

WAYNE THOMAS PATTERSON

v

THE QUEEN

Court: Blanchard, McGrath and Wilson JJ

Counsel: C J Tennet for Applicant
M D Downs for Crown

Judgment: 28 August 2008

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant pleaded guilty to 10 charges which were representative of benefit fraud involving more than 100 false identities and approximately \$3.4 million. He was sentenced by Woodhouse J to a term of eight years' imprisonment, with a minimum period of imprisonment of five years. The applicant appealed to the Court of Appeal, alleging that the sentence was manifestly excessive. That Court dismissed the appeal.¹

¹ *R v Patterson* [2008] NZCA 75 (Chambers, Gendall and Harrison JJ).

[2] Mr Patterson now seeks leave to appeal to this Court on the grounds that:

- the eight year term of imprisonment was excessive, having regard to other decisions;
- the applicant should have been given credit for the recovery by the Crown of the payments made to him;
- the victim impact report contained inadmissible material; and
- previous convictions of the applicant in other countries should not have been taken into account.

[3] These arguments, which were essentially the grounds advanced before and rejected by the Court of Appeal, lack substance whether assessed individually or collectively. Eight years' imprisonment cannot possibly be said to be excessive punishment for the biggest known benefit fraud committed in this country. The applicant does not deserve any credit for the recovery of the proceeds, which was achieved notwithstanding his attempts to frustrate recovery. The starting point of the sentencing Judge, and the final sentence, were fixed without regard to the inadmissible material in the victim impact report. The Judge was fully entitled to take into account the previous convictions.

[4] More generally, we agree with the Court of Appeal that Woodhouse J was right “not only in where he ended up but also in every step of the reasoning by which he reached his final result”.² The application for leave to appeal is therefore dismissed.

Solicitors:
Crown Law, Wellington

² At para [44].