

IN THE SUPREME COURT OF NEW ZEALAND

**SC 12/2008
[2008] NZSC 40**

BETWEEN TIMOTHY JUSTIN NEVIN
 Applicant

AND THE QUEEN
 Respondent

Court: Blanchard, Tipping and Wilson JJ

Counsel: P Davey for Applicant
 B J Horsley for Respondent

Judgment: 20 May 2008

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant was convicted of assaulting the complainant with a knife and of possession of the knife. He was acquitted of two other charges relating to the same incident, namely unlawful detention and threatening to kill. The Court of Appeal dismissed his appeal against conviction in which he had asserted that the verdicts were inconsistent. He now seeks leave to appeal to this Court on effectively the same ground.

[2] The proposed appeal does not raise any question of general importance, nor is there any appearance of a miscarriage of justice. The principle is clear and well established; the Court will intervene only where there is no rational or logical explanation for different verdicts. The Court of Appeal was fully entitled to conclude that the present verdicts were not inconsistent. The guilty verdicts were on

charges where the evidence of the complainant was supported by other evidence. In contrast, where what the complainant said was not corroborated the jury acquitted the applicant. The applicant criticises the Court of Appeal for not referring to two Court of Appeal authorities. But, as Crown counsel points out, one of them is concerned with a different type of case, namely one where the charges had common elements so that if the jury was not satisfied beyond reasonable doubt on one count it could not consistently be satisfied on another. The other authority seems to us to have turned on its particular facts which differ from those in the present case. No question of principle arises from the failure of the Court of Appeal to refer to either of those authorities.

Solicitors:
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