

IN THE SUPREME COURT OF NEW ZEALAND

**SC 60/2007
[2007] NZSC 97**

SHAHRAM ARAM

v

THE QUEEN

Court: Tipping, McGrath and Anderson JJ

Counsel: Applicant in Person
F E Guy Kidd for Crown

Judgment: 4 December 2007

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] This application for leave to appeal to this Court against convictions upheld by the Court of Appeal is based solely on fresh evidence which the applicant claims to have been discovered or to have come into being since the decision of the Court of Appeal. It is not necessary to consider any general issues which arise about the appropriateness of this Court entertaining a second appeal on this basis as against the course of action available under s 406 of the Crimes Act 1961.

[2] This is because we are satisfied that the “fresh” evidence which the applicant seeks leave to adduce is neither fresh nor sufficiently cogent to justify its consideration on further appeal. The evidence of BR, if true, could have been the subject of an appropriate application in the Court of Appeal. The evidence of EWC could have been called at trial but was deliberately not then called. The evidence of MPC purports to express an opinion on the basis of material which lacks freshness and sufficient cogency for admission itself. This evidence also appears to stray in places into inadmissible conclusory statements about the very matter at issue.

[3] Overall this application is a second attempt to attack the verdicts of the jury on a factual basis which lacks sufficient cogency to raise an arguable case for the occurrence of a substantial miscarriage of justice. No other ground for the granting of leave to appeal can be invoked. The application must therefore be dismissed.

Solicitors:
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