

SAINT LUCIA

IN THE COURT OF APPEAL

HCVAP 2008/023

BETWEEN:

MARVIN ROY DEY

Appellant

and

THE ATTORNEY GENERAL

Respondent

Before:

The Hon. Mr. John Carrington

Justice of Appeal [Ag.]

On written submissions:

Williams & Fraser for the Appellant

Attorney General's Chambers for the Respondent

2008: August 28
October 14.

DECISION

[1] **CARRINGTON, J.A. [AG.]:** Marvin Roy Dey sought leave from the High Court of Justice to apply for judicial review of the decision of the Minister of Home Affairs and Internal Security refusing his application for citizenship of Saint Lucia under the **Citizenship Act Cap. 1.04**. Mason J. refused to grant leave and Mr. Dey filed a notice of appeal against this decision on 11th June 2008. Mr. Dey did not seek leave to appeal from the High Court or this court.

[2] An application for leave to seek judicial review is made under Part 56.3 of the **Civil Procedure Rules 2000 (CPR 2000)** as the first step in an application for judicial review. By its very nature, it is a procedural first step that must be taken and overcome before the merits of a substantive claim can be determined by the High Court. An appeal against the

decision of the High Court with respect to such an application therefore must be classified as a procedural appeal, which is defined at Part 62.1 of the **CPR 2000** as an appeal from the decision of a judge, master or registrar which does not directly decide the substantive issues in a claim. It appears, but is not clear, that this appeal has been treated as a procedural appeal as written submissions have been filed by both the appellant and respondent.

- [3] The **Eastern Caribbean Supreme Court (St. Lucia) Act Cap. 2.01** provides that any person who wishes to appeal an interlocutory decision of a judge must seek leave to appeal, unless the appeal falls within one of the excepted categories, none of which applies here. In **Maria Hughes v. Attorney General of Antigua and Barbuda**¹, Gordon JA ruled that a procedural appeal was but one member of the category of appeals against an interlocutory order and so required leave to appeal. I agree with that ruling that has been consistently followed by this court.
- [4] In the instant case, Mr. Dey did not seek leave to appeal the decision of Mason J. This is fatal to his purported appeal as, unless leave has been granted, this court has no jurisdiction to entertain an appeal. As this is a jurisdictional point, I am entitled to rule on this ground notwithstanding that it has not been addressed by either Counsel in their submissions.
- [5] I therefore dismiss this appeal and make no order as to costs in the circumstances, in light of the provisions of Part 56.13(6) of the **CPR 2000**.



John Carrington
Justice of Appeal [Ag.]

¹ Antigua and Barbuda Civil Appeal No. 33 of 2003 (delivered 13 April 2004)