

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

ON APPEAL FROM THE COURT OF APPEAL OF GUYANA

**CCJ Application No GYCR2016/002
GY Criminal Appeal No 21 of 2013**

BETWEEN

MARK ROYDEN WILLIAMS

APPLICANT

AND

THE DIRECTOR OF PUBLIC PROSECUTION

RESPONDENT

On Written Submissions

Mr D Roger Yearwood for the Appellant

Ms Shalimar Ali-Hack, Director of Public Prosecutions, for the Respondent

JUDGMENT

of

Justices Saunders, Anderson and Rajnauth-Lee

Delivered

on the 13th day of July, 2016

1. As a result of submissions made by the parties to this matter, by Order of Court dated June 14, 2016, this Court ordered and directed that the parties file written submissions on the following point:
 - i. Whether the Applicant is entitled to seek special leave to appeal a decision given by the Court of Appeal in this matter on March 8, 2016.

Entitlement to seek special leave to appeal

2. The Director of Public Prosecutions made submissions similar to those made in the case of James Anthony Hyles and our judgment in that case is relevant to this case and carries somewhat more fully the reasons we express here. It was

submitted that the Applicant is not permitted to seek special leave to appeal because: a) only the DPP has an appeal to the CCJ *as of right* under section 33L of the Court of Appeal Act¹; b) the Applicant does not have a right *to seek special leave to appeal* under that Act, and c) a special leave application under section 8 of the Caribbean Court of Justice Act² (“the CCJ Act”) only arises when the Applicant has an appeal as of right. The Applicant does not have any such right either under the Court of Appeal Act or the CCJ Act and therefore is ineligible to seek special leave from this Court.

3. As to a) just as we held in the *Hyles* matter, whether, in fact, a convicted person has been granted, by the recent amendment, an appeal as of right to this Court (as the DPP clearly has been) is a matter which is unnecessary for us to decide in these proceedings and we expressly refrain from deciding it.
4. As to b) there can be little argument with the Director’s submission. The Court of Appeal Act does not give the Applicants a right to seek special leave to appeal to this Court.
5. As to c) an application to this Court for special leave to appeal exists independently of whether the Applicant enjoys an appeal as of right or has sought and been refused leave from the Court of Appeal. Any litigant who is dis-satisfied with a decision of the Court of Appeal is entitled to apply directly to this Court for special leave. In the circumstances, we do not accede to the preliminary objections taken by the Director.

Conclusion

6. The Court holds that the Applicant is entitled to seek special leave to appeal to the CCJ. The Applicant must file his submissions on the application for special leave by 5th August, 2016. The Director of Public Prosecution shall file submissions in response by 2nd September, 2016. The Applicant shall file a reply by 16th

¹ Cap. 3:01

² Cap. 3:07

September, 2016. The Special Leave application shall be heard on 12th October, 2016 at 10:00AM by video-conference simultaneously with the hearing of the Special Leave application lodged by James Anthony Hyles.

/s/ A. Saunders

The Hon Mr Justice A Saunders

/s/ W. Anderson

Mr Justice W Anderson

/s/ M. Rajnauth-Lee

Mme Justice M Rajnauth-Lee