

# **CHAMBER HEARING**

**Tuesday 20<sup>th</sup> January 2009**

**CORAM** Hon. Ola Mae Edwards Justice of Appeal

**SAINT LUCIA**

**Case Name** Courtesy Taxi Cooperation Society Ltd v Lucien Joseph et al  
[Civ. App. No. 43 of 2008]

**Appearances**

**Applicant** Mrs. Lydia Faisal  
**Respondent** Mr. Mario Mitchell

**Issue:** Application for leave to appeal

**Result:**

**IT WAS ORDERED THAT:**

1. Leave is hereby given to appeal the order of Cottle J made on the 3<sup>rd</sup> December 2008.
2. The notice of appeal is to be filed and served on or before the 3<sup>rd</sup> February 2009.
3. Written submissions in support of appeal to be filed and served on or before 12<sup>th</sup> February 2009.
4. Written submissions in opposition to the appeal to be filed and served on or before 12<sup>th</sup> February 2009.
5. Reasons for the decision of Cottle J and/or a transcript of the proceedings for the hearing 3<sup>rd</sup> December, 2008 along with the copy of the applications that were before the court on 3<sup>rd</sup> December 2008 to be obtained from the learned judge and the registrar of the High Court by the deputy chief registrar on or before 17<sup>th</sup> February 2009.
6. The appeal to be determined by a single judge without a hearing.
7. Liberty for counsel for the appellant and the respondent to file and serve further submissions in response within 7 days of being served with a copy of the reasons of Cottle J and/or transcript of the proceedings.
8. The order made on 3<sup>rd</sup> December, 2008 is stayed pending the determination of the appeal.
9. Costs of the application be in the appeal.

**Reason:** There is an arguable case for an appeal.



respondent has been served with a copy of the application and supporting evidence.

3. The applicant to file and serve skeleton arguments in support of the application in compliance with Practice Direction No. 3 of 2008 PD 3 (a) on or before 6<sup>th</sup> February, 2009.
4. The respondent to file and serve a notice indicating whether the application is being opposed in compliance with the Practice directions No. 2 of 2008 PD2 (b) (ii) and No. 3 of 2008 PD 3 (c) on or before 4<sup>th</sup> February, 2009; and any evidence on which it intends to rely along with skeleton arguments on or before 13<sup>th</sup> February, 2009 if the application for stay is being opposed.
5. The appellant/applicant has liberty to file and serve an affidavit in reply to any opposing affidavit, and submissions in reply to any submissions where necessary on or before 18<sup>th</sup> February, 2009.

**Reason:**

#### **DIRECTIONS**

**Case Name** Careem Bedminister v The Queen  
[Crim. App. No. 22 of 2008]

**Appearances:**

**Appellant:** Mr. Steadroy Benjamin  
**Respondent:** The Director of Public Prosecutions

**Issue:** Bail pending appeal

**Result:** IT WAS DIRECTED THAT:  
The application for bail pending the disposal of the appeal is dismissed.

**Reason:** No exceptional circumstances exist for bail to be granted pending the appeal

**Case Name** Dawn Simon v Ralston Tonge (also known as George Tonge)  
[Civ. App. No. 25 of 2008]

**Appearances:**

**Appellant:** Mr. Steadroy Benjamin  
**Respondent:** None

**Issue:** Application for stay of execution.

**Result:** IT WAS ORDERED THAT:

1. The application for stay of execution pending appeal filed on 15<sup>th</sup> December, 2008 is adjourned to 24<sup>th</sup> February, 2009 for determination by a single judge in Chambers.
2. The applicant to file an affidavit of service on or before 6<sup>th</sup> February, 2009 evidencing that the respondent has been served in person with a copy of the notice of appeal filed on 26<sup>th</sup> November, 2008, the application and affidavit in support for a stay of execution filed on 15<sup>th</sup> December, 2008 and submissions filed on 2<sup>nd</sup> January, 2009.
3. The submissions filed on 2<sup>nd</sup> January, 2009 out of time are deemed to have been validly filed.
4. The respondent to file a notice indicating whether the application is being opposed in compliance with Practice Directions No. 2 of 2008 PD2 (b)(ii) on or before 20<sup>th</sup> February, 2009; along with affidavit in support of opposition and skeleton arguments where the application is being opposed.

