



GREETINGS FROM THE CHIEF JUSTICE

Dear Readers:

Throughout the entire world today, HIV/AIDS looms large among national issues of countries - rich and poor, developed and developing. In our own Caribbean region, the rate of infection is said to be the second highest in the world, after Sub-Sahara Africa. AIDS has moved from being a purely health issue as it was when the disease was first "discovered" 20 years ago. In many countries it is now being seen as an economic issue as well, given the huge cost associated with treatment, and the toll which the disease is beginning to take on national productivity, given the fact that thousands of those whose work contributes to national development are being affected.

More recently, the figures point to women being infected at a faster rate than men. The situation is alarming. Small countries like those in the OECS will need massive injections of funds to meet the cost of treating cases of HIV/AIDS, and instituting programmes to help stem the spread of the disease. It is a massive and costly undertaking.

Towards the end of November, I was privileged to attend a conference in St. Kitts & Nevis, hosted by the Caribbean Community, the Pan Caribbean Partnership Against HIV/AIDS (PANCAP), and the United Kingdom Department for International Development.

The objective of that gathering was to share information about the best ways to reduce the stigma and discrimination against persons living with HIV/AIDS. This in itself is a tremendous challenge.

The conference had an extremely profound effect on me personally and one of the pledges that I made was that our Judicial Education Institute should consider inviting a PANCAP expert to address our judiciary on some appropriate area of study related to the fight against HIV/AIDS and the work of judicial officers.

I trust that in due course, we will move from merely considering such a venture to realizing it. The nature of the "progress" of the disease in our jurisdiction dictates that we cannot and should not isolate ourselves from the ongoing efforts to cope with it.

Please send comments, suggestions and contributions to the newsletter at appeal@candw.lc

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EASTERN CARIBBEAN SUPREME COURT NEWS

Congratulations



The Eastern Caribbean Supreme Court takes great pleasure in extending heartiest congratulations to His Lordship, the Hon. Chief Justice [Ag.], Adrian Saunders who was recently named as a judge of the Caribbean Court of Justice.

After spending some 19 years in private practice as an attorney, Justice Adrian Saunders was appointed a Judge of the High Court of Justice of the Eastern Caribbean States in 1996. He was elevated to the Court of Appeal of the ECSC in May 2003, and has been serving as the Hon. Chief Justice [Ag.] since June 2004.

We at the Eastern Caribbean Supreme Court are very proud that Justice Saunders has been afforded this most special and well-deserved recognition. We wish him God's speed and much success as he continues to make his mark, and contribute to the development of the regional jurisprudence.

Judicial Exchange

November 11 - 18, 2004

The Eastern Caribbean Supreme Court in collaboration with the United States Department of Justice and the United States Embassy (Barbados) organized a Judicial Exchange with Judge Janet Bond-Arterton, of the United States of America.

The United States Embassy in Barbados facilitated this Judicial Exchange. In May of 2003 the first Judicial Exchange between the US and the Caribbean was held between the Judiciary of Barbados and the Department of Justice in the United States. This exchange proved to be a success and the embassy wanted this to be repeated with the Eastern Caribbean Supreme Court.

Judge Janet Bond-Arterton was nominated by President William Jefferson Clinton on January 23, 1995, confirmed by the United States Senate on March 24, 1994 and entered duty on May 15, 1995 as United States District Judge for the District of Connecticut. Judge Arterton's visit here in St. Lucia commenced on November 11 and ended on November 17, 2004.

The main purpose of the exchange was to share ideas and to enable the two judiciaries to learn from each other. Judge Arterton had some particular areas of interest, namely Judicial Education, the Caribbean Court of Justice, Court Administration, Mediation, Case Management and Judicial Governance.

During her visit Judge Arterton was invited to sit on the Bench to observe both the criminal and civil trial processes in Saint Lucia. While sitting with Justice Ola Mae Edwards in the civil court she was able to observe a number of divorce proceedings, which she found most interesting. Her time with Justice Albert Redhead observing a criminal assize was just as interesting. In addition to her observing these trial proceedings Judge Arterton was given a tour of the Court and its offices, and received detailed insights into their operations. She was of the view that the implementation of Case Management in the court process would assist immensely in the efficient and effective administration of justice on the island.

