



What is Special Leave ?





Bringing an appeal to the CCJ

In its Appellate Jurisdiction, the Caribbean Court of Justice ('CCJ' or the 'Court') hears and determines appeals from countries that have chosen to replace the United Kingdom's Judicial Committee of the Privy Council with the CCJ as their final court of appeal. At present, five states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica, Guyana, and Saint Lucia.

What is an appeal?

An appeal is a complaint to a higher court of an injustice done or error committed by a lower one, whose judgment or decision the court above is called upon to correct or reverse.

How do appeals come before the CCJ?

The Agreement Establishing the Caribbean Court of Justice states that decisions of the Courts of Appeal of Contracting Parties that have acceded to the CCJ's Appellate Jurisdiction, may be appealed to the CCJ. **HOWEVER**, before an appeal can be heard by the Court, the party must either apply to the Court of Appeal for leave to appeal or apply to the CCJ for special leave to appeal.



What is special leave to appeal?

“Special leave to appeal” is simply termed ‘special leave’. It refers to **permission granted by the Court** to appeal a judgment at the CCJ. If special leave or permission is granted, then the CCJ will hear the matter and deliver judgment based on the grounds on which the appeal was filed.

Who needs special leave?

Parties who would like to appeal a judgment, can seek special leave from the CCJ in any civil or criminal matter. Special leave may be sought from the CCJ if a party did not seek leave from the Court of Appeal or if leave was sought and refused or rescinded.

What criteria do the Judges consider when granting special leave?

The CCJ treats the application for special leave in criminal and civil appeals differently.



Criminal Appeals

For criminal appeals, an applicant must prove that:

- (a) there is a realistic possibility that a potentially serious miscarriage of justice may have occurred, and/or
- (b) a point of law of general public importance is raised (that is genuinely disputable) and the CCJ is persuaded that if it is not determined a questionable precedent might remain on the record.



Civil Appeals

For civil appeals, the CCJ will determine whether there is some **egregious error of law or miscarriage of justice** that would warrant the CCJ granting special leave.

In determining whether this exists the Court will also examine the case to see if it has a realistic prospect of success. Where special leave is granted, the CCJ will proceed to hear the appeal and may impose conditions and give such directions as it considers necessary.



How does one apply for leave?

The Caribbean Court of Justice (Appellate Jurisdiction) Rules, 2024 ('the Rules') govern the procedure to be followed when making an application for special leave to appeal to the CCJ.

To apply for special leave, the applicant must file an application with the CCJ outlining the reasons why they would like to appeal, and the relevant facts that may assist the Court in making its decision. This application must be done within 42 days of the date of the judgment that is being appealed or 21 days if leave was requested from the lower court, but it was refused or rescinded.

Once filed, the respondent can choose to oppose the application or not. If they do not oppose within the required time limit of 14 days, they cannot take any steps in the proceedings, without the permission of the Court.



The CCJ may decide that it is necessary to have a hearing for a special leave application. If so, the parties will be given at least 14 days' notice of the hearing.

If the Court grants leave, it can impose conditions, make orders, and give directions to the parties. If special leave is refused, then the Court will give reasons for the decision. This may be done either by a Court Order or in a reasoned judgment.

Court Fees

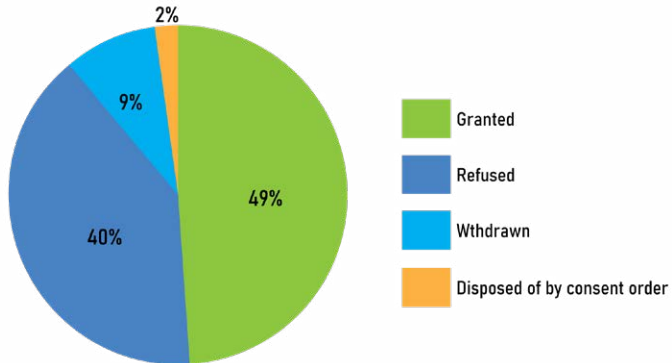
The court fee payable upon the filing of a special leave application in non-criminal matters is \$250.00 United States Dollars. There is, however, no court fee payable for the filing of a special leave application in criminal matters.

