

Appeal Sitting
Anguilla
17th to 19th March, 2008

Coram Hon. Justice Sir Brian Alleyne, SC, KCN, Chief Justice (Ag.)
Hon Justice Denys Barrow, SC
Hon. Justice Hugh Rawlins

APPLICATIONS:

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

Appearances Applicant/ Mrs. Josephine Gumbs Connor with Mrs. Nicola Byer
Appellant
Respondent/ Mr. Ivor Greene
Defendant

Issue Application for leave to appeal to Her Majesty in Council

Result: The Order is granted in the terms of a Consent Order submitted in the following terms:

1. That an Amended Record is to be prepared by the Appellant agreed to by both parties for submission to the Court for settling.
2. That the parties consent to the Application filed for Final Leave to Appeal to the Privy Council being filed within sixty (60) days of the hearing of this matter.
3. That the said Application for Final Leave to Appeal to the Privy Council be dealt with by a paper Application pursuant to the Rules of Court.

Reason: **Homer Richardson v. The Attorney General of Anguilla
Civ. App. No. 7 of 2006**

Appearances Appellant Mrs. Josephine Gumbs Connor holding for Mr. Horace Fraser
Respondent Mr. Ivor Greene

Issue: Application to extend time to file the Record of Appeal

- Result:
1. The Application for extension to file & serve the Record of Appeal is granted.
 2. The Record of Appeal to be filed within 30 days.
 3. The Parties are to agree on the documents for the Core Bundle.

Edwin McLaurence Hughes v. La Baia Limited

Civ. App. No. 8 of 2006

Appearances	Appellant	Miss Jenny Lindsay
	Respondents	Miss Michelle Smith with Miss Merlene Barrett
Issue		<ol style="list-style-type: none">1. Application for extension of time to file & serve Skeleton Arguments/Relief from sanctions2. Application for Security for costs3. Application for extension of time to amend Notice of Appeal/Relief from sanctions
Result:		<p>The Court ordered as follows:</p> <ol style="list-style-type: none">1. The Application by the Appellant for extension of time to file an amended Notice of Appeal is dismissed.2. The Application by the Respondent to extend time for filing Skeleton Arguments to 7th April 2008 is granted.3. The Application by the Respondent for an order that the Appellant shall give security for the Respondent's costs in the Appeal proceedings is granted.4. The Appellant shall give security for the Respondent's costs in these proceedings in the sum of US\$15,000 on or before Thursday, 1st May 2008.5. The Appellant shall give the said security for the Respondent's costs by paying the said sum of US\$15,000 into an interest bearing account opened in the joint names of the solicitors for the parties in a commercial bank operating in Anguilla, or alternatively, by paying the amount into Court.6. Neither solicitors shall withdraw any sum from the account save and except by and with the further order of the Court.7. If the Appellant fails to provide security in accordance with this Order within the time stipulated in paragraph 5 of this Order, the appeal shall be struck out automatically.8. All further proceedings shall be stayed pending the payment of the security for costs by the Appellant in accordance with this Order.9. The Appellant shall pay EC\$2,000 costs to the Respondent in these Applications.

Delano Smith v. The Queen
Cr. App. No. 1 of 2008

(IN CHAMBERS)

Before: The Hon Justice Hugh Rawlins

Appearances Appellant Mr. Thomas Astaphan with Mr. Collin Meade
 Respondent Miss Tecla Benjamin with Miss Vernetta Richardson

Issue: Leave to Appeal:
1. The conviction is unsafe having regard to the evidence led at the trial.
2. The trial judge failed to give appropriate directions on the law regarding manslaughter and admitted evidence which was more prejudicial than probative
3. The trial judge failed to properly direct the Jury as to how they may conclude from inferential evidence.

Result: 1. Leave is granted in relation to Ground 1 of the Grounds of Appeal, being a ground that is based on fact.

2. All subsequent proceedings shall be in accordance with the relevant Criminal Rules.

Reason: Appeals based on matters of law require no leave to appeal; those based on fact require leave to be given.

**Gigi Osco-Bingemann and Vadim Fridman as Executors of the Estate of Martin Crowley v Bacardi International Limited
Civ. App. No. 1 of 2008**

Appearances Appellant Mr. Mark Brantley with Miss Jean Dyer
 Respondent Miss Tameka Davis

Issue: 1. Application for Leave to Appeal against the decision of the High Court judge

Result: The Application for Leave to Appeal is granted in terms of the draft Order submitted save that paragraph 3 thereof is deleted, namely that:
1. Leave is granted to appeal against the decision of Justice Albert Redhead dated 14th January 2008 refusing the Applicants' application for a declaration that (i) the Anguillan Court has no jurisdiction to try Claim No. AXAHCV/2007/0002 and that the Order of Madam Justice Janice George-Creque dated 30th January 2007 granting permission to serve the Claim Form out of the jurisdiction on the Respondents should be set aside pursuant to Rule 9.7(6) of the CPR or (ii) the Anguillan Court will not exercise its jurisdiction to try the issues raised by this Claim as Anguilla is not the forum conveniens for the resolution of such issues.

2. Costs to be costs in the cause.

