

NEWS RELEASE, 8TH MARCH 2006

PRIVY COUNCIL ABOLISHES MANDATORY DEATH PENALTY IN THE BAHAMAS

In a landmark decision delivered on 8th March 2006, the Judicial Committee of the Privy Council unanimously struck down the mandatory death sentence imposed on those convicted of murder in the Bahamas, as being in breach of the Constitution. In a densely reasoned judgment delivered by Lord Bingham of Cornhill, the Privy Council took the view that as early as 1973, the mandatory death penalty should have been regarded as an inhuman and degrading punishment.

As Counsel, Mr Edward Fitzgerald QC argued in the case, it is important that judges should have a discretion in applying the death penalty. Since 1973, 16 persons have been executed in the Bahamas, 6 in the last 10 years. If the judge had had a discretion and mitigating circumstances had been taken into account they probably would not have been executed.

The decision is a milestone in the international campaign against the death penalty. Not only does it signal the end of the mandatory death penalty in the Bahamas, but also means that the mandatory death penalty is now abolished through litigation in every English speaking Caribbean country except for Barbados and the Republic of Trinidad & Tobago. After the judgment was delivered, Keir Starmer QC said: -

“This case is the culmination of a ten year litigation strategy to abolish the mandatory death penalty in the English speaking Caribbean. It marks a new dawn for human rights in the region and has given hope to all those sentenced to death around the world.”

The judgment marks a major success for Simons Muirhead & Burton Solicitors and Doughty Street Chambers who represented the Appellants, and who have been

leading the fight against the death penalty in the English speaking Caribbean for the last fifteen years.

Saul Lehrfreund of Simons Muirhead & Burton Solicitors states: -

“The ramifications and consequences of the Privy Council’s ruling are huge; there are implications for at least 30 prisoners on death row in the Bahamas whose cases will now have to be reviewed. The implications for future murder trials will be the introduction of a completely new set of procedures restricting the imposition of the death penalty in the first instance. The Privy Council has gone some way towards ensuring that the law and practice in the Bahamas conforms with international human rights standards in the application of the death penalty”

The Appellant, Forrester Bowe Jnr was convicted of the murder of Deon Roache on 25th February 1998 and sentenced to death. The Appellant, Trono Davis was convicted of the murder of Jerrad Ferguson on 13th December 1999 and sentenced to death. They have remained incarcerated on death row at Foxhill Prison in the Bahamas for 8 years and 6 years respectively.

Notes to Editors

1. The Appellants were represented by Edward Fitzgerald QC, Keir Starmer QC and Ruth Brander of Doughty Street Chambers and Maurice Ginton and Philip Davis of the Bahamas Bar. In 2005, Edward Fitzgerald QC was named Human Rights Silk of the Year at the Chambers and Partners Bar Awards. Keir Starmer QC was awarded the Sydney Elland Goldsmith Bar Pro Bono Award for outstanding commitment to the abolition of the death penalty.
2. For further information please contact Saul Lehrfreund and Parvais Jabbar, Executive Directors of the Death Penalty Project at Simons Muirhead & Burton or Keir Starmer QC or Dr Sejal Parmar, Human Rights Coordinator, Doughty Street Chambers.

Saul Lehrfreund: Direct Tel: 0207-556-3146

Parvais Jabbar: Direct Tel: 0207-556-3147

Keir Starmer QC 07974 135015

Dr Sejal Parmar: 0207-404-1313