**Reason:**

**Case Name** Hezekiah Parker v The Queen  
Crim. App. No. 24 of 2008]

**Appearances:**

**Appellant:** Mr. Steadroy Benjamin

**Respondent:** Director of Public Prosecutions

**Issue:** Bail pending appeal.

**Result:** IT WAS ORDERED THAT:

1. The application for revocation of bail filed on the 15<sup>th</sup> September 2008 is remitted to the High Court for hearing.
2. The notice of application filed on the 15<sup>th</sup> December, 2008 for the applicant to be admitted to bail pending the determination of his trial is dismissed in the absence of the notice of appeal pending before this Court.

**Reason:** There is no appeal pending in this Court

**Case Name** Shastri Lopes v The Queen  
[Crim. App. No. 25 of 2008]

**Appearances:**  
**Appellant:** Mr. Steadroy Benjamin  
**Respondent:** Director of Public Prosecutions

**Issue:** Bail pending appeal

**Result:** IT WAS ORDERED THAT:

The notice of application filed on the 15<sup>th</sup> December 2008 for the applicant to be admitted to bail pending the determination of his trial is dismissed in the absence of any notice of appeal pending before this Court against an order made refusing bail in the Court below.

**Reason:** There is no appeal pending before this Court.

**Case Name** Lester Richards v The Queen  
[Crim App. No. 27 of 2008]

**Appearances:**  
**Appellant:** Mr. Steadroy Benjamin  
**Respondent:** Director of Public Prosecutions

**Issue:** Clarifying the term of imprisonment

**Result:** IT WAS ORDERED THAT:

1. There is no statutory provision or common law empowering this Court to entertain this application after the Court is functus, the Order of the Court

- on the 7<sup>th</sup> July 2008 having been entered and issued.
2. The notice of motion is consequently dismissed.

**Reason:**

**Case Name** Janice Reynolds-Greene v Community First Cooperative Credit Union Ltd.  
[Civ. App. No. 27 of 2008]

**Appearances:**

**Appellant:** In person  
**Respondent:** Ms. C. Debra Burnette

**Issue:** Application for stay of execution.

**Result:**

**IT WAS ORDERED THAT:**

1. The appellant/applicant to serve a copy of the notice of appeal and the application for a stay the enforcement of the order of Justice Louise Blenman dated 30<sup>th</sup> October, 2008 filed on 12<sup>th</sup> December, 2008 with supporting affidavit on the respondent on or before 27<sup>th</sup> January, 2009.
2. The appellant/applicant to file, serve and transmit to the Court of Appeal an affidavit of service on or before 3<sup>rd</sup> February, 2009 evidencing that the respondent has been served with a copy of the notice of appeal, application and supporting evidence.
3. The respondent to file and serve a notice indicating whether the application is being opposed in compliance with Practice Directions No. 2 of 2008 PD2 (b) (ii) and No. 3 of 2008 PD 3 (c) on or before 4<sup>th</sup> February, 2009; and any evidence on which it intends to rely along with skeleton arguments on or before 13<sup>th</sup> February, 2009 if the application for stay is being opposed.
4. The applicant to file and serve an affidavit in reply to any opposing affidavit and submissions in reply to any opposing affidavit, and submissions in reply to any submissions where necessary on or before 18<sup>th</sup> February, 2009.
5. The application for a stay filed on 12<sup>th</sup> December, 2008 is adjourned to 24<sup>th</sup> February, determined by a single judge on paper.

