

CHAMBER HEARING

Tuesday 9th October 2007

CORAM Hon. Hugh Rawlins Justice of Appeal

SAINT LUCIA

Case Name Stanley Lucien v Wendell Phillips
[Civil Appeal No. 28 of 2006]

Appearances

Appellant Mr. Vernantius James. Ms. Felicite Lucien who holds power of attorney for the Appellant was also present in Court.

Respondent No appearance

Issue Application for leave to search for, inspect and obtain a copy of certain documents relating to the mediation session and agreement of 13th June 2006.

Result It was ordered that:

Leave is granted to the Appellant/Applicant to search for, inspect and obtain a copy of Forms 1, 4, 5, 6 and 7 of Practice Direction No. 2 of 2002, which were filed in the mediation, and a copy of the Mediation Agreement of 12th June, 2006 in High Court Claim No. SLUHCV2004/0792

Reason The Application was heard without notice as permitted under CPR 3.14(d). The mediation agreement was made in the absence of the Appellant who should have been party to the mediation hearing.

Case Name Marion Roberts et al v Oteron Gajadhar
[Civil Appeal No. 28 of 2007]

Appearances

Appellant Mr. Alvin St. Clair

Respondent Mr. Vernantius James

Issue Withdrawal of Appeal.

Result It was ordered that:

1. The appeal having been withdrawn is accordingly dismissed with no order as to costs.
2. The Registrar shall ensure that a copy of the Order is served on Solicitors for the Respondent.

Reason The notice of appeal is a nullity as Leave to Appeal was required. No order for costs was made, as the Respondent was not served with Notice of Appeal.

Case Name Kuanda Tuitt v The Queen
[Criminal Appeal No. 5 of 2006]

Appearances

| | |
|-------------------|------------------------|
| Appellant | Mr. Gerald R. Williams |
| Respondent | No appearance |

Issue Application to assign Counsel, and for the transcript of proceedings to be furnished to the Appellant.

Result It was ordered that:

The Appellant having wholly discontinued his Application dated 22nd August 2007 and filed on the 30th August 2007, the Application is accordingly dismissed.

Reason The Appellant has filed a Notice of Discontinuance, discontinuing the Application because his parents are making alternative arrangements for his defence.

Case Name Carosello Establishment et al v Caribbean Ventures International Ltd.
[Civil Appeal No. 35 of 2007]

Appearances

| | |
|-------------------|--|
| Appellant | Ms. Kim C. St. Rose, with her Ms. Mahla Daniel |
| Respondent | Mr. C.A. Bota McNamara |

Issue To hear Application for Stay of Execution of the judgment of the High Court dated the 13th August 2007;
Application for security for costs;
Application to dismiss the Application for Stay of Execution of the judgment.

Result

It was ordered that:

1. The Application by the Appellants/Applicants for Stay of Execution of the judgment of Cottle J. made in the consolidated matters and the Application by the Respondents to dismiss the appeal on behalf of Carosello Establishment for an order that David A. Pollock and Kelly Iverson Pollock be ordered to enter security for costs in this appeal and for an order dismissing the Application for stay of Cottle J.'s judgment, are to be listed for hearing by the full Court of Appeal during its sitting in Saint Lucia during the week of 29th October, 2007.
2. Solicitors for the Appellants shall file written submissions on the issues raised in the Applications herein on or before 18th October 2007.
3. Solicitors for the Respondents shall file further written submissions on or before 24th October 2007.
4. Solicitors for the Appellant shall file and serve a record for the purpose of the hearing of the Applications on or before 24th October 2007.
5. Solicitors for the Respondents shall endeavour to obtain a copy of the transcript of the hearing of the case before Cottle, J. on the 4th and 5th June 2007.
6. Copies of the transcript shall be filed in a supplementary record and served prior to the hearing of the appeal by Solicitors for the Respondents, if possible.
7. Notwithstanding paragraphs 5 and 6 of this Order, the judgment of Cottle J is stayed under CPR 2000, rule 62.9 until a date, which this Court shall, in consultation with solicitors for the parties, appoint as the date for the notice of availability of the transcript.

Reason

Given the nature of the issues under consideration and the fact that the Court will be sitting in Saint Lucia shortly, a hearing before the full Court was ordered. In accordance with the exercise of its case management powers, the Court ordered that the judgment be stayed under CPR 62.9.

