



CARIBBEAN COURT OF JUSTICE

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CCJ DISMISSES APPLICATION, NO MISCARRIAGE OF JUSTICE

Port of Spain, Trinidad and Tobago. In a judgment released today, the Caribbean Court of Justice (CCJ) dismissed the application for special leave in the Appellate Jurisdiction matter of **Mark Fraser v The State [2019] CCJ 17 (AJ)**, having found no potentially serious miscarriage of justice to have occurred.

On 14 November 2007, Mark Fraser was found guilty of gross negligence manslaughter and sentenced to 4 years imprisonment. After filing an appeal against his conviction, and obtaining bail on 17 December 2007, Mr. Fraser never returned to prison. His appeal was then fixed for hearing almost 10 years later, but that hearing was further delayed as the record of appeal was not made available to his attorneys until 4 October 2017.

While Mr. Fraser's appeal against his conviction was dismissed by the Guyana Court of Appeal, the Court agreed that the delay in proceedings breached his Article 144(1) right to a fair hearing within reasonable time and stayed any further imprisonment. Mr. Fraser then applied to the CCJ for special leave to appeal the decision of the Court of Appeal refusing to set aside his conviction.

In dismissing his application for special leave, the CCJ found the approach of the Court of Appeal in hearing the constitutional delay challenge and the substantive appeal together to be wise and prudent, as it allowed the Court of Appeal to properly consider what might be a just and effective remedy for the breach of Mr. Fraser's Article 144(1) right. The Court indicated that it did not find any flaws in the Court of Appeal's conclusion that the conviction was sound, and that there were no special or exceptional circumstances established to justify cancelling the conviction. There was therefore no proper basis upon which to grant special leave to Fraser and his application was dismissed.

The Court was comprised of the Hon. Mr. Justice Saunders, President of the Court, and Hon. Messrs. Justice Wit, Anderson, Barrow and Jamadar.

The full judgment of the Court and the judgment summary is available on the CCJ's website: www.ccj.org

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