

ALAN IVO GREER

v

THE QUEEN

Coram: Elias CJ
Blanchard J

Counsel: B S Yeoman for Applicant
J C Pike for Crown

Judgment: 15 July 2004

JUDGMENT OF THE COURT

[1] Mr Greer seeks leave to appeal to this Court against a decision of the Court of Appeal delivered on 15 March 2004 dismissing his appeal against conviction on a charge of threatening to kill. The appeal in the Court of Appeal was by way of rehearing after an earlier ex parte dismissal.

[2] The written submissions of counsel have been considered. We have concluded in light of them that it is unnecessary to have oral submissions.

[3] Mr Yeoman advised in his written submissions that he had been directed by Mr Greer to raise the alleged inadequacy of disclosure by the Crown of documents said to be necessary for the appeal to the Court of Appeal and consequential prejudice. Counsel has evidently found himself unable put forward anything further

in relation to this allegation save as appears in the notice of application prepared by Mr Greer himself. As no indication of the nature of the documents or their significance in the proposed appeal has been given, and indeed was not given in the Court of Appeal, leave could not properly be given on this ground.

[4] The substantive matters raised for the applicant both in the Court of Appeal and now upon this application concern alleged deficiencies in the trial Judge's summing-up to the jury. Principally, it is said that, Mr Greer having given evidence in his defence, the trial Judge failed adequately to direct the jury about the way in which it should consider that evidence and the evidence as a whole depending upon the view it might take of Mr Greer's evidence. The Court of Appeal accepted that the jury was not given the usual tri-partite direction but was not persuaded, looking at the summing-up overall, that in such a simple case the jury would have been under any misapprehension about the onus of proof and what the Crown was required to prove.

[5] No relevant error of law on the part of the Court of Appeal is alleged. The matter sought to be raised merely concerns the effect of the summing-up in the particular case. We are not persuaded that it is reasonably arguable that any miscarriage of justice has resulted. No substance has been shown in the other allegations of deficiencies in the summing-up.

[6] The criteria in s13 of the Supreme Court Act 2003 are not met and the application for leave to appeal is accordingly dismissed.

Solicitors:
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