



CARIBBEAN COURT OF JUSTICE

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CCJ DISMISSES APPEAL AGAINST MURDER CONVICTION BUT CALLS FOR IMPROVED CRIMINAL INVESTIGATIONS

Port of Spain, Trinidad and Tobago. In a judgment released today, the Caribbean Court of Justice (CCJ) dismissed the appeal against the murder conviction in the matter of *Carlton Hall v The Queen* [2020] CCJ 1 (AJ) and affirmed the order of the Barbados Court of Appeal that the appellant be brought to the Trial Court for resentencing.

On 2 March 2016, the appellant was convicted of the murder of Adrian Wilkinson and, as mandated by law, was sentenced to death. He appealed both his conviction and sentence. However, the appeal against the sentence became unnecessary after the CCJ ruled in the matters of *Nervais v The Queen* and *Severin v The Queen* [2018] CCJ 19 (AJ) that the mandatory death sentence for murder was unconstitutional. The Court of Appeal dismissed his appeal on 23 January 2019 and ordered that he be brought before the Trial Court for resentencing.

The appellant appealed to the CCJ arguing that the identification evidence against him was so weak and unreliable that the Trial Judge should not have allowed the case to go to the jury and that, having done so, she was mistaken in directing that there were special circumstances to support the identification. The appellant also claimed, for the first time, that his counsel had failed to raise the issue of his good character and the jury may not have convicted him if his counsel had done so.

The Court was split 3-2 over its decision. The majority (Justices Wit, Anderson and Rajnauth-Lee) held that the fact that the eyewitness saw the appellant two times on the evening of the murder, prior to seeing him shoot the deceased, amounted to special circumstances within the meaning of the Barbados Evidence Act, and that the Trial Judge was, therefore, right to allow the case to go to the jury. The majority also decided that, although the appellant was entitled to a good character direction as he had no prior convictions for violent offences, it was clear that the jury believed the eyewitness and did not believe the appellant. So that even if the good character direction was given, it would not have made a difference to the jury's verdict.

The minority (Justices Barrow and Jamadar) found that the identification evidence was not supported, either by special circumstances or otherwise, and that the Trial Judge should have accepted the "No Case Submission" by Defence Counsel. Alternatively, the minority felt that, had the good character direction been given, it might have swayed the jury given that the evidence against the appellant was so weak.

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In the circumstances, the Court dismissed the appeal and affirmed the sentence. The Court also called for more searching investigations and prosecutions, noting that criminal cases, and especially capital cases, required and deserved thorough investigation and presentation of all relevant evidence.

The full judgment of the Court and a judgment summary are available on the Court's website at www.ccj.org.

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About the Caribbean Court of Justice

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ President, the Honourable Mr Justice Adrian Saunders. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). In its Original Jurisdiction, the CCJ is critical to the CSME and all 12 Member States which belong to the CSME (including their citizens, businesses, and governments) can access the Court's Original Jurisdiction to protect their rights under the RTC. In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, four states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica and Guyana. However, by signing and ratifying the Agreement Establishing the Caribbean Court of Justice, Member States of the Community have demonstrated a commitment to making the CCJ their final court of appeal. The Court is the realisation of a vision of our ancestors, an expression of independence and a signal of the region's coming of age.

For more information please contact:

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