

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

**SC 89/2018
[2018] NZSC 111**

BETWEEN KARL TEANGIOTAU NUKU
 Applicant

AND THE QUEEN
 Respondent

Court: William Young, O'Regan and Ellen France JJ

Counsel: Applicant in person
 R K Thomson for Respondent

Judgment: 20 November 2018

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant was tried jointly with Mikhail Pandey-Johnson on charges of aggravated robbery and unlawful possession of firearms. They were found guilty by a jury in the District Court on both charges. The applicant's appeal against conviction and sentence was dismissed by the Court of Appeal in a judgment delivered on 6 May 2016.¹ In October this year and thus well out of time, he applied for leave to appeal to this Court in respect of his conviction and sought an extension of time to do so.

[2] The reasons advanced by way of explanation for the delay in applying for leave to appeal primarily involve the applicant's involvement in other litigation including:

¹ *Nuku v R* [2016] NZCA 179 (Winkelmann, Peters and Collins JJ).

- (a) challenging in other ways the results arrived at in the Courts below – an application to the Court of Appeal to recall its judgment and then judicial review proceedings essentially by way of collateral challenge of the convictions which resulted in judgments from the High Court,² the Court of Appeal³ and this Court (which dismissed first an application for leave to appeal against the Court of Appeal decision⁴ and secondly a recall application in respect of that judgment⁵); and
- (b) a claim associated with the conduct of a police officer and prison officer involved generally with the case.

[3] The applicant’s explanation for the delay is not compelling; all the more so given that, as this Court pointed out, there was scope for the view the judicial review proceedings were an abuse of process.⁶ If he wished to challenge the Court of Appeal decision, he should have applied to this Court for leave to appeal in a timely way. In those circumstances we decline the extension of time which he has sought.

[4] In deciding not to grant an extension of time, we have had regard to the proposed grounds of appeal raised by the applicant. Each of the points he wishes to argue was fully addressed by the Court of Appeal and we see no appearance of error in that Court’s analysis. Nor does the case raise any question of public or general importance.

[5] Accordingly, the application for leave to appeal is dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent

² *Nuku v The District Court at Auckland* [2016] NZHC 2237.

³ *Nuku v The District Court at Auckland* [2017] NZCA.

⁴ *Nuku v District Court at Auckland* [2018] NZSC 7 [*Nuku* (SC)].

⁵ *Nuku v District Court at Auckland* [2018] NZSC 39.

⁶ *Nuku* (SC), above n 4, at [6].