing their skeleton arguments on the initially requested date of 25th July 2025.

Second, the length of the delay was not inordinate, considering the application was made prior to the expiry of the original deadline, demonstrating promptness, and the requested extension to a date in the new court term was reasonable in the circumstances.

Third, the length and complexity of the respondents' skeleton argument, alongside the contentious nature of the matter provided a good and reasonable explanation for the applicants' need for additional time to properly analyse each issue and prepare a response.

Fourth, given the contentious and complex constitutional nature of the appeal, involving seventeen grounds of appeal and the 91-page judgment at first instance, allowing the applicants sufficient time to properly craft their arguments and present a comprehensive response was essential to ensure a realistic prospect of successfully defending

the constitutionality of the challenged provisions and the judgment of the court below, thereby serving the interests of the administration of justice.

Fifth, granting the extension would not cause undue prejudice to the respondents, particularly as no hearing date for the appeal had been fixed;

Sixth, granting the extension would further the overriding objective of the CPR by enabling the court to ensure that the case is dealt with justly, proportionately and that all parties have a proper opportunity to present their arguments on issues.

Case Name:

Jacqueline Fergus

v

Ceadell Webb-Allen

[SVGMCVAP2025/0002]

Saint Vincent and the Grenadines

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

Mr. Robert Browne

Respondent:

In person

Issues:

Application for an extension of time within which to file notice of appeal — Application for a stay of execution

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for an extension of time to file the notice of appeal is refused.**

Reason:

The Court considered several rules. First, rule 26.1(2)(k) of the Civil Procedure Rules (Revised Edition) 2023 (the ‘CPR’) which provides that court may extend or shorten the time for compliance with

any rule, practice direction, order or direction of the court even if the application for an extension is made after the time for compliance has passed and the power of a single judge to extend time pursuant to CPR 62.19(c).

Second the Court considered, the principles upon which an extension of time is granted as enunciated in *Carleen Pemberton v Mark Brantley* SKBHCVAP2011/0009 (delivered 14th October 2011, unreported) and *John Cecil Rose v Anne Marie Uralis Rose* SLUHCVAP2011/0013 (delivered 22nd September 2003, unreported) which are the length of the delay; the reasons for delay; the chances of the appeal succeeding if the extension is granted; and the degree of prejudice if the application is granted.

The Court was therefore of the view that the length of delay was inordinate, being some 18 months after the time in which a notice of appeal was to be filed had expired, that there was no reasonable explanation for the delay and that there was no other compelling reason why time should be extended.

Thus, the Court determined that an extension of time should not be granted in the circumstances and that the stay application fell away as it had been determined that an extension of time should not be granted.

Case Name:

Jeffery Cuffy

v

The King

[SVGHCRA2025/0005]

Saint Vincent and the Grenadines

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

Appearances:

Appellant: In person
Respondent: No appearance

Issues: Application for a leave to appeal — Application for an extension of time — Application for grant of bail

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application for extension of time within which to appeal is refused.
2. The application for bail is refused.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and on the Office of the Director of Public Prosecutions within 7 days of the date of this order and shall provide proof of service thereof.

Reason: The Court was cognizant of section 31(2) of the Eastern Caribbean Supreme Court (Saint Vincent and The Grenadines) Act Chapter 18 of the Laws of Saint Vincent and the Grenadines which empowers the court to extend the time within which to appeal.

It was further considered rule 55 of the Eastern Caribbean Supreme Court, Court of Appeal Rules which empowers the court, when it is minded to grant leave to appeal, to deem the application for leave to appeal as the notice of appeal.

The Court took the view that the applicant had not satisfied the requirements for the grant of an extension of time to appeal, and consequently, the application for leave to appeal fell away;

It was then considered *State v Lynette Scantlebury* (1976) 27 WIR 103 where it was held that special circumstances must be shown for the grant of bail pending the hearing and determination of the appeal;

The Court further took the view that the applicant had not provided any evidence which, on the authority of *The State v Lynette Scantlebury*, revealed any exceptional circumstances which had arisen for the

grant of bail pending the hearing and determination of the appeal.

Case Name:

Cameron Eustace Campbell

v

Michelle Erica Campbell nee King

[SVGHCVAP2025/0007]

Saint Vincent and the Grenadines

Date:

Tuesday, 29th July 2025

Before:

**The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

Mr. Jaundy Martin

Respondent:

Ms. Rene Baptiste

Issues:

Application for an extension of time

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for an extension of time filed on 29th May 2025 is granted.**
- 2. The notice of appeal filed herein on 19th May 2025 is deemed to be properly filed.**
- 3. The applicant shall serve the notice of appeal within 14 days of the date of this order.**
- 4. Thereafter, the appeal shall proceed in accordance with Part 62 of the Civil Procedure Rules (Revised Edition) 2023.**
- 5. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.**

Reason:

The court noted: that the notice of appeal filed on 19th May 2025 is 18 days out of time, which period was not inordinate; the affidavit in support and the reasons for the delay or failure to file the notice of appeal within the prescribed time; the notice of appeal filed late, and the grounds of appeal stated therein; and that the applicant did not file written submissions with the application as required by the rules.