**Reason:**

**Case Name** Caribbean Star Airlines Limited v Elliot A. Street

[Civ. App. No. 33 of 2008]

**Appearances:**

**Appellant:** Marshall & Company

**Respondent:** Watts & Associates

**Issue:** Application for stay of execution

**Result:** IT WAS ORDERED THAT:

1. The appellant/applicant to serve a copy of the notice of appeal and the application for stay filed on 30<sup>th</sup> December, 2008 with supporting affidavit on the respondent on or before 27<sup>th</sup> January, 2009.
2. The appellant/applicant to file and serve and transmit to the court of appeal an affidavit of service evidencing that the respondent has been served with a copy of the notice of appeal, application and supporting evidence on or before 30<sup>th</sup> January, 2009.
3. The respondent to file and serve a notice indicating whether the application is being opposed in compliance with Practice Directions No. 2 of 2008 PD2 (b) (ii) and No. 3 of 2008 PD 3 (c) on or before 4<sup>th</sup> February, 2009; and any evidence on which it intends to rely along with skeleton arguments on or before 13<sup>th</sup> February, 2009 if the application for stay is being opposed.
4. The appellant/applicant to file and serve an affidavit in reply to any opposing affidavit and submissions in reply to any opposing submissions of the respondent where necessary on or before 18<sup>th</sup> February, 2009.
5. The application for stay filed on 30<sup>th</sup> December, 2008 is adjourned to 24<sup>th</sup> February, 2009 to be determined by a single judge on paper.

**Reason:**

**Case Name:** Caribbean Star Airlines Limited v Keith Thompson et al  
[Civ. App. No. 34 of 2008]

**Appearances:**

**Appellant:** Marshall & Company

**Respondent:** Watts & Associates

**Issue:** Application for stay of execution

**Result:** IT WAS ORDERED THAT:

1. The appellant/applicant to serve a copy of the notice of appeal and the application for stay filed on 30<sup>th</sup> December, 2008 with supporting affidavit on the respondent on or before 27<sup>th</sup> January, 2009.
2. The appellant/applicant to file and serve and transmit to the court of appeal an affidavit of service on or before 30<sup>th</sup> January, 2009 evidencing that the respondent has been served with a copy of the

- notice of appeal, application and supporting evidence.
3. The respondent to file and serve a notice indicating whether the application is being opposed in compliance with Practice Directions No. 2 of 2008 PD2 (b) (ii) and No. 3 of 2008 PD 3 (c) on or before 4<sup>th</sup> February, 2009; and any evidence on which it intends to rely along with skeleton arguments on or before 13<sup>th</sup> February, 2009 if the application for stay is being opposed.
  4. The appellant/applicant to file and serve an affidavit in reply to any opposing affidavit and submissions in reply to any opposing submissions of the respondent where necessary on or before 18<sup>th</sup> February, 2009.
  5. The application for stay filed on 30<sup>th</sup> December, 2008 is adjourned to 24<sup>th</sup> February, 2009 to be determined by a single judge on paper.

**Reason:**

**Case Name:** Elroy Joseph v The Commissioner of Police  
[Crim. App. No. 26 of 2008]

**Appearances:**  
**Appellant:** Cumberbatch & Associates  
**Respondent:** Director of Public Prosecutions

**Issue:** Application for bail

**Result:** IT WAS ORDERED THAT:  

1. Bail is granted to the applicant/appellant in the sum of \$10,000.00 with two sureties in like amount, with cash deposit in the sum of \$5000.00.
2. The applicant/appellant shall surrender all travel documents to the Court.
3. The applicant/appellant shall report to the St. John's Police Station on Mondays and Fridays between 6 a.m. and 6 p.m. until further order.

**Reason:** The existing statutory provision governing appeals from the Magistrates Court mandates that the sentence of the court be stayed pending the appellant's appeal. Consequently, he must be granted bail.