**ANTIGUA
AND
BARBUDA**

Case Name

**Delores Jardine v Valarie Jeffrey
[Civil Appeal No. 8 of 2004]**

Appearances

Appellant Lockhart, Mendes & Co.
Respondent Mr. Dane Hamilton

Issue

Withdrawal of Appeal.

Case Name Wilbur Harrigan et al v Melrose Benjamin
[Civil Appeal No. 16 of 2007]

Appearances
Appellant Dane Hamilton & Associates
Respondent Ms C. Debra Burnette

Issue Application for Stay of Execution.

Result It was ordered that:

The Application for the stay of the judgment dated 31st October 2003 and 8th May 2007 is granted, on condition that the Appellant pay \$3,500.00 to the Respondent on or before 31st October 2007.

Reason The Appellant asserted in his submissions before the lower court that \$3,500.00 was all that was due to the Respondent. The Respondent has been out of pocket since 2001 when the accident occurred.

Case Name Hilroy Humpreys v RBTT Bank Caribbean Limited
[Civil Appeal No. 16A of 2007]

Appearances
Appellant Rhudd & Associates
Respondent Henry & Burnette

Issue Application for Stay of Execution of the judgment made on 30th April 2007.

Result It was ordered that:

The Appellant shall take no step to sell or otherwise to dispose of any interest that he has in any land pending the determination of the appeal or until further order.

Reason A sale of the property would render the appeal nugatory should the Respondent prevail in the appeal proceedings.

Case Name Moorjani Caribbean Limited v Neville Andrew
[Civil Appeal No. 26 of 2007]

Appearances

| | |
|------------|-----------------------|
| Appellant | Ms. C. Debra Burnette |
| Respondent | Watt & Associates |

Issue Extension of time within which to apply for Leave to Appeal.

Result It was ordered that:

The Appeal and the Applications for Leave to Appeal and for an extension of time within which to appeal are withdrawn and accordingly dismissed.

Reason The Solicitors for the Appellant filed on the 5th October 2007 a notice of withdrawal of application for leave to appeal and the application for extension of time within which to appeal.

Case Name Kenrick Roberts et al v Joycelyn Roberts
[Civil Appeal No. 23 of 2007]

Appearances

| | |
|------------|-----------------------|
| Appellant | Mr. David Dorsett |
| Respondent | Mr. Steadroy Benjamin |

Issue Application for Stay of Execution of the judgment of 13th July 2007.

Result It was directed that:

Solicitors for the Respondent shall inform the Chief Registrar whether the Application is opposed, and, if so, shall file and serve an Affidavit in Opposition on or before the 30th October 2007.

ANGUILLA

Case Name Pendragon International Limited et al v Bacardi International Limited
[Civil Appeal No.3 of 2007]

Case Name Tyrone Odel Kadan et al v The State
[Criminal Appeal No. 2 of 2007]

Appearances

| | |
|-------------------|---------------------------------|
| Appellant | Mrs. Dawn Yearwood-Stewart |
| Respondent | Director of Public Prosecutions |

Issue Application for Leave to Appeal.

Result It was ordered that:

1. The Application for Leave to Appeal is granted.
2. Solicitors for the Appellant shall file and serve the Notice of Appeal on or before the 23rd day of October 2007.

Case Name Huron Vidal v Merle Vidal
[Civil Appeal No. 8 of 2007]

Appearances

| | |
|-------------------|----------------------------|
| Appellant | Dyer & Dyer |
| Respondent | Mrs. Dawn Yearwood-Stewart |

Issue Application for Leave to Appeal.

Result It was ordered that:

1. Solicitors for the Applicant shall show cause why the Application should not be dismissed for non-compliance with the Direction of the 13th July 2007 by filing reasons on or before 14 days after the Registrar shall have the Directions of 13th July 2007 and this Order served on Solicitors for the Applicant.
2. The Registrar shall also serve the said Directions and this Order on Solicitors for the Respondent.
3. Proof of service shall be by affidavit.
4. If Solicitors for the Applicant fail to comply with paragraph 1 of this Order, the Application shall stand dismissed.