The Court considered rule 26.1(2)(k) of the Civil Procedure Rules (Revised Edition) 2023 which provides that the court may extend or shorten the time for compliance with any rule, practice direction, order or direction of the court even if the application for an extension is made after the time for compliance has passed; and the principles upon which an extension of time is granted as enunciated in *Carleen Pemberton v Mark Brantley* SKBHCVAP2011/0009 (delivered 14th October 2011, unreported) and *John Cecil Rose v Anne Marie Uralis Rose* SLUHCVAP2011/0013 (delivered 22nd September 2003, unreported) which are the length of the delay; the chances of the appeal succeeding if the extension is granted; and the degree of prejudice if the application is granted.

The Court took the view that the length of the delay was not inordinate, and the applicant took reasonable steps to remedy the failure; there was merit in the intended appeal, the grounds of appeal were at least arguable; and there would be no prejudice to the respondent if the application were granted.

Case Name:

Lim Yew Chen

v

- 1. Guanghai SS Holdings Limited**
- 2. Lin Minghan**

[BVIHCMAP2024/0034]
Territory of the Virgin Islands

Date:

Tuesday, 29th July 2025

Before: The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. Aaron Mayers

Respondent: Mr. James Petkovic

Issues: Application for security for costs

Result/Order: IT IS HEREBY ORDERED THAT:

1. The applicant shall have its costs on the SFC Application, such costs summarily assessed in the sum of US\$15,000 to be paid in full within 21 days from the date of this order

Reason: The Court considered rule 64.6(1) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 ('CPR'), which provides for the Court's discretionary power to award costs and the general rule that costs follow the event;

The Court was of the view that, the applicant being successful on the SFC Application in light of the agreement reached with respect thereto with the respondent, costs are to be awarded to the applicant in the discretion of the Court having regard to rule 64.6(1) of the CPR 2023.

Case Name: Sergey Vladimirovich Maksimov

v

WWRT Limited

**[BVIHCMAP2025/0016]
Territory of the Virgin Islands**

Date: Tuesday, 29th July 2025

Before: The Hon. Mr. Gerard St. C Farara, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. Callum McNeil

Respondent: Ms. Alecia Johns

Issues: Application for a stay of the appeal — Application for security of costs — Unless order application — Application for an extension of time

Result/Order: IT IS HEREBY ORDERED THAT:

1. The application filed by WWRT Limited on 8th July 2025 is granted in part.
2. The appellant/respondent shall provide security for the applicant/respondent's costs of the appeal in the sum of US\$300,000.00 to be provided within 21 days of the date of this judgment by way of deposit of funds in Court.
3. In the event the security for costs is not provided in the amount, in the manner and by the time ordered the appeal shall stand dismissed without further order.
4. The applicant/respondent is granted an extension of time to file submissions in response to the appeal to 30 days after the appellant has complied with paragraph (2) of this order.
5. The appellant shall pay the applicant's cost on this application to be assessed if not agreed within 21 days of this order.

Reason: The Court considered several legal rules and principles.

First, the decision in Oscar Trustee Limited v MBS Software Solutions Limited BVIHCMAP2021/0024 (delivered 8th February 2023, unreported) which stated that, "the court has and always retains a residual inherent jurisdiction which enables it to make orders aimed at protecting its process from abuse ... It is also

recognized that the powers of the Court to prevent an abuse of process includes a power to stay proceedings that may be considered frivolous vexatious, or oppressive. In fulfilling this objective, we can see no reason why the Court may not draw on its broad case management powers for this purpose. In relation to an application for permission to bring an appeal before it, there is no doubt that the Court is empowered to stay an application for leave to appeal upon the condition that the proposed appellant complies with any outstanding orders and/or provides security for the respondent's costs of the application."

Second, that the Court has jurisdiction to make a debarring order to ensure that costs orders are promptly obeyed: *Michael Wilson & Partners Ltd. v Sinclair et al* [2017] 5 Costs LR 877.

Third, Part 62.21 of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023, which the court may order an appellant to give security for the costs of the appeal. In deciding whether to order a party to give security for the costs of the appeal, the court must consider a. the likely ability of that party to pay the costs of the appeal if ordered to do so; and b. whether in all the circumstances it is just to make the order.

Fourth, the principles on which an extension of time should be granted as enunciated in *Lindsay F.P Grant et al. v Tanzania Tobin Tanzil SKBHCVP2020/0004* (delivered 6th July 2020, unreported);

The Court also considers that the appellant/respondent had not filed any skeleton argument in reply to the applicant's application.

Therefore, the Court was of the view; that the application for security for costs should, in all the circumstances, be granted considering on the evidence presented the appellant's tendency not to pay costs as ordered as set out and detailed in the schedule of the applicant's notice of application; that a stay of the appeal pending the appellant's compliance with the costs orders set out in the schedule may not have been necessary if security for

costs was granted since the appeal would be dismissed if the appellant does not comply; and that an extension of time for the applicant to file submissions in response to the appeal should be granted to avoid incurring costs on an appeal that might not proceed if the appellant failed to pay security for costs.