

# **CHAMBER HEARING**

Thursday 6<sup>th</sup> March, 2008

**CORAM** The Hon Hugh Rawlins, Justice of Appeal

## **HEARING**

**SAINT LUCIA**

**Case Name** Ashell Moise v The Queen  
[Criminal Appeal No. 3 of 2007]

**Appearances :**

**Appellant :** Mr. Shawn Innocent

**Respondent:** Mrs. Victoria Charles-Clarke, Director of Public Prosecutions

**Issue:** Application for bail

**Result:** The application was dismissed with liberty to the Appellant to apply if the appeal is not heard during the sitting of the Court in Saint Lucia.

**Reason:** There must be exceptional circumstances for a convicted appellant to be granted bail. The court was not satisfied that such exceptional circumstances existed.

**Case Name** David Alan Pollock et al v Caribbean Ventures International Ltd. (Liquidation)  
et al  
[Civil Appeal No. 35 of 2007]

**Appearances:**

**Appellants/  
Respondents:** Mr. Marcus Foster

**Respondents/  
Applicants:** Mr. Bota McNamara

**Issue:** Application for extension of time to appeal; Application for security for costs

**Result:**

1. Application by the Respondent dated 29<sup>th</sup> January 2008 for an order that this court should, by order, impose the conditions by which the Appellants shall enter security for costs is hereby adjourned on the Application of Counsel for the Appellants/Respondents who was recently retained as their counsel.
2. The Application is adjourned to Monday the 14<sup>th</sup> April, 2008 at 9:00am at the Court of Appeal's Chambers, this being the final adjournment.
3. If Solicitors for the parties do not agree on the conditions to be imposed for security for costs the court shall impose conditions at its sitting on the said 14<sup>th</sup> April, 2008.
4. All matters dealing with costs shall be dealt with at this hearing.

**Reason:**

## CASE MANAGEMENT

ANGUILLA

**Case Name** John A. Gumbs v Attorney General of Anguilla  
[Civil Appeal No. 9 of 2005]

**On paper:**

**Appellant:** Mr. Gerard Farara, QC

**1<sup>st</sup> and 2<sup>nd</sup>  
Respondents:** Mr. Jack Husbands

**3<sup>rd</sup> and 4<sup>th</sup>  
Respondents:** Mr. Paul Webster, QC

**Issue:** Application for extension of time to transmit record of proceedings and file Application for Final Leave to Appeal to the Privy Council

**Result:** The Application for extension of time is granted so that the time within which the Appellant shall file the record for transmission and apply for Final Leave to Appeal is extended to Friday 14<sup>th</sup> March, 2008.

**Reason:** The Appellant had complied with the order granting conditional leave and the Application for Final Leave is not opposed.

**Case Name** Edwin Hughes v La Baia Limited  
[Civil Appeal No. 8 of 2006]

**On paper:**  
**Appellant:** Jenny Lindsay & Associates  
**Respondent:** Keithley Lake & Associates

**Issue:**  
1. Application for an extension of time to file and serve its skeleton arguments  
2. Application for relief from sanctions  
3. Application for security for costs

**Result:** The Applications are listed for hearing by the Full Court of Appeal during its sitting in Anguilla during the week of 17<sup>th</sup> March 2008.

**Reason:**

**Case Name** Delano Smith v The Queen  
[Criminal Appeal No. 1 of 2008]

**On paper:**  
**Appellant:** Astaphan's Chambers  
**Respondent:** Attorney General's Chambers

**Issue:** Application for Leave to Appeal

**Result:**  
1. Time is extended to Monday 17<sup>th</sup> March, 2008 for the Solicitors for the Respondent to file their objections.  
2. This matter shall be listed on the Applications List for the sitting of the Court in Anguilla during the week of 17<sup>th</sup> March, 2008.

**Reason:**

**ANTIGUA &  
BARBUDA**

**Case Name** Doreen Johnson v CIBC Caribbean Ltd.  
[Civil Appeal No. 33 of 2004]

**On paper:**

**Appellant:** John Fuller Chambers

**Respondent:** Clarke & Clarke

**Issue:**

**Application for Respondent to be granted relief from sanctions and leave to file and serve skeleton arguments**

**Result:**

- 1. The Respondent is granted relief from any sanctions applicable for non-compliance in the appeal herein requiring the Respondent to file and serve skeleton arguments and authorities within 28 days of service of the Appellant's skeleton arguments;**
- 2. The Respondent is granted leave to file and serve its skeleton arguments and authorities out of time and that the filing of the Respondent's skeleton arguments and authorities on 8<sup>th</sup> February, 2008 be deemed proper.**
- 3. The hearing of this appeal expected in April 2008 is traversed to July 2008.**