Judge Arterton met with the Judges of the Court of Appeal. The Meeting, which was chaired by Justice of Appeal Brian Alleyne, discussed matters relating to aspects of Judicial Codes of Ethics; the selection process of Judges; perspectives on the Criminal Division and the administration of the judiciary. Judge Arterton also held a meeting with the Members of the Management Committee of the Judicial Education Institute. Justice Hugh Rawlins, Chairman of the Institute, chaired that session. Judge Arterton was apprised of the structure of the Institute

and the plans ahead for the body. The Chief Registrar, Mrs. Ianthea Leigertwood-Octave, gave a historical overview of the Institute. The other topics that were discussed included training programmes for Court Office Staff; aspects of the role of the judiciary in case management; subjects for judicial training and research and publishing by judicial officers.

Judge Arterton paid Courtesy calls on the Governor General, Her Excellency Dame Pearlette Louisy, GCSL, GCMG; the Director General of the OECS, Dr. Len Ishmael; and the Minister of Justice, the Hon. Victor P. La Corbiniere. She found these courtesy calls to be extremely stimulating and informative. She especially found the courtesy call on the newly appointed Minister of Justice, to be quite fascinating. She was of the opinion that if his policies were adopted and implemented the entire Justice sector in St. Lucia will benefit; and she applauded his idea of seeking to bridge the disconnect among the judicial agencies in the country. Judge Arterton agreed that although each department may have its individual agenda they are all interdependent and she appreciated that improving this divide could be the first step to mending the entire system.

The other area she found most interesting was her discussions on the Caribbean Court of Justice with the Acting Chief Justice Adrian Saunders, Court of Appeal Judges and Magistrates. This discussion was also very special, as the Acting Chief Justice Adrian Saunders had recently received news of his appointment as a Judge to sit on the newly formed Court. Judge Arterton is very interested in seeing the way in which this court develops.

During her visit, Judge Arterton was interviewed by the Government Information Service, where she discussed the purpose of her trip, and gave the public a brief understanding of the structure of the Department of Justice in the United States of America.

Her visit did not exclude her experiencing the beauty of the island. On the weekend she was able to enjoy a boat cruise and a nice walk through Mamiku Gardens on Sunday, as well as a brief walk in the forest.

As a follow-up to this exchange it is expected that a Judge from the ECSC will be invited by the United States Department of Justice to engage in a similar exchange experience some time in the near future.

Judicial & Legal Services Commission

The Judicial and Legal Services Commission of the Eastern Caribbean Supreme Court had its final meeting for the calendar year, at the Fort Young Hotel, Roseau, Commonwealth of Dominica on Friday, November 26, 2004. An important item on the agenda was saying farewell and thank you, for their period of service, to the two outgoing members, and welcome to their replacements.

In accordance with the West Indies Associated States Supreme Court Order (1967 No. 223) the Chairperson of the Public Service Commission of the Member States who serve as Officers of the Commission shall serve for a three-year term. This particular period ended for Mr. Bradley Lewis of Antigua and Barbuda, and Dr. Damien Dublin of the Commonwealth of Dominica, in November 2004.

The legislation also specifies that the Chairpersons of the Public Service Commission for the Member States of Grenada and St. Kitts and Nevis as next in line to serve terms of office. Thus Justice Monica Joseph, Chairperson Public Service Commission, Grenada and Mrs. Josephine Huggins, Chairperson Public Service Commission, St. Kitts and Nevis replaced Mr. Bradley Lewis and Dr. Damien Dublin.

Mr. Bradley Lewis, longest serving member of the JLSC [having served for 2 terms], as a result of chairing the Public Service Commission of Antigua for the past 25 years, was paid special tribute. As a token of appreciation for his long and outstanding years of service to the JLSC, he was honoured with a special gift along with a plaque. Dr. Dublin was also presented with a plaque.

CONFERENCES, SEMINARS & WORKSHOPS

Judicial Education Conference In Ottawa

His Lordship, the Hon. Chief Justice [Ag.], Adrian Saunders recently attended an International Conference of Judicial Educators in Ottawa, Canada from 31st October to 6th November, 2004.

