

VAUGHN BENNETT

v

THE QUEEN

Court: Blanchard and Tipping JJ

Counsel: V Nisbet and D La Hood for Applicant
S P France for Crown

Judgment: 10 December 2004

JUDGMENT OF THE COURT

[1] The applicant seeks leave to appeal against a decision of the Court of Appeal in which it dismissed his appeal against convictions of manslaughter and supplying the class B drug methadone and also dismissed his appeal against a sentence of 10 years imprisonment. The 17 year old male victim died as a result of being injected with methadone by the applicant.

[2] Having considered written submissions from counsel for the applicant and the Crown we are able to determine the application on the papers.

[3] None of the three points raised involves any issue of principle and we are unpersuaded that there has been any miscarriage of justice.

[4] The trial Judge allowed a Crown witness to be shown his police statements during his examination-in-chief, holding that they were contemporaneous with the events to which the charges related. The statements were taken, respectively, on the night of those events and two days later. The Court of Appeal also took the view that the statements were contemporaneous. That view was clearly open on the authorities. The ruling therefore involved no more than an application of settled law to particular facts. The reading of limited passages of the statements into evidence after the witness said that he could not remember the subject matter of the statements but accepted that they would have been given truthfully was unexceptional.

[5] The proposed challenge to the giving of a timeline to the jury is no more than a questioning of a particular instance of a practice which is often permitted as a means of assisting the jury in its deliberations.

[6] Appeals against sentence will only infrequently raise questions of general principle. In this case the applicant asserts no more than that the facts of his offending differed in character from those in the case from which the Court of Appeal principally obtained guidance, i.e that the facts of his case did not reveal offending as serious as that in the precedent case.

[7] The statutory criteria for an appeal to this Court are not met and the application is accordingly dismissed.

Solicitors:
Sladden Cochrane & Co, Wellington for Applicant
Crown Law Office, Wellington