An applicant who wishes to apply to the Court for a waiver of the court fee may follow the process set out in Part 10 of the Caribbean Court of Justice Appellate Jurisdiction Rules.



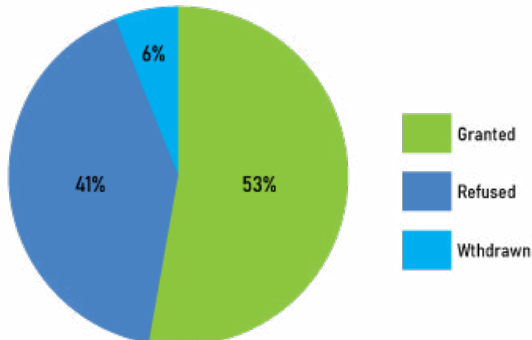
How many applications for special leave have been granted since 2020?

Between 2020-2022, there were 43 applications for special leave.
Of these 43:



Barbados

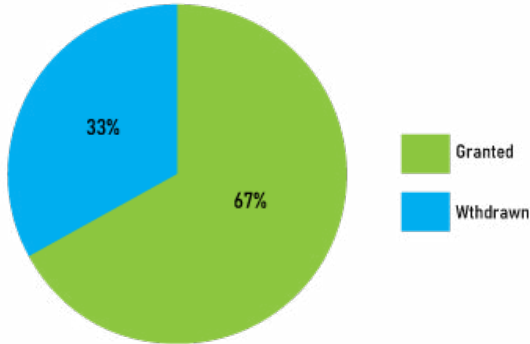
There were 17 applications for special leave from Barbados.
Of these 17:





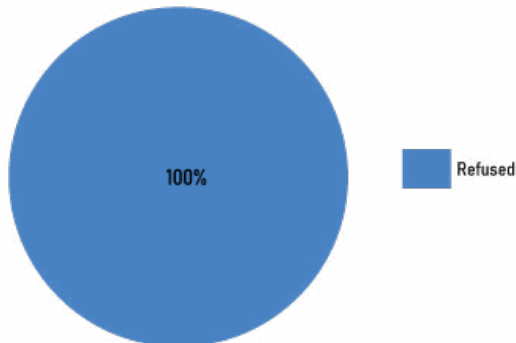
Belize

There were 3 applications for special leave from Belize.
Of these 3:



Dominica

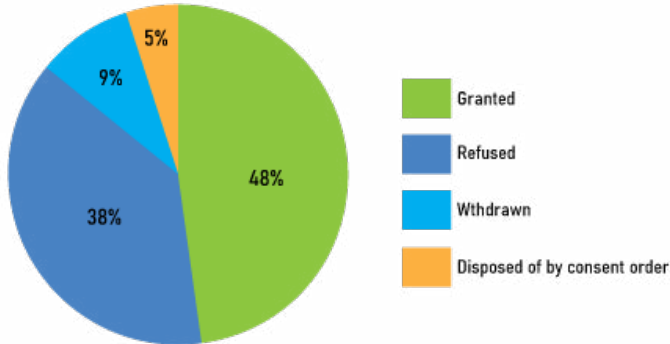
There were 2 applications for special leave from Dominica.
Of these 2:





Guyana

There was a total of 21 applications for special leave from Guyana.
Of these 21 :



What are some of the reasons that special leave has been refused?

Overall, in descending order of occurrence, the main reasons for refusal were:

- No potential for significant miscarriage of justice
- No arguable point of law
- No realistic prospect of success

Where can I learn more about bringing an appeal before the CCJ?

To learn more about bringing appeals to the CCJ, please consult our Appellate Jurisdiction rules on the Court's website at www.ccj.org.



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One Court

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