



## CARIBBEAN COURT OF JUSTICE

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**MEDIA RELEASE**  
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### **CCJ CLARIFIES THE DIRECTION TO THE JURY WHERE A WITNESS IS FOUND TO BE DELIBERATELY LYING ON OATH**

**Port of Spain, Trinidad and Tobago.** Today, the Caribbean Court of Justice (CCJ) dismissed the appeal in the Barbadian case of *James Fields v The State [2023] CCJ 13 (AJ) BB*. The appeal raised the question of whether the jury was misdirected by the trial judge on how to treat with a witness whom the jury considered may be deliberately lying on oath. Fields argued that the jury must be directed in accordance with *Scantlebury (Mormon) v R*. That is, if the jury finds a witness to be deliberately lying on oath, then they must reject all of that witness' evidence because if they lied about one matter they would be capable of lying about another. The State disagreed that the direction in *Scantlebury* was proper and contended that issues of credibility and reliability of witnesses are issues for the jury alone. On 23 July 2010, Fields was arrested and charged with the common law offence of murder. He was eventually found guilty of manslaughter and was sentenced by the trial judge to serve 16 years in prison. At the trial, an eyewitness to the incident gave evidence in support of the State's case. During cross-examination, it was demonstrated that the eyewitness was untruthful in his testimony. In cross-examining the eyewitness, counsel suggested to him that it was he who had shot and killed the deceased, but this was stoutly denied by the eyewitness.

In his summing up, the trial judge directed the jury along the lines that if the jury found a particular witness for the prosecution to be "lying", they could reject that particular detail of the evidence. Further, the fact that they did not accept a portion of a witness' evidence did not mean that they must necessarily reject the whole of the witness' evidence if they thought that it was worthy of acceptance. Fields was convicted by the jury and subsequently appealed to the Court of Appeal.

The Court of Appeal interpreted the material part of the trial judge's summation as suggesting that when the judge referred to a witness who was "lying," the judge really meant a witness whose evidence contained one or more discrepancies. On this basis, the Court of Appeal did not find it necessary to cast doubt on the direction which followed *Scantlebury*. The Court found instead that, having regard to all the circumstances, the verdict of the jury was neither unsafe nor unsatisfactory. Furthermore, even if the direction, taken out of context, may amount to a material misdirection,

no miscarriage of justice had occurred. The appeal against conviction was dismissed but the sentence was varied to 11 years.

Fields appealed his conviction to the CCJ on seven grounds. The CCJ allowed Fields to argue one ground: that the learned Justices of Appeal erred in law when they held that the learned trial judge correctly directed the jury on how to treat the evidence of a witness that the jury believed to be deliberately lying on oath. Fields contended that the proper direction to the jury should have been the direction approved in *Scantlebury* and followed both before and since then, by most but not all trial judges.

The CCJ in a majority judgment authored by President Saunders and Justice Anderson, held that a blanket direction requiring the jury to discard the entirety of the evidence of a sworn witness who is found to have lied in one matter under oath, blurs the role and function of the judge and jury to an unacceptable degree. Additionally, such a direction makes no attempt to convey to the jury that they may consider the significance of the lie to the issue being determined at the trial, introduces an unwarranted distinction between prosecution and defence witnesses and is not consistent with best practice in directions to juries.

The majority judgment emphasised that the categories of evidence which are admissible are matters of law for the judge; the weight to be placed on admissible evidence is a matter of fact for the jury. Therefore, the judge is permitted to point out that the fact that a witness has lied under oath or affirmation is relevant to the reliability and credibility of that witness, whilst leaving the ultimate decision on the weight to be given to the evidence, to the jury. At the same time, the judge is also permitted to direct the jury to guard against assuming that the fact that the witness lied about one matter *must* mean that the witness must automatically be taken as having lied about something else.

The majority continued by stating that the CCJ was not bound by any previous ruling on this issue as neither the CCJ nor its predecessor, the Judicial Committee of the Privy Council, have ever examined and pronounced on this direction. The CCJ clarified that the direction in *Scantlebury* is not proper and that the direction to the jury regarding a witness deliberately lying on oath, should indicate that they are entitled to disregard so much of the evidence as they found untruthful and accept so much of it as they found to have been truthful and accurate.

On these bases, the appeal was dismissed as it was found that the trial judge did not misdirect the jury. No orders were made as to costs.

In a dissenting judgment authored by Justice Burgess, it was opined that the issues in the appeal could be easily decided based on the principle of *stare decisis* (to stand by things decided). This principle dictates that the judge was bound to follow the standard direction laid down in the Court of Appeal precedents and High Court decisions. Whatever the trial judge's own view, he had no choice but to do so. It was opined that this Court should not overrule the *Scantlebury* direction because to do so could compromise the advantages of the *stare decisis* doctrine. Justice Burgess further noted that there was no sufficient basis for overruling the standard direction in this case. Moreover, there is a procedure available to the Director of Public Prosecutions to seek the opinion

of this Court on the standard direction which would not require this Court to ignore breaches of the *stare decisis* doctrine by the Court of Appeal and the trial judge.

The matter was determined by the Honourable Mr Justice Adrian Saunders, President, and the Honourable Justices Anderson, Rajnauth-Lee, Barrow and Burgess. Mr Andrew Pilgrim KC and Mr Martie Garnes appeared for the appellant. Mr Neville Watson and Mr Rudolph Burnett appeared on behalf of the respondent.

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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, Saint Lucia 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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