

**NOTE: ORDER IN PLACE PERMANENTLY PROHIBITING
PUBLICATION IN ANY REPORT OR ACCOUNT RELATING TO THESE
PROCEEDINGS OF THE NAME AND OCCUPATION OF THE
COMPLAINANT**

IN THE SUPREME COURT OF NEW ZEALAND

**SC 2/2012
[2012] NZSC 19**

PAUL DESMOND CURRIE

v

THE QUEEN

Court: Blanchard, McGrath and William Young JJ

Counsel: Applicant in Person
B C L Charmley for Crown

Judgment: 30 March 2012

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant seeks leave to appeal against a Court of Appeal judgment upholding his conviction for blackmail.¹ (Details about complainant suppressed).

¹ *Currie v R* [2011] NZCA 624.

The content of the claim document and alleged threats to “forward the matter to others for consideration” gave rise to the charge and eventual conviction.

[2] On appeal, the applicant contended, for the first time, that the written claim, which had been a Crown exhibit at the trial, was a forgery. This contention was rejected by the Court of Appeal as being inconsistent with the trial evidence and baseless. The applicant also advanced arguments as to what he claimed was perjury by the complainant. This argument was rejected on the basis that the credibility of the complainant was before the jury and in any event was not fundamental to the Crown case. Other complaints, including one concerning the trial Judge’s directions to the jury, were also rejected. In his application for leave to appeal, the applicant reiterates that the Court of Appeal judgment is based on what he says is forgery and perjured evidence.

[3] The applicant has filed in this Court a collation of documents in support of his application for leave. They included a sworn statement by his brother, who had acted as his McKenzie friend in the Court of Appeal, asserting that he had presented documentation to the Court of Appeal establishing that the prosecutor, police and complainant had committed fraud offences and perjury which had resulted in the applicant’s conviction. A sworn statement by the applicant makes allegations to the same effect and attaches numerous documents, many of which concern the proceedings the subject of the trial.

[4] The applicant asserted that none of this material was considered by the Court of Appeal in its judgment dismissing his appeal. His ground of appeal is in essence that, because of these matters, there has been a miscarriage of justice.

[5] He has sought access to exhibits for handwriting analysis and wishes us to consider a report from a graphologist, prepared since the Court of Appeal hearing, who has studied a photocopy of the signature of the written complaint. We are not prepared to consider such evidence, which could have been called at the trial. This consideration is all the more cogent given that if the applicant’s signature on the written complaint was a forgery, he would have appreciated this. But no issue as to the signature was raised at trial.

[6] The applicant also requested and was given an opportunity to file further submissions in support of his application. He has not done so within the time stipulated and has instead indicated that he wishes the Court to defer further action until such time as the police take action on a complaint he has made based on his allegations.

[7] No issue of principle is raised by the material that has been submitted by the applicant that meets the criteria for an appeal to this Court under the Supreme Court Act 2003. This Court is not the appropriate forum for an appeal that involves an assessment of the credibility of the key witness against the evidence he and others gave at trial and the significance of his credibility in the context of the case as a whole. The Court of Appeal has already undertaken that exercise. This Court will be in no position to say that a substantial miscarriage of justice has occurred in the absence of an investigation of a kind which the Court does not undertake. Nor is it appropriate for the Court to await an investigation by the police of his allegations which may or may not take place.

[8] If the applicant wishes to pursue the correctness of his conviction, the appropriate course is by way of an application under s 406 of the Crimes Act 1961, where it would be possible for a full investigation to be undertaken, if that is shown to be warranted.

Solicitors:
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