**COMMONWEALTH OF DOMINICA**

**Case Name:** Angelo Ducreay et al v Bank of Novia Scotia  
[Civ. App. No. 14 of 2008]

**Appearances:**  
**Appellant:** Mr. Mc Donald Christopher

**Respondent:** Mr. Gerald Burton

**Issue:** Whether the Application for leave to appeal contained in the Notice of Procedural Appeal satisfies the requirements under the relevant rules of the CPR.

**Result:** **IT WAS ORDERED THAT:**

1. The respondent file and serve a notice indicating whether the application for leave contained in the notice of appeal is being opposed, in compliance with Practice Directions No. 2 of 2008 PD (b) (ii) and No. 3 of 2008 PD3(c) on or before 4<sup>th</sup> February, 2009 and any evidence on which it intends to rely along with skeleton arguments on or before 13<sup>th</sup> February, 2009 if the application for leave is being opposed.
2. The appellant/applicant to file and serve on or before 16<sup>th</sup> February, 2009 submissions addressing the absence of an application for leave to appeal in accordance with CPR 62.2 (2), CPR 11.6 (1) and CPR 11.9 and the effect of this on the notice of Procedural Appeal having regard to the numerous decisions of this court including OLIVER McDONNA v RICHARDSON Anguilla Civil Appeal No. 3 of 2005 delivered by Barrow JA on 29<sup>th</sup> June, 2007.
3. The matter is adjourned to 24<sup>th</sup> February, 2009 to be determined by a single judge on paper without a hearing.

**Result:**

**GRENADA**

**Case Name:** George Blaize v Bernard La Mothe Trading as “Saint Andrews Connection Radio” (SAC FM Radio)  
[Civ. App. No. 19 of 2008]

**Appearances:**

**Appellant:** Ms. Kim George

**Respondent:** Ms. Pauline Hanibal

**Issue:** Application for leave to appeal and stay of execution

**Result:** **IT WAS ORDERED THAT:**

1. The application for leave to appeal and stay of execution filed on 22<sup>nd</sup> December, 2008 is adjourned to 24<sup>th</sup> February, 2009 to be determined by a single judge without a hearing.
2. The applicant is to file and serve copies of the applications, evidence and any written submissions that were before the learned judge at the

hearing on 12<sup>th</sup> December, 2008 along with a copy of the challenged order.

3. The Deputy Chief Registrar to obtain from the High Court the transcript of the proceedings and/or notes of evidence of the learned judge and the reasons for the learned judge's decision on or before 12<sup>th</sup> February, 2009.
4. Upon counsel for the applicant and respondent obtaining copies of the transcript of the proceedings and/or the judge's reasons for decision in accordance with the rules, they are to file and serve on or before 18<sup>th</sup> February, 2009 their submissions in support of or in opposition to the application for leave to appeal and stay of execution.

**Reason:**

**SAINT KITTS  
& NEVIS**

**Case Name:** Bank of Commerce (Saint Kitts Nevis) Trust and Savings Association Limited v E. Anthony Ross  
[Civ. App. No. 1 of 2008]

**Appearances:**  
**Appellant:** Mr. Sylvester Anthony  
**Respondent:** Caribbean Associated Attorneys

**Issue:** Application for extension of time to file supplemental record and chronology

**Result:** IT WAS OREDER THAT:

1. The appellant transmit to the court of appeal on or before 30<sup>th</sup> January, 2009 a filed and signed copy of the application with supporting affidavit for the order made a single judge on 18<sup>th</sup> December, 2008 to be discharged by the Court of Appeal.
2. The appellant transmit to the Court of Appeal on or before 30<sup>th</sup> January, 2009 an affidavit of service evidencing that the application referred to in Paragraph 1 of direction and supporting affidavit have been served on the respondent.
3. The respondent to file and serve any evidence he intends to rely on in opposing the appellant's application to discharge the order on or before 3<sup>rd</sup> February, 2009.
4. The respondent's application to vary and the application to discharge the order made on 18<sup>th</sup> December, 2008 are set down for hearing by the Court of Appeal at the sitting of the court of Appeal in St. Lucia on 9<sup>th</sup> to 13<sup>th</sup> February, 2009.
5. Counsel for the appellant and respondent are to file and serve their skeleton arguments on or before 4<sup>th</sup> February, 2009.
6. The Court will give further directions and set down the appeal for hearing during the week of 9<sup>th</sup> to 13<sup>th</sup> February, 2009.

