



Reference number: 15/2012

Date: 25 October 2012

News Release

JCPC: Time keeping must serve the interests of justice

The Judicial Committee of the Privy Council (JCPC) is bound to bear in mind the circumstances of those seeking permission to appeal criminal convictions against them when considering whether to allow extensions of time limits for such appeals, one of the Board's most senior judges has said.

Speaking on behalf of the Board, Lord Hope, Deputy President of the Supreme Court and a judicial member of the Privy Council, has also encouraged earlier sharing of information between parties to help avoid unnecessary delays in processing appeals.

In a judgment published in full today, the Board sets out the criteria upon which applications for extensions of time limits will be considered in future.

The issue arose in the case of Carlos Hamilton and Jason Lewis, who in 2001 were found guilty of the murder of a man in Jamaica. They were originally sentenced to life imprisonment. In March 2003, the Court of Appeal of Jamaica refused Hamilton and Lewis' application for permission to appeal against their conviction and sentences. In July 2011, they filed for permission to appeal against the decision of the Court of Appeal to the JCPC. The length of time between the Court of Appeal's order and Hamilton and Lewis' application to the JCPC was more than eight years.

The rules of the JCPC state that an application for permission to appeal must be filed within 56 days from the date of the order or decision of the court below, or the date which that court refused permission to appeal. The Board does, however, have flexibility to extend or shorten this period.

The JCPC is conscious that the context of the criminal justice system within some of its jurisdictions is challenging for those seeking to appeal adverse judgments. Very limited legal aid, and some reluctance by local lawyers to undertake pro bono work, means that prisoners in the Caribbean region in particular will often struggle to file their application within the two months indicated by the JCPC's time limit. The Board has always sought to reflect this by bearing in mind this context when deciding on how strictly to apply time limits.

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In a judgment initially made available in August but published today alongside the substantive judgment of Sir Anthony Hooper relating to the Hamilton and Lewis case, Lord Hope has set out how the JCPC will consider such applications for extensions to the court's time limits.

"As a general rule," Lord Hope rules, "the longer the delay, the more convincing and weight the explanation will need to be. The question will always be whether, having regard to all the circumstances, it is in the interests of justice that the time limit should be extended."

Lord Hope adds: "Weight will always be given to the merits of the appeal and the severity of the sentence. The stronger the case appears to be that the appellant may have suffered a serious miscarriage of justice, the less likely it will be that the application will be rejected on the ground that it is out of time. The Board will also be sympathetic to the problems faced by death sentence prisoners, and those in non-capital cases who have been sentenced to very long periods of imprisonment, who have to rely on the services of those who provide legal services pro bono."

He also notes that "the best way of reducing the opportunity for delay [in such cases] lies in the early exchange of information".

"The prosecuting authorities should be notified as soon as a prisoner has indicated an intention to apply for permission to appeal to the Judicial Committee, with a view to enlisting their help in obtaining the relevant documents as soon as possible. It is in the public interest that help should be made available with a view to minimising delay in the prosecution of the appeal, and the Board will expect the prosecuting authorities to provide it... Steps should also be taken at the same time to inform those who normally act as Privy Council agents for the State concerned."

Lord Hope also stresses that "the Board has every confidence that those who regularly practise before it will continue to maintain the high standards of professional conduct and mutual co-operation which do so much to assist in the handling of appeals that have to rely on the pro bono system."

Ends

Notes

This news release does not form part of the reasons for the decision in *Carlos Hamilton and Jason Lewis v The Queen* and this document should not be relied upon as a guide to the time extension criteria. The full judgment of the JCPC is the only authoritative document, and can be found at: <http://www.jcpc.gov.uk/decided-cases/index.html>

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