

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 59/2006  
[2006] NZSC 77**

**FRANK LOUIS MIESSEN**

v

**THE QUEEN**

Court: Blanchard and Tipping JJ  
Counsel: Appellant in Person  
E M Thomas for Respondent  
Judgment: 26 September 2006

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed.**

**REASONS**

[1] Mr Miessen was convicted after a jury trial in the District Court at Christchurch of threatening to kill. He was ordered to appear for sentence if called upon to do so within twelve months. His appeal against conviction was dismissed by the Court of Appeal and he now seeks leave to appeal to this Court. He has not, however, identified any arguable ground of appeal which meets any of the criteria in s 13 of the Supreme Court Act 2003 and his application must therefore be dismissed.

[2] None of the grounds sought to be argued raises any question of general or public importance. The case was essentially determined on its own facts, as found

by the jury. The pre-trial ruling, which Mr Miessen wishes to revisit, also turned upon the Judge's factual findings against him.

[3] In large measure Mr Miessen's complaints concern the conduct of the trial by his then counsel. He did not however support his assertions with any affidavit evidence. Nor did he waive privilege, so his counsel had no opportunity of responding. The Court of Appeal nevertheless reviewed all of the matters raised and found no substance in them. We can see no basis upon which this Court could possibly take a different view.

[4] It is suggested by Mr Miessen that two members of the Court of Appeal should not have sat on the appeal because of their prior association with the Crown Law Office. It is very doubtful whether any objection to their sitting could have been justified upon what appears to have been a rather tenuous basis. In any event, Mr Miessen made no objection at the time despite having been advised in advance of the composition of the Court.

[5] We are not persuaded that there has been any miscarriage of justice in this case.

Solicitors:  
Crown Law Office, Wellington