

SAINT LUCIA

IN THE COURT OF APPEAL

CIVIL APPEAL NO. 8 OF 2002

BETWEEN:

MARTINUS FRANCOIS
Secretary/Member St. Lucia Freedom Party

Appellant
and

PETRUS COMPTON
[Attorney General of Saint Lucia]

Respondent

Before:

The Hon. Sir Dennis Byron	Chief Justice
The Hon. Mr. Albert Redhead	Justice of Appeal
The Hon. Mr. Ephraim Georges	Justice of Appeal [Ag.]

Appearances:

Mr. Martinus Francois for the Appellant
Ms. Louise Blenman, Solicitor General with Mr. Rene Williams, Crown Counsel
for the Respondent.

2003: February 17;
June 18.

JUDGMENT

- [1] **BYRON, C.J.:** Martinus Francois applied for leave to appeal to the Privy Council, after the Court of Appeal affirmed the ruling of the learned trial Judge that there was no merit in his complaint that the Governor General had contravened provisions of the Constitution by calling general elections prior to the end of the five year period which the Constitution permitted.

- [2] He contended that Section 108(1)(c) of the Constitution gives him an appeal as of right against a final decision which involves a question as to the interpretation of the Constitution. According to his application the court misapplied the proviso to section 55(4) by not ruling that that it had the effect of a condition precedent to the exercise of the power to dissolve parliament. He argued that although the exercise of prerogative power by the Governor General was not justiciable, nevertheless the Courts should, in accordance with the procedural fairness guaranteed by the Constitution, require the Governor General to consider matters that by virtue of the Law and the Constitution, he is mandated to consider in coming to his decision.
- [3] The Respondents opposed the application on the ground that there is no genuine dispute as to the interpretation of the Constitution. The terms of the proviso on which the appellant relied are that:
- “ if the Prime Minister advises a dissolution and the Governor General, acting in his own deliberate judgment, considers that the Government of Saint Lucia can be carried on without a dissolution and that a dissolution would not be in the interest of Saint Lucia, he may, acting in his own deliberate judgment refuse to dissolve Parliament”
- [4] The proposition that the failure to adduce evidence that the Governor General had considered whether the Government could have been carried on without a dissolution would be a basis for ruling that the constitutional provisions had been contravened was untenable and warrants no more than summary dismissal.
- [5] In **Alleyne Forte v Attorney General** ¹ the Privy Council ruled that Where an Appellant has a right of appeal to the Privy Council...although the Court of Appeal has no discretion to exercise it must nevertheless satisfy itself that the proposed appeal raises a genuinely disputable issue in the prescribed category of case before it grants it leave.

¹ (1997) 57 WIR 480

- [6] This was applied in *Ianthe Harding v The Superintendent of Prisons Civil Appeal*² where this Court concluded that it is neither necessary nor appropriate for any assessment of the prospects of success of the particular interpretation proposed by either party. It is only necessary to determine whether there is a genuine question in dispute as to the interpretation of the Constitution.
- [7] Although it may be arguable that in either case there is no genuine dispute this principle may require the Court to draw a distinction between cases which have no real prospect of success and cases which raise no genuine disputable issue for determination. The proposed interpretation of section 55 of the Saint Lucia Constitution Order 1978, is so frivolous that it warrants no more than summary rejection as it does not raise any genuinely disputable issue. I think that the Court should filter through cases to guard against abuse of the Court's process.
- [8] The application is dismissed.

Sir Dennis Byron
Chief Justice

I concur.

Albert Redhead
Justice of Appeal

I concur.

Ephraim Georges
Justice of Appeal [Ag.]

² No.13 of 2000