



Supreme Court of New Zealand

27 November 2009

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

**Aaron Mark WI v The Queen (SC 28/2009)
[2009] NZSC 121**

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

This appeal concerned the issue whether a defendant in a criminal case can adduce evidence that he or she has no, or no relevant previous convictions. The Court of Appeal ruled that whereas this kind of evidence has traditionally been admissible at common law, it was no longer admissible under the Evidence Act 2006.

The Supreme Court has taken a different view, ruling that the evidence in question may be adduced under the Act as permissible evidence of a lack of propensity to commit the offences with which the defendant is charged. Although the tendency of this kind of evidence to show that may be slight, it cannot be said that the evidence has no tendency at all to do so and it is therefore relevant to the guilt or innocence of the defendant.

The appellant, Mr Wi, was not allowed at trial to lead evidence of his lack of previous convictions for violence; but no miscarriage of justice has occurred as a result because the absence of that evidence could not possibly have affected the jury's conclusion that he was guilty of the offences with which he was charged.

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