Supreme Court of New Zealand

23 July 2010

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

Maia RONGONUI v The Queen
(SC 66/2009)
[2010] NZSC 92

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

This appeal against conviction on sexual charges was allowed shortly after the hearing. The Court is now giving its reasons. The first issue was whether evidence given by the complainant that shortly after the events in question she told friends "what had happened" amounted to an inadmissible previous consistent statement under section 35(1) of the Evidence Act 2006. The Court, by a majority, holds that such evidence was inadmissible. However, no substantial miscarriage of justice resulted from its admission in the particular circumstances. The Chief Justice holds that the evidence was in any event admissible. The appeal on this point thus failed on either basis.

However, on a second point, the Court unanimously holds that while a witness was entitled to refresh her memory from a previous statement she had made to the police, the Crown prosecutor should not have been permitted to ask leading questions of the witness whereby she was taken in detail through that statement for the purpose of having her confirm that it

PO Box 61, Wellington, New Zealand
Telephone 64 4 918 8222 • Facsimile 64 4 914 3560

represented an accurate account of what she recalled. That went far beyond refreshing memory and, as the witness was not declared hostile, a seriously prejudicial departure from correct procedure had occurred. Hence a new trial was ordered.

Contact person: Gordon Thatcher, Supreme Court Registrar (04) 914 3545