



CARIBBEAN COURT OF JUSTICE

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MEDIA RELEASE
(For immediate release)

**No. 13 :2022
12 May 2022**

CCJ Allows McDonald Greaves' Appeal, Reduces Manslaughter Sentence

Port of Spain, Trinidad and Tobago. In a judgment released today, the Caribbean Court of Justice (CCJ) allowed the appeal in the Barbadian case of *Elliston Mc Donald Greaves v The State* [2022] CCJ 9 (AJ) BB, thereby reducing Elliston Mc Donald Greaves' sentence for manslaughter from 16 years to 12 years.

Mr McDonald Greaves was charged with the murder of Cally Ann Gill, with whom he shared a 13-year intimate relationship, fathering six of her eight children. He admitted to killing Ms Gill on 22 December 2015, after walking in on her while she was with another man. Mr Greaves threatened the other man, who subsequently left, and then scuffled with Ms Gill. After being pulled away from her by the owner of the premises where they had been staying, he went to the kitchen, grabbed a knife, and stabbed Ms Gill in her throat, resulting in her death.

On 3 July 2017, in the High Court of Barbados, Mr Greaves pleaded not guilty to murder but guilty to manslaughter on grounds of provocation. This plea was accepted by the State. On 12 July 2018, a notional sentence (i.e., the sentence before the time spent on remand is credited) of 16 years imprisonment was passed on him from which the 928 days spent on remand were deducted. He appealed his sentence to the Court of Appeal, but his appeal was dismissed. However, at the invitation of counsel for the State, the Court of Appeal took the opportunity to revise the guidelines for sentencing for manslaughter as set out by Simmons CJ in the case *R v Pierre Lorde* (the *Pierre Lorde Guidelines*) to take into consideration the modern methodologies and approaches for sentencing set out in later decisions of the CCJ.

Mr Greaves appealed to the CCJ arguing, among other things, that his sentence was contrary to the Penal System Reform Act (the Act), that his previous convictions were not personal aggravating factors warranting the increase of the starting sentence by 4 years, and that the sentence of 16 years was excessive, having regard to the *Pierre Lorde Guidelines*.

The CCJ found that the sentencing Judge had justified the sentence in light of the Act. The CCJ also held that the sentencing Judge was permitted by that Act to uplift the starting sentence for personal aggravating factors and that these factors could include previous convictions. However,

the CCJ found that Mr Greaves' previous convictions were for minor offences that occurred decades ago and were not of a similar character to the offence charged, therefore, should not have been used to justify any increase of his sentence.

The CCJ considered that the case fell most closely into the category of the *Pierre Lorde Guidelines* which suggested that in a manslaughter case where no firearm was used, an early guilty plea should result in the range of sentencing of 10-14 years. The Court of Appeal's *Revised Guidelines* also justified this range of sentencing. The CCJ, therefore, allowed the appeal and imposed a lesser notional sentence of 12 years, from which the 928 days spent on remand must be deducted.

Brief comments were made by the Bench on the *Revised Guidelines* finding that they were in keeping with modern sentencing methodologies but that the *Pierre Lorde Guidelines* retain seminal importance in (1) identifying the use of a firearm as an aggravating factor which may justify a starting sentence towards the top of the relevant range in the *Revised Guidelines*; and (2) identification of the mitigating and aggravating factors which would determine the ultimate sentence. The CCJ also commented on the need to consider the *Revised Guidelines* in the context of the Offences Against the Person Act as amended in 2018, which introduced life imprisonment and a term of imprisonment as possible sentences for the offence of murder.

The judgment of the CCJ was delivered by the Hon. Mr Justice Winston Anderson with the other members of the Bench being the Hon. Mr Justice Jacob Wit, the Hon. Mme Justice Maureen Rajnauth-Lee, the Hon. Mr Justice Denys Barrow and the Hon. Mr Justice Andrew Burgess. Mr Dennis Headley appeared for the Appellant. Mr Alliston Seale and Mr Oliver J. M. Thomas appeared for the Respondent.

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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.

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