The Conference brought together judges and judicial educators from over 80 countries, but the English speaking Caribbean was regrettably poorly represented. On the Sunday morning before the Conference began, Judge Oxner organized a meeting of the Commonwealth Judicial Education Institute (CJEI), which was well attended. This meeting provided an opportunity for CJEI fellows to renew acquaintances and to engage in some preliminary planning for the next big CJEI Conference. The meeting also had the benefit of Greetings from the Right Hon. Sir Dennis Byron, President of the CJEI, and a large photograph of him in his UN Judicial robes was placed on the large screen for all the fellows to see.

The following day saw the opening of the Conference, with keynote addresses from Chief Justice Barak of Israel, Chief Justice Maclachlin of Canada and Chief Justice Uwais of Nigeria. The first two speakers spoke of the role and importance of judicial education. Chief Justice Uwais told us of the steps taken in his country to advance the training of their judicial officers. Later in the day there were workshops on various facets of judicial education.

In the session led by Chief Justice Barak, issues discussed included whether judicial education should be mandatory or voluntary, and whether non-attendance at judicial education programmes should affect a judge's promotion prospects. A central theme that emerged is the reluctance of some judges to attend such programmes, and the need to structure programmes in such a manner as to secure the attendance of the maximum number of judicial officers.

Tuesday's programmes were taken up with technology to support judicial education. The fact that Justice Saunders was one of three persons granted the honour of addressing the plenary session on Tuesday, attests to the esteem in which the ECSC judiciary is held internationally. He did a Power Point presentation on the use of distance technology as a vehicle for carrying out judicial education. [The slides and the text of his presentation may be viewed on the Court's website: www.ecsupremecourts.org.lc]

From all indications the presentation was very well received, as copies were requested by several delegations.

Issues surrounding social context occupied two days of the Conference, and it was fascinating to learn that in every sphere of law and judicial decision-making, social context is directly relevant.

While attending the Conference the Chief Justice [Ag.] held discussions with many judicial educators from around the world, and in particular with Justice Sydney Lederman who confirmed his interest in visiting Saint Lucia to assist with the Judicial Education Institute for a period of between 3 and 6 weeks.

UK/CARICOM Conference: Champions for Change: Reduce Stigma and Discrimination Against People Living with HIV/AIDS

Between 22nd and 24th November, 2004, His Lordship, the Hon. Chief Justice [Ag.], Adrian Saunders attended a Conference, hosted by the Caribbean Community (CARICOM) in partnership with the Caribbean-led Pan Caribbean Partnership Against HIV/AIDS (PANCAP) and the United Kingdom Department For International Development (DFID), in St. Kitts and Nevis.

The purpose of the Meeting was to share international best practices on reducing stigma and discrimination against People Living With HIV/AIDS (PLWHA). Its overall objective was to accelerate the process of reducing such stigma and discrimination in the Caribbean, and to identify and empower persons who would be champions for change in the fight to reduce HIV/AIDS-related stigma and discrimination, considered to be a major cause of the spread of the epidemic.

The CARICOM team was lead by the Hon Dr. Denzil Douglas, Prime Minister of St. Kitts and Nevis and Head of Government with responsibility for health. The Hon. Gareth Thomas, Parliamentary Under-Secretary of State, United Kingdom participated in the conference.

Also in attendance were more than 15 CARICOM Ministers, representatives from Associate Member States, the International Community including the European Union (EU), India, Mexico, Brazil, the United Kingdom, the United States of America, the Regional private sector, the media, faith-based organisations, representatives of the Caribbean labour movement, the Caribbean Regional

Network of PLWHA, donor agencies, United Nations Agencies, Regional Universities and Parliaments, international experts in HIV/AIDS and Youth Organisations. Caribbean cultural icons, including Ambassador Courtney Walsh, former West Indies Cricket Captain, and the Mighty Gabby, renowned Barbadian Calypsonian, also made their impact on the Meeting.

