

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

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

**CCJ Appeal No CV 2 of 2005  
BB Civil Appeal No 29 of 2004**

**BETWEEN**

**THE ATTORNEY GENERAL  
SUPERINTENDENT OF PRISONS  
CHIEF MARSHAL**

**FIRST APPELLANT  
SECOND APPELLANT  
THIRD APPELLANT**

**AND**

**JEFFREY JOSEPH  
LENNOX RICARDO BOYCE**

**FIRST RESPONDENT  
SECOND RESPONDENT**

*Before the Right Honourable  
And the Honourables*

*Mr Justice de la Bastide, President  
Mr Justice Nelson  
Mr Justice Pollard  
Mr Justice Saunders  
Mme Justice Bernard  
Mr Justice Wit  
Mr Justice Hayton*

**SUMMARY  
of the Judgments of The Caribbean Court of Justice delivered on  
November 8th 2006**

This is an appeal from the Court of Appeal of Barbados which ordered that the sentences of death passed on the two respondents be commuted to life imprisonment. The appeal was heard by us on the 20<sup>th</sup> and 21<sup>st</sup> June, 2006, when judgment was reserved. What I am about to say does not represent the judgment of the Court - or for that matter, my judgment - but is merely a statement of the outcome of the appeal and a very broad indication of the findings which have produced it. There are in fact six separate judgments being handed down this morning.

There is a joint judgment of Mr. Justice Saunders and myself which addresses most, if not all, of the issues raised in this appeal. Each of the other five Judges who comprise the Court, have written judgments. The judgments of Justices Pollard and Wit deal with the main issues in considerable depth. The other three judgments are somewhat shorter. Copies of all the judgments will be passed out to counsel shortly and copies will also be available for collection by the media and members of the public at the conclusion of this sitting. In addition, summaries have been prepared of all the judgments and these too will be available momentarily upon request. I must stress, however, that the availability of summaries ought not to deter anyone who has a genuine interest in the very important and interesting issues discussed in these judgments from reading the judgments themselves, as they constitute the only authoritative and reliable source of information as to the Court's thinking on these issues.

I shall recall the facts of this case very briefly. The respondents and two other men were charged jointly with the murder of a young man who was beaten to death. All four accused were given the option of pleading guilty to the lesser charge of manslaughter. The other two accused accepted this offer and were sentenced to 12 years imprisonment for manslaughter. The respondents, however, declined the offer and stood trial for murder. They were convicted and sentenced to death. Their appeals to the Court of Appeal and the Privy Council were dismissed. The respondents then petitioned the Inter-American Commission for Human Rights, alleging violations by the State of Barbados of its obligations under the American Convention on Human Rights. Shortly after the filing of these petitions, however, the Barbados Privy Council confirmed its previous decision not to recommend commutation of their sentences. As a result, death warrants were read to the respondents and they instituted these proceedings claiming that the threatened execution was in contravention of their constitutional rights.

Counsel for the Crown in addressing us conceded that he could not ask for the re-imposition of the death sentences as more than five years had run since these sentences were imposed so that to carry them out now would be in breach of the decision in *Pratt and Morgan*.

We have nevertheless dealt with and resolved the two major issues that were argued before us. The first issue concerns the reviewability of the exercise of the prerogative of mercy by the BPC

pursuant to the provisions of section 78 of the Barbados Constitution. It is the unanimous view of the Court that the exercise of the prerogative of mercy is reviewable notwithstanding section 77(4) of the Constitution which purports on the face of it to preclude the court from inquiring whether the BPC's functions under section 78 have been properly performed. The grounds for and review are not exhaustively catalogued in the judgments, but they are held to include procedural unfairness.

The second issue is whether the failure of the BPC to await the outcome of the proceedings instituted by the respondents in the Inter-American system, was a contravention of the respondents' right to the protection of the law. The judgments again are unanimous in holding that the go-ahead given by the BPC for the execution of the respondents shortly after they had initiated proceedings before the Inter-American Commission for Human Rights was a contravention of the right to the protection of the law. We have ruled that the Court of Appeal was bound in this connection to follow the decisions of the Privy Council in *Thomas v. Baptiste* and in *Lewis v. The Attorney-General of Jamaica* which established that the State is under a duty to await the outcome of the process before human rights bodies, at least for a reasonable period. This Court unlike the Court of Appeal, is free to depart from those decisions, and while we agree with the result produced in those cases, we do not agree with the reasoning by which that result was reached. We have achieved a similar result in this case but by a different route. The majority of us hold that in this case the respondents had a legitimate expectation that they would be allowed a reasonable time to complete the process before the Commission, and that to frustrate that expectation was to deny them the protection of the law.

The order of the Court is that the appeal is dismissed with costs certified fit for two counsel in respect of each respondent.