

News Release, 4th November 2009

“Three men convicted of murder released from prison after Privy Council quashes convictions - Francis Eiley, Ernest Savery and Lenton Polonio v The Queen”

Some five years after being convicted for murder and sentenced to life imprisonment, the Judicial Committee of the Privy Council today allowed the appeals of three Appellants, Francis Eiley, Ernest Savery and Lenton Polonio. Eiley, Savery and Polonio, who have always maintained their innocence, had been convicted of the murder of Justo Jario Perez in the Supreme Court of Belize on 13th August 2004 and their appeals to the Court of Appeal of Belize were dismissed in August 2005. As a result of Belize preserving the right of appeal to Her Majesty in Council in London (since gaining independence in 1981), Eiley, Savery and Polonio then appealed against their convictions for murder to the Judicial Committee of the Privy Council in London.

At their original trial, the Appellants were convicted solely on the uncorroborated evidence of one man, Frank Vasquez. Remarkably, Vasquez had been apprehended at the scene of the murder with blood stained shoes and clothing and was initially charged with murder. The charge against Vasquez was subsequently withdrawn under an agreement with the Director of Public Prosecutions under which Vasquez was promised immunity from prosecution if he gave truthful evidence at trial. The essence of the Appellants' case was that the evidence of Vasquez could not safely support their convictions for murder.

Lord Phillips delivering the judgment of the Board noted that “*Mr Vasquez had been caught literally red-handed at the scene of the crime*” and “*he was a prime suspect*”. In these circumstances, their Lordships commented that the decision of the prosecution to offer Vasquez immunity if he gave truthful evidence was “*on the face of it, surprising*”.

Their Lordships found that the convictions were unsafe “*having regard to the nature of the evidence given by Mr Vasquez, the circumstances in which it was given and the terms in which the judge summed up the evidence to the jury*”.

“Mr Vasquez had been promised immunity from prosecution if he told the truth. Despite this, his evidence had features that were unsatisfactory and suggested that his primary concern was to distance himself from involvement in the murder. The Board have not been able to dismiss the possibility that on the morning after the murder Mr Vasquez simply pointed to the first group of men that he saw after indicating to the police that he would take them to those who were involved in the crime”.

Eiley, Savery and Polonio will not face a fresh trial and they will now be released from Hattville Correction Centre in Belize.

Notes to Editors

1. The Appellants were represented *pro bono* by the Death Penalty Project at Simons Muirhead & Burton.
2. Michael Grieve QC of Doughty Street Chambers and Tom Allen of 5 Paper Buildings appeared as Counsel *pro bono*.
3. The Death Penalty Project is an international human rights organisation housed in the offices of Soho legal firm Simons Muirhead & Burton, providing free legal representation to many individuals still facing the death penalty in the Caribbean and Africa. The organisation receives generous support from the Sigrid Rausing Trust, the Oak Foundation, the UK Foreign & Commonwealth Office and by a grant from the Foundation of the Open Society Institute and the United Nations Voluntary Fund for Victims of Torture.
4. For further information or a copy of the judgment please contact Saul Lehrfreund MBE or Parvais Jabbar, Executive Directors of the Death Penalty Project at Simons Muirhead & Burton.

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