The opening ceremony of the Conference was chaired by Dr. Edward Greene, Assistant Secretary-General, Human and Social Development, CARICOM Secretariat and welcome remarks were delivered by Dr. Douglas Slater, Minister of Health and Environment, St. Vincent and the Grenadines. Remarks were also delivered by Dr. Peter Piot, Executive Director, UNAIDS, (by video); Ms. Yolanda Simon, Regional Coordinator CRN+ and the Hon. Gareth Thomas. A song entitled **I'm Really Going to Need a Friend** was specially composed and sung by Ms. Beverley Reynolds, Deputy Programme Manager, Health Sector Development, CARICOM Secretariat.

The keynote address was delivered by the Hon. Dr. Denzil Douglas. The Prime Minister noted that the Meeting was *"a watershed event in that it has assembled in one place an unprecedented number of political leaders and policy-makers at the highest decision-making level from within and without the Region to address an issue that is at the core of prevention and cure initiatives with respect to HIV/AIDS"*. He also analysed the critical barriers to be dismantled in the fight against stigma and discrimination and articulated elements of charting the way forward on this issue.

The initial Plenary Session deliberated on salient issues arising from a Keynote Address on **"Addressing Stigma and Discrimination in the Region"** by Sir George Alleyne, Director, Caribbean Commission on Health and Development; and the UN Special Envoy to the Caribbean on HIV/AIDS. Sir George explored approaches to the reduction of stigma and discrimination including behaviour change through education and finding measures to protect persons from stigma and discrimination as it currently exists. He called for an end to **"otherness"** in health.

Subsequent Plenary Sessions received and deliberated on key presentations on *"Human Rights and Legislation"* and *"Leadership Confronting HIV/AIDS Stigma and Discrimination in the Caribbean"*. The latter presentation by H.E. Mr. Edwin Carrington, Secretary-General, Caribbean Community, called for the following three significant outcomes of the Conference:

- i. that the Region learn from the lessons of successful ventures, that no single approach would work and that it was possible for all stakeholders, including Religious Organisations to pursue their approaches on parallel tracks rather than as opponents;

- ii. that the role of the PANCAP be endorsed as a conduit for ensuring the continuing move towards an integrated inter-sectoral model for addressing HIV; and
- iii. that concrete priorities for implementation with timelines be developed.

The Conference analysed the Keynote presentation on "*The Role of the Media in HIV/AIDS Stigma and Reduction: Advocacy and Action*" which was led by Mr. Roy Head, Director, BBC World Service Trust, UK. Mr. Head drew on lessons from Brazil, India, Spain, South Africa and the UK.

The Conference also convened interactive and informal break-out sessions on stigma and discrimination reduction. These sessions comprised a set of facilitator-led participatory exercises, games, discussion and real-life case studies for raising personal awareness and understanding of stigma - what it means, why it is an important issue, its root causes, advocacy, commitment-building, and strategies to challenge stigma.

The Faith-based Organisations present circulated a Paper articulating several options for maintaining beliefs and values while working to reduce stigma and discrimination through compassion, care and the provision of services to PLWHAs.

Two of the major outcomes of the Conference included: "**A Champions for Change Declaration of Commitment to Reduce Stigma and Discrimination Against PLWHAs**". This Declaration affirms that HIV/AIDS is preventable and that transmission of infection could be prevented through behavioural change. It also articulates elements of an appropriate legislative, policy and programmatic framework for addressing stigma and discrimination against PLWHAs based on regional values and mores.

A variety of pledges were made by a large number of participants empowered to become Champions for Change. Pledges were made by Dr. The Hon. Denzil Douglas, Prime Minister, St. Kitts and Nevis; the Hon. Douglas Slater, Minister of Health, and the Environment; the Hon. Gareth Thomas, Parliamentary Under-Secretary of State, United Kingdom, Ambassador Courtney Walsh and Acting Chief Justice Adrian Saunders, among others.

The Conference was quite successful and from all indications the desired objectives were realized. According to Justice Saunders, "The Conference had an extremely profound effect on me personally and one of the pledges I made was that our Judicial Education Institute should consider inviting a PANCAP expert to address our judiciary on some appropriate area of study related to the fight against HIV/AIDS and the work of judicial officers. I trust that in due course, we would move from merely considering such a venture to realizing the same."

