

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 81/2006  
[2006] NZSC 110**

**ROSS FERGUSON BURNS**

**v**

**THE QUEEN**

Court: Elias CJ, Blanchard and Tipping JJ

Counsel: R Laybourn for Appellant  
E M Thomas for Crown

Judgment: 18 December 2006

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed.**

**REASONS**

[1] This application for leave to appeal against the dismissal by the Court of Appeal of an appeal against conviction for indecent assault on a girl under the age of 12 years raises no question of general or public importance. Nor have we been persuaded that there may have been a miscarriage of justice.

[2] The proposed appeal would be on two grounds. The first is that the Court of Appeal should have considered the cumulative effect of repetitive interviewing of the complainant and the influence of the complainant's mother. The Court of Appeal

did give consideration to this matter but decided that it had been squarely put before the jury by counsel and that the critical question for the jury had been the credibility of the complainant's evidence both in the video interviews and in cross-examination. This was very much a factual question for assessment by the jury. It has been reviewed by the Court of Appeal and does not merit a further review by this Court.

[3] The other proposed ground was the alleged lack of an evidential basis for the differing verdicts, the applicant having been acquitted on a count of sexual violation by unlawful sexual connection. The Court of Appeal was able to identify matters which provided an explanation for the difference in the verdicts. This issue too does not give rise to concern about the conviction.

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