

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 52/2008  
[2008] NZSC 81**

**R**

v

**THE QUEEN**

Court: Blanchard, Tipping and McGrath JJ

Counsel: B J Hart for Applicant  
M D Downs for Crown

Judgment: 20 October 2008

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**JUDGMENT OF THE COURT**

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

**REASONS**

[1] The Court of Appeal applied a well established test concerning whether it would be an abuse to hold the applicant's trial for sexual offending long after the events in question. The offending spans 1963 to 1986 but is inter-related and it was appropriate for all counts to be heard together. The defence was an assertion that the events in question had not happened and was concentrated on the proposition that the complainants had colluded in the making of their complaints.

[2] In these circumstances it was not an abuse of process for the Crown to proceed with the prosecution. The Court of Appeal examined possible aspects of

prejudice and came to the conclusion that the trial was not rendered unfair because of the passage of time. It also appropriately concluded that the summing up had met the requirements of s 122 of the Evidence Act 2006.

Solicitors:  
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