**Judicial Appointments for the period
November 1 – 30, 2004**

Eastern Caribbean Supreme Court

- [1] *His Lordship, the Hon. Justice Albert Redhead*, has been appointed to act as a Justice of Appeal, Eastern Caribbean Supreme Court for the period 22nd to 26th November, 2004.

Antigua and Barbuda

- [2] *Mrs. Carla Brookes-Harris*, has been appointed to the post of Crown Counsel 1, Ministry of Justice and Legal Affairs with effect from 1st November, 2004.
- [3] *Mr. Martin Camacho*, has been appointed to the post of Crown Counsel 1, Ministry of Justice and Legal Affairs with effect from 1st December, 2004.

Saint Lucia

- [4] *Ms. Charon Gardner*, has been appointed to the post of Crown Counsel II, Director of Public Prosecutions Chambers with effect from 1st December, 2004.

WRITTEN JUDGMENTS

The following are written judgments available for the month of **November 2004**:

COURT OF APPEAL JUDGMENTS

BVI

IPOC International Growth Fund Ltd v LV Finance Group Ltd et al

BVI

Civil Appeal Nos. 20/2003 & 1/2004

Gordon, J.A.

Delivered: 22/11/04

COMMONWEALTH OF DOMINICA

Joseph Jno. Lewis v The Commissioner Of Police et al

Dominica

Civil Appeal No 23/2004

Saunders, J.A.

Delivered: 23/11/04

GRENADA

Keith Mitchell v Steve Fassihi et al

Grenada

Civil Appeal No 22/2003

Gordon, J.A.

Delivered: 22/11/04

Clico International General Insurance Limited v Franklyn Matheson et al

Grenada

Civil Appeal No 02/2003

Saunders, J.A.

Delivered: 22/11/04

MONTSERRAT

Kenneth Harris v Sarah Gerald

Montserrat
Civil Appeal No. 03/2003
Gordon, J.A.
Delivered: 01/12/04

ST. CHRISTOPHER & NEVIS

Joseph Maynard et al v Michelle Kalski

St. Christopher & Nevis
Civil Appeal No. 19/2003
Alleyne, J.A.
Delivered: 23/11/04

Analdo Bailey v St. Kitts-Nevis Cable Communications Limited

St. Christopher & Nevis
Magisterial Civil Appeal No. 03/2004
Gordon, J.A.
Delivered: 01/11/04

Kamal Liburd et al v The Queen

St. Christopher & Nevis
Criminal Appeal Nos 9 & 10/2003
Redhead, J.A. [Ag.]
Delivered: 22/11/04

ST. LUCIA

Cornelius Charlery v Celilia Fitz Charlery

St. Lucia
Civil Appeal No. 09/2004
d'Auvergne, J.A. [Ag.]
Delivered: 23/11/04

Felicia Andrina George v Eagle Air Services

St. Lucia
Civil Appeal No 1/2002
Saunders, C.J. [Ag.]
Delivered: 01/11/04

HIGH COURT JUDGMENTS

ANTIGUA & BARBUDA

E. Alex Benjamin Ltd v St. Lawrence DeFreitas

Antigua & Barbuda
Appeal No 12/2002
Joseph-Olivetti, J.
Delivered: 23/11/04

Rona Henry et al v Tropic Builders Ltd et al

Antigua & Barbuda
Civil Suit No 2000/0330
Thomas, J.
Delivered: 11/11/04

Richardo Sealy et al v Liat (1974) Ltd

Antigua & Barbuda
Claim Suit No ANUHCV 1997/0196
Thomas, J.
Delivered: 11/11/04

Doreen Johnson v CIBC Caribbean Ltd

Antigua & Barbuda
Claim Suit No ANUHCV 2002/0252
Thomas, J.
Delivered: 11/11/04

Rolston Barthley v State Insurance Corporation

Antigua & Barbuda
Claim Suit No ANUHCV 2003/0002
Thomas, J.
Delivered: 11/11/04

Molwyn Joseph v Winston Derrick

Antigua & Barbuda
Claim Suit No ANUHCV 2002/0383
Thomas, J.
Delivered: 11/11/04

Cecile Hill v Pete Iva Charles et al
Antigua & Barbuda
Claim Suit No ANUHCV 2004/0361
Thomas, J.
Delivered: 19/11/04

