

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 61/2023  
[2023] NZSC 102

BETWEEN                      DAMIEN SHANE KURU  
   Applicant

AND                              THE KING  
   Respondent

Court:                          Glazebrook, O'Regan and Kós JJ

Counsel:                      C W J Stevenson for Applicant  
   M L-L Wong for Respondent

Judgment:                    10 August 2023

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**JUDGMENT OF THE COURT**

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- A      Leave to appeal is granted (*Kuru v R* [2023] NZCA 150).**
- B      The approved question is whether the Court of Appeal was correct to dismiss the appeal.**
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**REASONS**

[1]      The applicant submits that the appeal raises three questions of general or public importance:

- (a)      whether the Court of Appeal correctly assessed the reasonableness of the jury verdict;
- (b)      whether the admission and use of the police officer's evidence in this case caused a miscarriage of justice and, more generally, whether police officers providing expert gang evidence should be treated the same way as any other expert; and

(c) whether the jury was correctly directed on party liability.

[2] We have granted leave to appeal on general terms, meaning all three issues can be ventilated in the appeal.

[3] We note, however, that the Court will not be revisiting *R v Owen*.<sup>1</sup> This means that argument on the first issue should be limited to whether the principles in *R v Owen* were properly applied in this case.

[4] With regard to the second issue, the parties should confine their argument to whether the evidence of the police officer was admissible in this case and, if so, whether its use caused a miscarriage of justice in this case and only deal with the more general argument insofar as it is relevant to those questions.

Solicitors:  
Crown Law Office, Wellington for Respondent

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<sup>1</sup> *R v Owen* [2007] NZSC 102, [2008] 2 NZLR 37.