



CARIBBEAN COURT OF JUSTICE

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CCJ DENIES SPECIAL LEAVE APPLICATION MADE BY MEMBERS OF THE GUYANESE DEFENCE FORCE

Port of Spain, Trinidad and Tobago. Today, the Caribbean Court of Justice (CCJ) denied special leave in the Guyanese case of *Harte and Greenidge v The State* [2023] CCJ 9 (AJ) GY in which Greenidge sought permission to appeal his conviction and both Harte and Greenidge sought permission to appeal the sentence imposed by the Court of Appeal upon them and to challenge the constitutionality of the death penalty itself.

Harte, Greenidge and a third person, all male member members of the Coast Guard Division of the Guyanese Defence Force, were indicted in 2013 under the Criminal Law Offences Act (CLOA) for the murder of Dwieve Kant Ramdass, who was killed on 20 August 2009. The three soldiers robbed Ramdass of \$17m GY and threw him overboard where he drowned and proceeded to divide the stolen money among themselves equally.

Harte, Greenidge and the third person were convicted of murder and sentenced by Holder J to death on a mandatory basis, pursuant to the un-amended section 100 of the CLOA, All three appealed to the Court of Appeal against their conviction. Subsequently, Harte and Greenidge also argued that the death penalty was an unconstitutional punishment, and the Attorney General participated as an intervener to rebut that argument.

The Court of Appeal upheld the convictions but agreed that the original death sentences should be vacated and replaced by life sentences with tariffs requiring the two men to serve 18 years in prison before being eligible for parole. It is against this judgment that Harte and Greenidge sought leave to appeal to the CCJ. Greenidge also sought permission to appeal his conviction on the ground that the evidence against him consisted solely of the contents of his caution statement, which did not disclose any prior plan to murder or participate in the murder of the deceased. Harte and Greenidge also sought to obtain an order from the CCJ declaring the death penalty to be “unconstitutional” and, therefore, could not be lawfully imposed in Guyana on anyone.

The CCJ, in a judgment authored by Mr Justice Anderson, took the view in relation to Greenidge’s conviction, that Greenidge did not establish any realistic possibility that there had been a

miscarriage of justice. There was ample evidence in the caution statement and the circumstantial evidence on which a jury, properly directed, could have reached the conclusion that Greenidge was party to the joint enterprise to rob and murder the deceased. The Court also noted that there was no evidence of any attempt by Greenidge to assist the deceased when he was in distress or otherwise to disassociate himself from participating in the heinous crime against a citizen of the Republic whose safety he had sworn to protect.

Regarding the constitutionality of the death penalty, Harte and Greenidge faced no threat of execution, so the arguments raised on this issue were purely academic in nature. The CCJ reaffirmed that the Court will only hear academic appeals in exceptional circumstances.

Harte and Greenidge also took issue with some of the reasoning of the Court of Appeal regarding the death penalty being a “saved law” from the colonial era. The CCJ reminded that it had expounded clear views on the issue of the savings clause and naturally, if there is any variance between those views and the reasoning of the Court of Appeal, the views of this Court must prevail.

Harte and Greenidge also contended that the Court of Appeal did not adhere to the proper sentencing methodology in vacating the death penalty and imposing life sentences with tariffs. The CCJ, bearing in mind that the offenders were members of the Defence Force who robbed and murdered an innocent citizen, found that there was no ground for regarding the sentence imposed as excessive or so manifestly outside the mainstream of sentences as would merit granting leave to appeal it. Furthermore, the Court of Appeal had imposed the minimum sentence that it was mandated to do under the CLOA (indeed less than the minimum of 20 years) and therefore the applicants had no basis for complaint.

On these bases, the application for special leave was dismissed, with no orders as to costs.

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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, Saint Lucia 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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