

IN THE SUPREME COURT OF NEW ZEALAND

**SC 78/2008
[2008] NZSC 107**

JOSEPH RUSSELL REWIRI

v

THE QUEEN

Court: Elias CJ, Blanchard and Wilson JJ

Counsel: G King for Applicant
A Markham for Crown

Judgment: 5 December 2008

JUDGMENT OF THE COURT

Leave to appeal is refused.

REASONS

[1] For the purpose of running a provocation defence the applicant claimed that he had a special characteristic namely “hyper vigilance and paranoia”. There was no medical evidence supporting this contention. The trial Judge declined to accept that for the purposes of s 169 of the Crimes Act 1961 the applicant had a special characteristic of this kind. The Court of Appeal has agreed with that view.

[2] We consider they were right and that this is not an appropriate case to explore questions of what may be a special characteristic. The testimony of lay people, including the accused, is not a sufficient basis for the assertion of a special characteristic which amounts to a form of mental disorder. On the facts, there is no appearance of miscarriage of justice.

Solicitors:
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