

Court of Appeal Sitting

Anguilla

Monday, 14th May to Tuesday, 15th May, 2007

Coram: His Lordship, the Hon. Mr. Brian Alleyne, SC – Chief Justice (Ag.) (President)
His Lordship, the Hon Mr. Denys Barrow, SC – Justice of Appeal
Her Ladyship, the Hon. Ms. Ola Mae Edwards – Justice of Appeal (Ag.)

Judgments Delivered

Barbuda Council v Antigua Aggregates Ltd. et al
Civ. App. No.11 of 2005 [Antigua & Barbuda]

Elvon Barry et al v The Queen
Crim. App. Nos.5, 9 & 10 of 2004 [Grenada]

Vaughn Lewis v Kenny D. Anthony
Civ. App. No.2 of 2006 [Saint Lucia]

Johnson Thomas v The Queen
Crim. App. No.7 of 2006 [Saint Lucia]

Lyra Farrington v The Estate of Alec Mathavious (deceased) et al
Civ. App. No.27 of 2006 [British Virgin Islands]

Applications

Remi Goldstone v Emmanuel Webster
Mag. Civ. Appeal No. 0001/2005

Appearances:

Applicant/ Appellant	Mrs. Cora Richardson Hodge
Respondent/ Defendant	Miss Paulette Harrigan

Issues:

1. Application to Extend Time to file Record (Applicant)
2. Application to Strike out Applicant's Application to extend Time
3. Application to Extend Time to file and serve Notice of Appeal in proper Court.

Result:

1. The Notice of Appeal was filed timely and the Notice of Intention to Appeal properly initiated the appeal procedure. The Reasons given in the

Notice of Appeal are not in compliance with Section 197 of the Act. The Appellant must amend to comply with the said provisions within 14 (fourteen) days of this date.

2. The Appellant must file and serve a copy of the Amended Reasons for the Appeal on the Respondent's Attorney and on the Registrar within the said period.
3. The Magistrate shall within 10 (ten) days of the filing and service of the Amended.
4. Reasons for the Appeal transmit, if not already done so, to the Registrar of the Court of Appeal, a copy of the proceedings and all papers relating to the appeal as provided by Section 200 of the said Act, thereafter the appeal takes its normal course.
5. The Appellant is entitled to costs on the application. By consent, parties agree that no order as to costs should be entered.

Reason: The Magistrates Court Procedure Act governs procedure from the Magistrates Court. Where there is no local legislation, then the Civil Procedure Rules 2000 will apply.

Remi Goldstone v Benedict Hodge et al
Civ. App. No.11 of 2005

Appearances:

Appellant	Mrs. Cora Richardson Hodge
First	
Respondent:	Mr. Ravi Bahadursingh
Second	
Respondent:	Mrs. Navine Fleming Kisob

Issue: Application for Extension of time to File Record and Skeleton Arguments.

Result:

1. The Application is refused.
2. The refusal means that the Appeal stands dismissed for want of prosecution.
3. The Respondent is entitled to costs, by consent of parties, agreed at US\$2,880.

Reason:

1. The Appellant has been quite dilatory in pursuing the appeal and has failed to take the necessary steps over several months and put forward reasons for the delays which have occurred and now seeks the Court's indulgence. In exercising a discretion under Part 1.1, the Court has to take into account the position of the parties, expense of case in relation to monies involved, importance of case etc.
2. The Court has looked at the Notice of Appeal and the Grounds and finds that there is no compelling or strong reason why the Court should exercise a discretion in favour of the Appellant. The Appellant is in very serious breach of a number of rules governing the process for bringing an

appeal before the Court. The affidavit does not satisfy the Court that it would promote the overriding objective of the Rules to grant an extension of time in this case.

Jenny Lindsay v. Webster Dyrud Mitchell (a Partnership) and ors.
Civ. Appeal No.2 of 2007

Appearances:

Applicant/ Appellant	Mr. Clyde Williams and with him Miss Ricki Camacho
Respondents/ Defendants	Miss Tameka Davis

Issue: Application for Leave to Appeal.

Result:

1. The Application is to be considered on written submissions by a single judge of the Court.
2. The Respondent is to file such papers as needed.
3. The Appellant to file and serve written submission within 14 (fourteen) days.
4. The Respondents to respond within 10 (ten) days thereafter.

High Court Civil Appeals

John A Gumbs v Attorney General of Anguilla
Civ. App. No.9 of 2005

Appearances:

Appellant	Mr. Dane Hamilton leading Mrs. Navine Fleming Kisob
Respondent	Mr. Ronald Scipio, QC, leading Miss Eustella Fontaine

Issue: Whether a public right of way exists; Whether a public right of way is a road within Roads Act; Whether the Respondent can be restrained from blocking the right of way;

Result: Decision is reserved.

Magisterial Criminal Appeal Against Conviction

Kristy Richardson v Commissioner of Police
Mag. Crim. App. No.1 of 2006

Appearances:

Appellant:	
Respondent:	Miss Vernetta Richardson

Issue: Whether the sentence of a term of imprisonment was appropriate for the Defendant as a first time offender.

Result: The Appeal is dismissed for want of prosecution.

Reason: Neither the Appellant nor her counsel attended the hearing.

MAGISTERIAL CIVIL APPEALS

Adelaide Webster v. Remi Goldstone Mag. Civ. Appeal No. 2 of 2005

Appearances: Appellant: Miss Paulette Harrigan
Respondent: Mrs. Cora Richardson Hodge

Issue: Whether the Appellant was liable in respect of airline tickets and for a cleaning machine and pads on the evidence put before the court.

Result: 1. The Appeal is allowed in part. The distinct issue of the airline ticket should be re-tried.
2. The decision of the learned magistrate on the issue of the machine is affirmed.
3. By consent, no order for costs is made.

Reason: 1. The Court is agreed that the Record shows that the learned magistrate, in relation to the airline ticket, led the Appellant to believe that the matter had been withdrawn from consideration as an issue, and as a consequence counsel refrained from dealing with that element, resulting in an unfair trial.

Benjamin Albear Phillips (as Personal Rep. of the Estate of Henry Javon Phillips) v. Royston Otto and Anita Otta Mag. Civ. App. No. 2 of 2006

Appearances: Appellant: **Miss Paulette Harrigan**
Respondent: **in person**

Issue: 1. Whether the Learned Magistrate's decision was perverse having regard to the evidence before the Court.
2. Whether the Learned Magistrate applied the correct standard of proof.

Result: The matter is remitted to the Magistrates Court for rehearing before a differently constituted tribunal.

No order as to costs.

Reason: The evidence and manner in which the matter was dealt with are not satisfactory. The Court has doubts whether justice was done to either party.