



CARIBBEAN COURT OF JUSTICE

134 HENRY STREET
PORT OF SPAIN
REPUBLIC OF TRINIDAD AND TOBAGO
Phone: (868) 623-2225 Fax: (868) 624-4710
Website: www.caribbeancourtjustice.org

MEDIA RELEASE

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CCJ DISMISSES THE APPEAL OF HERNAN MANZANERO AND UPHOLDS MURDER CONVICTION

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 *Hernan Manzanero v the Queen* [2020] CCJ 17 (AJ) BZ.

In 2011, Belize enacted legislation which allows trial judges to conduct criminal trials without a jury in relation to certain offences, including murder. This appeal concerned the trial judge's role and the importance of fairness in judge alone trials. Mr Manzanero had given a statement to the police in which he admitted to killing the deceased. At the trial, he applied to have that statement thrown out as not having been given voluntarily. At the hearing of the Application, known as a voir dire or a trial within a trial) the trial judge threw out the statement but stated that she did not believe Manzanero when he claimed that he had been beaten by the police. The trial judge proceeded with the trial and found Manzanero guilty.

Manzanero appealed claiming that because the trial judge had made an unfavourable finding on his credibility at the hearing of the Application it was unfair for the judge to have gone on to find him guilty of the murder.

The CCJ's judgment was delivered by the Honourable Mr Justice Saunders, President of the CCJ and the Honourable Mme Justice Rajnauth-Lee. They noted that judge alone trials were essentially no less fair than jury trials. The fact that a trial judge had made an unfavourable finding on Manzanero's credibility at the voir dire or heard evidence which was biased against, or which indicated that he might be guilty did not lead to an automatic conclusion that the accused had been denied a fair trial.

The CCJ further observed that in a judge alone trial where the trial judge has conducted a voir dire, an appellate court must be satisfied of the following: that the trial judge, in determining the guilt of the accused, did not carry over any unfavourable findings on the accused's credibility to their deliberations on the main trial; or that the trial judge was not improperly influenced in arriving at a guilty verdict by evidence which was biased against or indicative of the guilt of the accused, but was not ultimately admitted into evidence.

In this case, the judge properly explained why she accepted the evidence of the witness for the prosecution. The trial judge also accurately and faithfully considered the defence, and in particular, the unsworn statement of the accused. The judge scrutinised the numerous matters raised in the statement and carefully explained why she did not accept it. The trial judge's analysis of the evidence and her fact-finding were fair and impartial, and her verdict was not based only on the credibility of the sole witness for the prosecution. The CCJ was therefore satisfied that no fault could be found with the verdict of guilty arrived at by the trial judge, and that Manzanero had indeed received a fair trial.

A concurring judgment was delivered by the Honourable Mr Justice Jamadar. He reasoned that in cases where there is a fear of prejudice, the test to decide if the judge should be disqualified, is whether or not there is a real likelihood that the parties or the public would fear that the judge would not be able to decide the case fairly, in the context of the alleged prejudice and in the particular circumstances of the case. The application of the test in this instance did not reveal any fear of prejudice.

Manzanero's appeal was therefore dismissed and the judgment of the Court of Appeal of Belize confirming his conviction was upheld. The Court was presided over by the Honourable Mr Justice Saunders, Mr Justice Wit, Mme Justice Rajnauth-Lee, Mr Justice Burgess and Mr Justice Jamadar.

The full judgment of the Court is available on the CCJ'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:
The Public Education & Communications Unit
Tel: (868) 623-2225 exts. 2296, 2246
Email: pecu@ccj.org