

PETER MORRISON PETRYSZICK

v

THE QUEEN

Court: Elias CJ, Tipping and McGrath JJ

Counsel: Applicant in Person
M D Downs for Crown

Judgment: 30 June 2011

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant seeks leave to appeal against the judgment of the Court of Appeal upholding his conviction on a charge of assault using a motor vehicle as a weapon.¹ The complainant testified that while cycling, and following an exchange of words with the applicant about his driving, he was hit from behind by the applicant's car with sufficient force to throw him towards the centre of the road. The applicant's defence was that the collision was an accident caused by the complainant leaving the cycle lane and veering in front of the applicant's car. The jury accepted that the Crown case was proved beyond reasonable doubt and convicted the applicant.

¹ *R v Petryszick* [2011] NZCA 9.

[2] The Court of Appeal judgment that is the subject of the application for leave to appeal followed a rehearing of the applicant's appeal as directed by this Court in *Petryszick v R*.² The applicant did not appear and was not represented at the Court of Appeal's hearing. The Court considered the grounds of appeal that could be identified in two documents signed by the applicant that were effectively notices of appeal. It concluded there was a proper evidential basis for the jury to convict and that none of the procedural or other points raised concerning the trial had any merit. The Court accordingly dismissed the appeal.

[3] The main point made in the submissions seeking leave to appeal is that the Court of Appeal should not have proceeded to hear the appeal in the applicant's absence. In his application to this Court the applicant said he was not notified of the hearing. He does not, however, assert that he did not receive the Court's minute of 2 March 2011 which confirmed the date of the fixture. His essential complaint in his submissions is that he did not receive information he had sought from the Crown. We are satisfied that it was for that reason, rather than lack of awareness, that he did not appear. There is no basis for his contention he was excluded from the proceedings. He elected not to attend them. The Court of Appeal proceeded, in our view properly and appropriately, to address all the grounds of appeal that had been raised as best it could in the circumstances, and to determine the appeal. We are satisfied that, in the absence of a well-founded application for an adjournment, this was the correct course to follow.

[4] The applicant has made extensive submissions to us concerning the matters decided by the jury. None of these raises an arguable point that a miscarriage of justice has occurred or that for other reasons it is necessary in the interests of justice for the Court to give leave to appeal.

[5] In these circumstances leave to appeal is refused.

Solicitors:
Crown Law Office, Wellington

² [2011] 1 NZLR 153.