

**JAMAICA**

**IN THE COURT OF APPEAL**

**SUPREME COURT CIVIL APPEAL NO 29/2012**

**MOTION NO 1/2016**

<b>BETWEEN</b>	<b>DELORES ELIZABETH MILLER</b>	<b>APPLICANT</b>
<b>AND</b>	<b>THE ASSETS RECOVERY AGENCY</b>	<b>RESPONDENT</b>

**17 June 2016**

**IN CHAMBERS**

**(Considered on paper pursuant to section 5 of the Jamaica (Procedure in Appeals to Privy Council) Order in Council 1962 and rule 2.10 of the Court of Appeal Rules 2002)**

**BROOKS JA**

[1] The applicant, Ms Delores Elizabeth Miller, seeks permission to appeal to Her Majesty in Council from a decision of this court. Her application has been opposed by the Assets Recovery Agency (the Agency), which was the successful party based on that decision. The Agency contends that Ms Miller's application has been filed out of time. It also asserts that this court has no authority to extend the time within which the application may be filed.

[2] The Agency is correct in both its assertions. Firstly, the decision of this court was handed down on 18 December 2015. The time within which the application was to have been filed is 21 days from the date of the decision. That period is stipulated by section 3 of the Jamaica (Procedure in Appeals to Privy Council) Order in Council 1962 (the Order in Council). Based on that stipulation, Ms Miller ought to have filed her application by 8 January 2016. She, however, filed it on 12 January 2016. She was therefore out of time. The fact that reasons for the decision were not handed down until 9 May 2016 cannot assist Ms Miller.

[3] In respect of the Agency's second assertion, it is noted that this court stated in **Chas E Ramson Ltd and Another v Harbour Cold Stores Ltd** SCCA No 57/1978 (delivered 27 April 1982) that it has no power to extend the time for the filing of applications for permission to appeal to Her Majesty in Council. Ms Miller's tardy application cannot, therefore, be cured by this court by any application for extension of time. She will have to look elsewhere for that relief.

[4] In light of the fact that her application for leave to appeal cannot succeed, Ms Miller's consequential application for a stay of execution pending appeal to Her Majesty in Council must necessarily fail. If there is no appeal, then there can be no stay pending appeal.

## **Order**

[5] Based on the above reasoning, the orders are:

(1) The application for leave to appeal to Her Majesty in Council is refused.

(2) The application for stay of execution of the judgment of this court pending the outcome of an appeal to Her Majesty in Council is refused.

(3) Costs to the respondent to be taxed if not agreed.