Case Name Richard K. Davison v Calvert Lawrence
[Civil Appeal No. 11 of 2007]

Appearances

Appellant Dyer v Dyer
Respondent Ms Singoalla Blomqvist-Williams

Issue Stay of execution of judgment of the High Court dated 17th September 2007.

Result It was directed that:

1. Solicitors for the Applicant shall file a copy of the judgment with the Court of Appeal Registry immediately.
2. Solicitors for the Respondent shall file and serve an Affidavit in Opposition to the Application on or before 30th October 2007.
3. Solicitors for the Applicant shall file and serve skeleton submissions on or before 6th November 2007.
4. Solicitors for the Respondent shall file and serve skeleton submissions on or before 13th November 2007.
5. The Application shall be considered and determined on the skeleton submissions by a single judge of this Court.

MONTSERRAT

Case Name Ernest Henry v Montserrat Electricity Services Ltd.
[Civil Appeal No. 3 of 2007]

Appearances

Appellant In person
Respondent Mr. Kharl Markham

Issue Application for Leave to Appeal.

Result It was ordered that:

1. Solicitors for the Respondent shall inform the Chief Registrar whether the application is opposed, and, if so, shall file and serve an affidavit in opposition on or before the 25th October 2007.
2. This file shall be brought up to Rawlins J.A when the Affidavit is filed on or by the 30th October 2007.

Reason The issue of leave should not be determined without hearing from the Respondent. The Court would, at the very least, require an Affidavit in Response to ascertain the grounds on which the order may be opposed.

**SAINT
CHRISTOPHER
& NEVIS**

Case Name St. Christopher Club Ltd. v St. Christopher Club Condominiums et al
[Civil Appeal No. 5 of 2007 & 7 of 2006]

Appearances

Appellant Mr. Sylvester Anthony

Respondent Hamilton & Co.

Issue Strike Out & Dismiss Appeal

Result It was ordered and directed that:

1. Solicitors for the parties shall file and serve Affidavits in Opposition to the two Applications, if necessary, on or before the 29th October 2007.
2. Solicitors for the Applicants shall file and serve written submissions on the issues that arise in the two Applications on or before the 12th November 2007.
3. Solicitors for the parties to the appeal shall file and serve written submissions in response on or before the 26th day of November 2007.
4. This Court shall, upon receipt of all written submissions, determine whether the Applications shall be considered by a single judge without an oral hearing.
5. Costs shall be in the Applications.

Reason The Directions are necessary in order to bring the Application on for consideration and determination.

**SAINT
VINCENT AND
THE
GRENADINES**

Case Name Ivan O'Neal v Diane Caroline O'Neal et al
[Civil Appeal No. 11 of 2007]

Appearances

Appellant Mr. S.E. Commissiong

Respondent Mr. Emery Robertson

Reason After reading the Application by the Applicant for extension of time which was filed on the 19th September, 2007 there was nothing on file to indicate whether the application was served on the Director of Public Prosecutions.

Case Name Raphael Robinson v The Commissioner of Police
[Mag. Criminal Appeal No. 76 of 2007]

Appearances

| | |
|-------------------|------------------------------------|
| Appellant | Unrepresented |
| Respondent | The Director of Public Prosecution |

Issue Extension of time to appeal.

Result It was directed that:

The Application shall be served on the Director of the Public Prosecutions who shall forthwith upon receipt of it, inform the court whether there is any objection to the Application and of the reason(s) for objection, if any.

Reason After reading the Application by the Applicant for the extension of time which was filed on the 19th September, 2007 there is nothing on the file to indicate that whether the Application was served on the Director of Public Prosecutions.

CaseName Feron Roberts v Commissioner of Police
[Magisterial Criminal Appeal No. 59 of 2007]

Appearances

| | |
|-------------------|-------------------------------------|
| Appellant | In person |
| Respondent | The Director of Public Prosecutions |

Issue Application for extension of time.

Result It was directed that:

The application shall be served on the Director of Public Prosecutions who shall forthwith upon receipt of it, inform the court whether there is any objection to the application and of the reason(s) for objection, if any.

Reason After hearing the application by the Applicant for an extension of time which was filed on the 29th of May, 2007 there was no indication whether the

Result**It was ordered that:****Solicitors for the Appellant/Respondent shall show cause, by way of written submissions to be filed and served on or before the 24th October 2007, why the Notice of Appeal herein shall not be struck out.**