



CARIBBEAN COURT OF JUSTICE

**134 HENRY STREET
PORT OF SPAIN
REPUBLIC OF TRINIDAD AND TOBAGO**
Telephone: (868) 612-5CCJ Fax: (868) 624-4710
Website: www.ccj.org

MEDIA RELEASE

(For immediate release)

No. 11:2024

Date: 8 March 2024

CCJ UPHOLDS THE COURT OF APPEAL DECISION OF A MURDER CONVICTION IN BELIZEAN APPEAL

Port of Spain, Trinidad and Tobago. On Friday, 8th March 2024, the Caribbean Court of Justice (CCJ) in its Appellate Jurisdiction delivered judgment in the appeal *Nevis Betancourt v The King* [2024] CCJ 6 (AJ) BZ. The CCJ upheld the Court of Appeal's decision to affirm the murder conviction.

This was an appeal by Nevis Betancourt (Betancourt) against his conviction for the murder of Jose Castellanos (Castellanos). Betancourt was indicted and tried, without a jury, for Castellanos' murder. In January 2020, Betancourt was convicted and sentenced to 20 years imprisonment. The Court of Appeal upheld the conviction and sentence. Betancourt appealed further to the CCJ against the Court of Appeal's decision to uphold the trial judge's rejection of the defence of self-defence alleging that a) the trial judge erred in failing to take all relevant matters into account in determining whether Betancourt had an intention to kill, and b) the trial judge failed to properly review and evaluate the evidence of three prosecution witnesses.

At trial, the judge accepted the case for the prosecution which was that Betancourt entered the restaurant where Castellanos had been sitting and shot him twice before Castellanos chopped him with a machete. Betancourt continued shooting at Castellanos who exited the restaurant and thereafter died. At trial, Betancourt gave evidence that Castellanos chopped him unprovoked, which led him to draw his licensed firearm and shoot Castellanos in self-defence. The trial judge rejected this evidence as it was inconsistent with the rest of the evidence of the eyewitnesses and the forensic evidence.

At the CCJ, Betancourt's attorneys argued that after rejecting the defendant's evidence, the trial judge had a duty to apply the principles of self-defence to a third version of the incident. That third version was based on a main witness' reply to a question in cross examination.

In the lead judgment, Justice Denys Barrow (with Justices Rajnauth-Lee, Burgess, and Jamadar concurring) noted that prior to the witness' single inconsistent response during cross examination, there were five other times during examination in chief and cross examination when the same witness gave a consistent account of the sequence of events. In those five instances, the witness

said that Castellanos was shot first before he chopped Betancourt. Justice Barrow held that the witness' misstatement was corrected in re-examination. Given the effect of re-examination, the statement did not form part of the evidence that was accepted as the true version of events and, as such, there was no third version of events. Justice Barrow also reinforced that there was no obligation on the trial judge to single out the purported third version of events and express that she rejected it.

Justice Winston Anderson in his concurring judgment, also agreed that the appeal should be dismissed. Justice Anderson emphasised that the trial judge was not under an obligation to extract a third version of the incident and subject it to a discrete recount and analysis. It was also stressed that the re-examination was in line with the relevant legislation and after re-examination, the witness' evidence, read in its entirety, supported the case for the prosecution.

The CCJ dismissed the appeal and the decisions of the Court of Appeal of Belize, and the trial judge were upheld.

The matter was heard by the Honourable Justices Anderson, Rajnauth-Lee, Barrow, Burgess, and Jamadar. Mr. Rajiv Persaud, SC, Ms. Sheena Pitts and Ms. Karunaa Bisram Singh appeared for the Appellant. Mrs. Cheryl-Lyn Vidal, SC, and Mrs. Jacqueline Cheeseman appeared for the Respondent.

The CCJ's full judgment is available via www.ccj.org.

-End-

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 & Protocol Unit
Tel: (868) 612-5225 ext. 2260
Email: ccjcomm@ccj.org