

**IN THE CARIBBEAN COURT OF JUSTICE  
Appellate Jurisdiction**

**ON APPEAL FROM THE COURT OF APPEAL OF GUYANA**

**CCJ Application No CR 2 of 2013  
GY Criminal Appeal No 3 of 2012**

**BETWEEN**

**PAUL LASHLEY  
JOHN CAMPAYNE**

**APPLICANTS**

**AND**

**Det. Cpl. WINSTON SINGH #17995**

**RESPONDENT**

**Before The Right Honourable  
And the Honourables**

**Mr Justice Byron, President  
Mr Justice Saunders  
Mr Justice Wit  
Mr Justice Hayton  
Mr Justice Anderson**

**Appearances**

**Mr Sanjeev Datadin and Mr. Charles S. Ramson for the Applicants**

**Ms Sonia Joseph for the Respondent**

**DECISION**

**Of**

**The President, and Justices Saunders, Wit, Hayton and Anderson**

**Delivered by**

**The Right Honourable Sir Dennis Byron**

**on the 18th day of February 2014**

## **Reasons for Decision**

This is an application for special leave to appeal the decision of the Court of Appeal issued on June 16, 2013. That court upheld the decision of Chief Magistrate Beharry who had convicted the applicants of the Offences of Breaking and Entering and Larceny Contrary to Section 229(a) of the Criminal Law (Offences) Act of Guyana. The magistrate had sentenced both applicants to four years imprisonment.

The grounds on which the applicants sought special leave were as follows:

1. That the First Applicant's constitutional right to be present at his trial was violated;
2. That due to the incompetence of counsel, the Applicants received an unfair trial;
3. That the treatment of evidence during trial was prejudicial to the Applicants' case;
4. That the sentences were excessive.

The most cogent and compelling ground for granting special leave to appeal was the claim by the Applicants that the ineffective conduct of their trial by counsel rendered the trial unfair and the conviction unsafe. Among other things it was argued that Counsel did not at the trial put specific statements made by the Applicants to the Prosecution witnesses. The Court notes that the Magistrate herself had stated in her reasons for decision that the unsworn statements by the Applicants were at variance with the questions put to the prosecution witnesses.

In the circumstances, this Court finds that it is arguable that the defence of the Applicants was not properly put before the Learned Magistrate and as a result that this may have led to the trial not being fair.

Accordingly we find that the Applicants have made out an arguable case that there is here a realistic possibility of a miscarriage of justice.

Special leave to appeal to the Caribbean Court of Justice is therefore granted against the decision of the Court of Appeal of Guyana made on June 16<sup>th</sup>, 2013.

Having regard to the overriding objective of its Rules to enable the Court to deal with cases "fairly and expeditiously so as to ensure a just result" pursuant to Part 1.3 of the Caribbean Court of Justice (Appellate Jurisdiction) Rules, 2005 as amended, the Court makes the following orders:-

- (1) that leave is granted to the Applicants to file their notices of appeal within seven (7) days hereof and that the Respondent do file its acknowledgement of service/entry of appearance within seven days (7) thereafter
- (2) that the parties do file written submissions on or before the 18<sup>th</sup> day of March 2014

- (3) that this Court dispenses with the process of the settling and filing of a Record of Appeal in this matter and that all the documents that have been filed, so far, in addition to the magistrates record of proceedings shall constitute the Record of Appeal
- (4) that the hearing of the appeal is fixed for Thursday the 10<sup>th</sup> day of April 2014 at 10:00am at the Seat of the Court, Trinidad and Tobago. (If the Counsel consent the hearing could be done by Video-Conference)
- (5) that the oral submission of counsel for the Applicants shall not exceed forty-five (45) minutes and the oral submissions of the Respondent shall not exceed forty-five (45) minutes with a reply of the Applicants. The Applicants shall reply, if any within ten (10) minutes.

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The Rt Hon Sir Dennis Byron

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The Hon Mr Justice A Saunders

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The Hon Mr Justice J Wit

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The Hon Mr Justice D Hayton

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The Hon Mr Justice W Anderson