**Reason:**

**Case Name**

**Alistair Greene et al v H. Asquith Fearon et al  
[Civil Appeal No. 2 of 2008]**

**On paper:**

**Appellant:** In person

**Respondent:** In person

**Issue:**

**Application for Leave to Appeal**

**Result:**

- 1. Solicitors for the 1<sup>st</sup> Respondent shall file and serve affidavit in opposition to the Application for Leave to Appeal on or before the 19<sup>th</sup> day of March, 2008.**
- 2. The Appellants shall file and serve the affidavit in reply on or before the 2<sup>nd</sup> day of April 2008, if necessary.**
- 3. This matter shall be listed on the Applications List to be heard before a single judge of the Court in Antigua & Barbuda during the week of 7<sup>th</sup> April, 2008.**

**Reason:**

**GRENADA**



**Case Name** **Lancette Prince v. St. Clair Thompson**

**On paper:**

**Applicant:** **Vernon Veira & Associates**

**Respondent:** **Bryant & Liburd**

**Issue:** **Application for Leave to file Notice of Appeal and to enter into recognizance to prosecute the appeal out of time**

**Result:** **Pursuant to Rule 64:14 of the Eastern Caribbean Supreme Court Civil Procedure Rules 2000, the application, by way of the Summons filed on 29<sup>th</sup> November 2007, to extend the time to appeal a decision of the learned Magistrate that was made on 24<sup>th</sup> October 2007 is dismissed with \$250.00 costs to be paid by the Intended Appellant/Applicant to the Respondent.**

**Reason:** **In deciding whether to grant an extension of time the court must have regard to the check-list in sub-rules 26.8(2) and 26.8(3) of the CPR 2000 and the Court may only extend time if all the criteria set out in rule 26.8(2) are satisfied. The Court commending the cases of Richard Frederick v Owen Joseph and Others St. Lucia Civil Appeal No. 32 of 2005, Dominica Agricultural and Industrial Development Bank Dominica Civil Appeal No. 20 of 2005 and Pendragon International Limited and Others v Bacardi International Limited, Anguilla Civil Appeal No. 3 of 2007 (23<sup>rd</sup> November 2007).**

**The Applicant/Intended Appellant has not attempted to satisfy the court that the failure to file the appeal within the 14 days stipulated was not intentional or to provide a good explanation for the failure to file the appeal within the stipulated time.**

**SAINT  
VINCENT &  
THE  
GRENADINES**

**Case Name** **Douglas Pompey v The Queen  
[Criminal Appeal No. 8 of 2008]**

**On paper:**

**Applicant:** **In person**

**Respondent:** **Director of Public Prosecutions**

**Issue:** **Application for extension of time to appeal against conviction and sentence**

**Result:**  
1. The Application for an extension of time within which to appeal is granted.  
2. All subsequent proceedings shall be in accordance with the Rules which govern the relevant procedures for appeals in criminal cases.

**Reason:**

**Case Name** David Roberts v The Queen  
[Criminal Appeal No. 8 of 2008]

**On paper:**

**Appellant:** In person

**Respondent:** The Director of Public Prosecutions

**Issue:** Application for extension of time to appeal against conviction and sentence

**Result:**  
1. The Application for extension of time within which to appeal is granted.  
2. All subsequent proceedings shall be in accordance with the Rules which govern the relevant procedure for appeals in criminal cases.

**Reason:** The Director of Public Prosecutions does not oppose the Application.

## **TELECONFERENCE**

**TORTOLA**

**Case Name** Pacific Electric Wire & Cable Company Limited v Texan Management Limited  
et al  
[Civil Appeal No. 19 of 2006]

**On paper:**

**Appellant:** Mr. Gerard Farara, QC

**1<sup>st</sup> and 2<sup>nd</sup>  
Respondents:** Mr. Jack Husbands

**3<sup>rd</sup> and 4<sup>th</sup>  
Respondents:** Mr. Paul Webster, QC

**Issue:** Application for Leave to Appeal to Her Majesty in Council  
Application for Stay of Execution  
Whether or not the court is functus

**Result:** Solicitors for the parties shall in writing inform the court within 14 days of today's date whether it is necessary to issue directions to canvass the issue whether the court is functus in relation to the delivery of judgment on the forum non conveniens aspect of the appeal which was heard by this court in 2007.

**Reason:**

Thursday 20<sup>th</sup> March, 2008

## **APPLICATION**

**CORAM** The Hon Denys Barrow, SC, Justice of Appeal

**ANTIGUA &  
BARBUDA**

**Case Name** William Martin v Urcil Peters  
[Civil Appeal No. 36 of 2004]

**On paper:**  
**Appellant:** Lockhart, Mendes & Co.  
**Respondent:** Ms. Mary B.E. White

**Issue:** Application for extension of time

**Result:** The Application for a further extension of time to prepare the Record of Appeal is refused.

**Reason:**