BRITISH VIRGIN ISLANDS

David Carson v Richard Silva et al
B.V.I
Claim No. BVIHCV2001/0130
Rawlins, J.
Delivered: 30/11/04

COMMONWEALTH OF DOMINICA

Montgomery Blanchard v H.H.V. Whitchurch & Co. Ltd
Dominica
DOMHCV 188/2001
Blenman, J
Delivered: 19/11/04

Lennox Linton v The Chronicle Co. et al
Dominica
(Civil) DOMHCV 0355/2002
Blenman, J
Delivered: 19/11/04

Stephen Whitcher v Superwood Products Ltd
Dominica
Claim No 505/2000
Blenman, J
Delivered: 19/11/04

Raymond Henry v Antoine Henry et al and Raymond Henry v Antoine Henry
Dominica
Claim Nos. 129/1997 & 0085/2002
Blenman, J
Delivered: 29/11/04

ST. LUCIA

Richard Ferdinand v Leeward Islands Air Transport (1974) Ltd

St. Lucia

Case No. SLUHCV 2002/0967

Edwards, J.

Delivered: 04/11/04

ST. VINCENT & THE GRENADINES

Marcelle Findlay v Trelton Connel

St. Vincent & the Grenadines

Claim No. 32/2003

Blenman, J.

Delivered: 5/11/04

Austin Soleyn v Michelle Soleyn

St. Vincent & the Grenadines

Claim No. 67/2003

Blenman, J.

Delivered: 5/11/04

Claribelle Connel v Trelton Connel

St. Vincent & the Grenadines

Claim No. 31/2003

Bruce-Lyle, J.

Delivered: 25/11/04

EASTERN CARIBBEAN SUPREME COURT

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As at 30th November 2004

The Chief Justice

His Lordship, the Hon. Chief Justice [Ag.], Adrian Saunders – Saint Lucia

Justices of Appeal

His Lordship, the Hon. Justice Brian Alleyne, SC – Saint Lucia
His Lordship, the Hon. Justice Michael Gordon, QC – Saint Lucia
Her Ladyship, the Hon. Justice Suzie d'Auvergne [Ag.] – Saint Lucia

High Court

His Lordship, the Hon. Justice Albert Redhead [Ag.] - Saint Lucia
His Lordship, the Hon. Justice Kenneth Benjamin – Grenada
His Lordship, the Hon. Justice Don Mitchell, QC – Antigua & Barbuda
Her Ladyship, the Hon. Justice Indra Hariprashad-Charles – Saint Lucia
His Lordship, the Hon. Justice Frederick Bruce-Lyle – Saint Vincent & The Grenadines
His Lordship, the Hon. Justice Hugh Rawlins – British Virgin Islands
Her Ladyship, the Hon. Justice Charmaine Pemberton – Saint Christopher & Nevis
His Lordship, the Hon. Justice Davidson Baptiste – Saint Christopher & Nevis
Her Ladyship, the Hon. Justice Ola Mae Edwards – Saint Lucia
Her Ladyship, the Hon. Justice Rita Joseph-Olivetti – Antigua & Barbuda
His Lordship, the Hon. Justice Errol Thomas – Antigua & Barbuda
His Lordship, the Hon. Justice Janice George-Creque – Anguilla/Montserrat
His Lordship, the Hon. Justice Louise Blenman – St. Vincent & the Grenadines
His Lordship, the Hon. Justice Clare Henry-Wason – Commonwealth of Dominica
His Lordship, the Hon. Justice Francis Belle - Antigua & Barbuda
His Lordship, the Hon. Denys Barrow [Ag.] - British Virgin Islands

Master Brian Cottle – Saint Lucia
Master Cheryl Mathurin – Antigua & Barbuda

Mrs. Ianthea Leigertwood-Octave, Chief Registrar - Saint Lucia