

IN THE SUPREME COURT OF NEW ZEALAND

**SC 62/2009
[2009] NZSC 95**

VICTOR STOJANOVICH

v

THE QUEEN

Court: Blanchard, Tipping and Wilson JJ

Counsel: S J Shamy for Applicant
M D Downs for Crown

Judgment: 27 August 2009

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

[1] The applicant seeks leave to appeal against his conviction on counts of sexual violation by rape and unlawful sexual connection. He was found guilty of these charges by the jury at his second trial, after the jury at his first trial had been unable to agree. The applicant contends that his trial counsel did not adequately explore inconsistencies in the evidence of the complainant at the first and second trials and that the trial Judge erred in directing the jury on consent.

[2] The Court of Appeal¹ examined both these issues carefully. It concluded that it could not be said that trial counsel had erred in not putting to the complainant the alleged inconsistencies in her evidence. Although there was a “certain illogicality” in part of the direction, when the direction was looked at as a whole the jury could have been under no misapprehension as to what it was required to consider.

[3] Both the proposed grounds of appeal are case specific. No question of public or general importance arises. Nor is there any appearance of a miscarriage of justice.

Solicitors:
Crown Law, Wellington

¹ [2009] NZCA 210.