

**CARIBBEAN COURT OF JUSTICE**  
**Appellate Jurisdiction**

**ON APPEAL FROM THE COURT OF APPEAL OF BARBADOS**

**CCJ Appeal No. BBCR2015/003**  
**BB Crim. Appeal No 2 of 2009**

**BETWEEN**

**GAVIN WAYNE GREEN**

Appellant

**AND**

**THE QUEEN**

Respondent

Before The Right Honourable  
and the Honourables

Sir Dennis Byron, President  
Mr Justice R Nelson  
Mr Justice J Wit  
Mr Justice D Hayton  
Mme Justice M Rajnauth-Lee

**Appearances**

**Mr. Marlon Markland Gordon and Ms. Safiya A. Moore for the Appellant**

**Mr. Charles Leacock, QC and Mr. Anthony L. Blackman for the Respondent**

**JUDGMENT**  
**of**  
**the Court**

**delivered on the 3<sup>rd</sup> day of February, 2016**

## JUDGMENT OF THE COURT

### Introduction

- [1] For the reasons given in the judgment of the President and Justices Wit and Hayton in *Rambarran v The Queen*,<sup>1</sup> Justices Nelson and Rajnauth-Lee dissenting, the Court makes the order set out below.

### Order

- [2] The following orders are made.
- (i) The appeal is allowed.
  - (ii) It is declared that “conviction”, in the context of section 19(1) of the Barbados Criminal Appeal Act, Cap. 113A, means the date on which an accused is sentenced after having been found guilty; and that notice must be given of an appeal or an application for leave to appeal before twenty-one days have elapsed since the date of conviction.
  - (iii) It is declared that the Court of Appeal in its oral decision of 13<sup>th</sup> March 2015 erred in finding itself *functus officio* and in finding the applications before it for an extension of time to be an abuse of process.
  - (iv) The appellant’s application for leave to appeal against conviction is remitted to the Barbados Court of Appeal for an expedited hearing and determination of the application in accordance with the order that scheduled the hearing on the 21<sup>st</sup> to 24<sup>th</sup> July 2014.
  - (v) No order is made as to costs.

/s/ Dennis Byron

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**The Rt Hon Sir Dennis Byron (President)**

/s/ R F Nelson

/s/ J Wit

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**The Hon Mr Justice R Nelson**

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**The Hon Mr Justice J Wit**

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<sup>1</sup> CCJ Application No. BBCR2015/002

/s/ D Hayton

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**The Hon Mr Justice D Hayton**

/s/ M Rajnauth-Lee

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**The Hon Mme Justice M Rajnauth-Lee**