



CARIBBEAN COURT OF JUSTICE

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CCJ Allows Appeal in Domestic Violence Case

Port of Spain, Trinidad and Tobago. The Caribbean Court of Justice (CCJ) has allowed the appeal of Ms Roxann Rachel Goddard in the Barbadian appeal of *Goddard v Akojee & The Attorney General of Barbados BBCV2022/001*. Ms Goddard previously applied for, but was denied a protection order after the Magistrate held that she did not fall within the category of persons entitled to apply under the Domestic Violence (Protection Orders) Act Cap. 130A (as amended). Ms Goddard first applied for a protection order for herself and her minor son against her former partner, Mr Abdul Aziz Akojee.

Ms Goddard and Mr Akojee were in a relationship for some three years, living together for approximately 21 months. During that time, their son was born. Their relationship ended in 2019, after which they continued an on and off relationship until May 2020. After an incident at her mother's business place, Ms Goddard applied for a protection order for her and her son at the District 'A' Magistrates Court in July 2020.

During the hearing, Mr Akojee's attorney objected, arguing that the Court did not have jurisdiction to hear the matter since Ms Goddard was not one of the persons qualified to apply for a protection order under section 4 of the Domestic Violence (Protection Orders) Act. He further contended that the parties were not in a cohabitational relationship, nor a domestic relationship; neither were they in a visiting relationship and Ms Goddard was not a spouse. Ms Goddard's attorney argued that while the relationship between the parties had ended, the Court did have jurisdiction to hear the matter since Ms Goddard was a former spouse and thus, she qualified for protection under section 4 of the Act. The Magistrate, acting on the responses she elicited from Ms Goddard, decided that the legislation did not apply to Ms Goddard and dismissed her application for a protection order.

Ms Goddard appealed to the Court of Appeal. The majority of the Court of Appeal upheld the reasoning of the Magistrate and held that she did not err by dismissing the matter on the basis that she had no jurisdiction. The majority held that the Magistrate was entitled to decline jurisdiction because, based on the facts and on Ms Goddard's responses, she did not fall within the classes of persons covered by the legislation. On the majority view, it could not be the case that any person who once had a living relationship with an alleged perpetrator of domestic violence, could apply for a protection order under the Act, without having regard for the time that elapsed since that past relationship.

Ms Goddard appealed to the CCJ, seeking clarification as to the meaning of ‘former spouse’ under the Act. According to her, she fell within this definition by law, and thus should have been granted the necessary protection.

The CCJ allowed her appeal after hearing submissions from Ms Goddard’s attorney, the Office of the Attorney General and Organization Safe Space Movement in association with International Center for Advocates Against Discrimination (ICAAD) Inc. and UN Women Multi Country Office – Caribbean, who were invited by the Court to assist as amici curiae (or friends of the court). The Court was unanimously of the view that the Magistrate did have jurisdiction to hear the case filed by Ms Goddard and - agreeing with minority decision - that she fell within range of persons who were entitled to apply for the protection order.

The matter was heard by the Honourable Mr Justice Adrian Saunders, President and the Honourable Justices Winston Anderson, Maureen Rajnauth-Lee, Denys Barrow and Peter Jamadar.

Ms Lalu Hanuman appeared for the Appellant. Ms Anika N. Jackson, Solicitor General (Ag), Mr Jared Richards and Ms Fianne Best appeared for the Second Respondent, the Attorney General. Ms Anya Lorde appeared for OSS & ICAAD and Ms Leah Thompson appeared for UN Women Multi Country Office - Caribbean. The nominal First Respondent, Mr. Akojee, took no part at any point in the appeal.

Full reasons for the decision will be given in due course.

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About the Caribbean Court of Justice:

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ President, the Honourable Mr Justice Adrian Saunders. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). In its Original Jurisdiction, the CCJ is critical to the CSME and all 12 Member States which belong to the CSME (including their citizens, businesses, and governments) can access the Court’s Original Jurisdiction to protect their rights under the RTC. In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, four states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica and Guyana. However, by signing and ratifying the Agreement Establishing the Caribbean Court of Justice, Member States of the Community have demonstrated a commitment to making the CCJ their final court of appeal. The Court is the realisation of a vision of our ancestors, an expression of independence and a signal of the region’s coming of age.

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