**Reason:**

**Case Name:** Millennium Financial Ltd.  
v  
Thomas McNamara  
Bank of Nevis International  
[Civ. App. No. 12 of 2008]

**Appearances:**  
**Appellant:** Vernon S. Veira & Associates  
**Respondent:** Kelsick, Wilkin & Ferdinand

**Issue:** Application for stay of execution

**Result:** IT WAS ORDERED THAT:

1. The application for leave to appeal is adjourned to 24<sup>th</sup> February, 2009 to be dealt with by a single judge on paper without a hearing.
2. The respondents are to file, serve and transmit to the Court of Appeal on or before 13<sup>th</sup> February, 2009 their notice of opposition, supporting evidence where it is being relied on and their written submissions if they are opposing the application, failing which the application for leave will be regarded as unopposed.

**Reason:**

**Case Name:** Susan Barbara Dodge, appointed Trustee of the Estate of Raymond Arnold Dodge aka Ray Dodge Tony Zapparoli v Michael Simanic et al  
[Civ. App. No. 13 of 2008]

**Appearances:**  
**Appellant:** Hamilton & Company  
**Respondent:** Caribbean Associated Attorneys

**Issue:** Application for leave to appeal and stay of execution

**Result:** IT WAS ORDERED THAT:

1. The application filed on 18<sup>th</sup> December, 2008 for leave to appeal and stay of the execution of the Order made by Belle J on 5<sup>th</sup> December, 2008 is further adjourned to 24<sup>th</sup> February, 2009 for determination by a single Judge on paper without a hearing.
2. The applicants are to transmit a copy of the order of Belle J to the Court of Appeal on or before 30<sup>th</sup> January, 2009.

3. The applicants are to file, serve and transmit to the Court of Appeal their written submissions in support of the application in compliance with PRACTICE DIRECTIONS NO. 2 of 2008 PD 2 (a) and PRACTICE DIRECTIONS No. 3 of 2008 PD3 (a) on or before 9<sup>th</sup> February, 2009.
4. The respondent is to file, serve and transmit to the court of appeal on or before 12<sup>th</sup> February, 2009 their written submissions.

**Reason:**

**SAINT  
VINCENT  
AND THE  
GRENADINE  
S**

**Case Name:** Peggy Huggins et al v Jozeyl Morris  
[Civ. App. No. 9 of 2008]

**Appearances:**  
**Appellant:** Mr. Olin Dennie  
**Respondent:** None

**Issue:** Application for stay of execution

**Result:** **IT WAS ORDERED THAT:**

1. The application for stay of execution of the Judgment of Thom J filed on 17<sup>th</sup> December, 2008 is adjourned to 24<sup>th</sup> February, 2009 for determination on paper by a single judge without a hearing.
2. The appellants are to file, serve and transmit to Court of Appeal on or before 10<sup>th</sup> February, 2009 their written submissions in support of the application and a copy of the affidavit of service evidencing that the application and supporting affidavit and written submissions have been served on the respondent in compliance with PRACTICE DIRECTIONS NO. 2 OF 2008 PD 2(a) and PRACTICE DIRECTIONS No. 3 of 2008 PD3 (a).
3. The respondent is to file, serve and transmit to the court of appeal on or before 18<sup>th</sup> February, 2009 a notice of opposition to the application, a supporting affidavit in opposition where necessary and opposing submissions if the application is being opposed.

**Reason:**