

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 51/2023
[2023] NZSC 93

BETWEEN MAHIA TAMIEFUNA
Applicant

AND THE KING
Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: S J Gray for Applicant
C A Brook for Respondent

Judgment: 28 July 2023

JUDGMENT OF THE COURT

A Leave to appeal is granted (*Tamiefuna v R* [2023] NZCA 163).

B The approved question is whether the Court of Appeal was correct to dismiss the appeal.

REASONS

[1] The applicant contends that the Court of Appeal was correct to find the photographic evidence at issue was improperly obtained but that the Court erred in admitting the evidence under s 30 of the Evidence Act 2006.¹ The Crown indicates that, should leave be granted, it wishes to argue that the Court of Appeal erred when it concluded that the evidence was improperly obtained.

[2] We therefore anticipate that the argument at the hearing will focus on the following two questions:

¹ *Tamiefuna v R* [2023] NZCA 163 (Cooper, Brown and Goddard JJ) at [97] and [104].

- (a) whether the Court of Appeal was correct to find that the photographic evidence was improperly obtained for the purpose of s 30 of the Evidence Act; and
- (b) whether the Court of Appeal was correct in admitting the evidence under s 30 of the Evidence Act.

Solicitors:
Crown Law Office, Wellington for Respondent