

NOTE: ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS OF APPLICANT PURSUANT TO S 200 OF THE CRIMINAL PROCEDURE ACT 2011 REMAINS IN FORCE.

NOTE: PUBLICATION OF NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS OF COMPLAINANT PROHIBITED BY S 204 OF THE CRIMINAL PROCEDURE ACT 2011.

IN THE SUPREME COURT OF NEW ZEALAND

**SC 7/2018
[2018] NZSC 4**

BETWEEN	M (SC 7/2018) Applicant
AND	THE QUEEN Respondent

Court: Elias CJ, William Young and O'Regan JJ

Counsel: J G Krebs for Applicant
Z R Johnston for Respondent

Judgment: 2 February 2018

JUDGMENT OF THE COURT

- A An extension of time to apply for leave to appeal is granted.**
 - B Leave to appeal against conviction under s 195 of the Crimes Act 1961 is granted.**
 - C The approved question is whether the applicant should have been convicted on that count.**
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REASONS

[1] The applicant (M) and her husband (Z) were convicted after a District Court jury trial of ill-treatment of a child in their care (s 195 of the Crimes Act 1961) as well as other offences that are not relevant to the present application. Z appealed to the Court of Appeal against conviction and sentence and M appealed against sentence only. Their appeals were dismissed.¹

[2] On 17 November 2017 we gave leave to Z to appeal against his conviction under s 195 of the Crimes Act 1961.²

[3] In that judgment, we asked the Crown to inform M that Z's application for leave had been granted so that she could decide whether to seek leave to appeal against her conviction for offending under s 195.

[4] M has now filed a notice of application for leave to appeal and sought an extension of time to do so. She did not appeal against conviction to the Court of Appeal, so the application for leave seeks leave to appeal against the conviction entered in the District Court. In the unusual circumstances of the case, we are satisfied that it is appropriate to grant an extension of time to apply for leave and to grant leave for a leap-frog appeal, so that the issue to be determined in relation to s 195 can be considered in relation to both Z and M.³

[5] Z's appeal is set down for hearing on 22 March 2018. We direct the Registrar to set down M's appeal for hearing in conjunction with Z's appeal on 22 March 2018.

[6] We set the following timetable for the filing of submissions:

- (a) Submissions for M: 14 February 2018;
- (b) Submissions for the respondent (in relation to both Z's and M's appeals): 2 March 2018.

¹ *M (CA522/2016) v R* [2017] NZCA 274 (Asher, Venning and Ellis JJ).

² *Z (SC 79/2017) v R* [2017] NZSC 172.

³ Senior Courts Act 2016, s 75; Supreme Court Act 2003, s 14.

Solicitors:
Crown Law Office, Wellington for Respondent