



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

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CCJ DISMISSES APPEAL AGAINST SENTENCE

Port of Spain, Trinidad and Tobago. On Thursday, 17 October 2024, the Caribbean Court of Justice (CCJ) dismissed the appeal of Scott and Stuart Harewood against their sentence for non-capital murder.

This case concerns the appeal of Scott and Stuart Harewood (“the Harewoods”), convicted for the murder of Derek Hunte on 3 June 2014. After being taken into custody, the Harewoods were indicted in 2016, pleaded guilty to non-capital murder in 2020, and were sentenced in March 2021. In July 2022, the appeals were heard, and in October 2023, the Court of Appeal dismissed both appeals, affirming the original sentences. The Harewoods appealed to the CCJ seeking reductions in their sentences on the ground of delay.

The CCJ acknowledged significant delays but determined that these delays did not meet the constitutional thresholds for unreasonableness or unfairness. The Court considered the overall timelines, noting that while the period between indictment and sentencing was lengthy, the Harewoods had accepted partial responsibility for some of this delay. Furthermore, the Court recognised that the delay at the appellate level, although substantial, was influenced by external factors, including the COVID-19 pandemic and understaffing in the Court of Appeal. The Honourable Mr Justice Jamadar explained that in constitutional matters of delay, the mere passage of time does not automatically result in a breach of the Constitution. The Court must assess whether the delay was constitutionally unreasonable in the circumstances and whether it resulted in an unfair trial process. Delay must be assessed on a case-by-case basis, considering factors such as the behaviour of the accused, the nature of the proceedings, judicial resource constraints, and broader societal impacts.

Additionally, the Court clarified that a breach of the right to a timely trial does not automatically result in a reduction of sentence. Mr Justice Jamadar explained that there is no prescriptive remedy when such delays occur; the appropriate response must be based on the specifics of each case. Unacceptable delay depends on the assessment of whether the delay in all the circumstances is unwarranted, inappropriate, out of proportion, and/or reasonably

avoidable. Delay may be unconstitutional if it is such as to render a hearing or court process unreasonable and/or unfair by failures to complete it within reasonable times.

The judgment also highlighted that judicial officers, like any party, are entitled to natural justice, and to the opportunity to explain delays transparently. Furthermore, whenever there is judicial delay in court proceedings or in the delivery of judgments, there is a constitutional, ethical, and moral duty on the court and judicial officers to transparently, candidly, and openly (on the record) explain the circumstances that have caused the delay. In conclusion, the Court dismissed the Harewoods' appeal for a reduction in their sentences based on delay, affirming that while there were unacceptable delays, these did not render the proceedings unconstitutional or unfair. The case sets a precedent for how delays in court proceedings are evaluated, stressing the importance of transparency, fairness, and proportionality in determining whether a delay constitutes a violation of constitutional rights.

The members of the CCJ panel were the Honourable Justices Anderson, Rajnauth-Lee, Barrow, Burgess, and Jamadar. Mr Martie Garnes and Ms Safiya Moore appeared for the Appellant. Ms Krystal Delaney, Mr Neville Watson, and Mr Romario Straker appeared for the Respondents.

The full CCJ judgment is available on its 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 six 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, five states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica, Guyana, and Saint Lucia. 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. 2246, 2260
Email: ccjcomm@ccj.org