NOTE: PUBLICATION OF NAMES OR IDENTIFYING PARTICULARS OF COMPLAINANT PROHIBITED BY S 139 CRIMINAL JUSTICE ACT 1985

IN THE SUPREME COURT OF NEW ZEALAND

SC 91/2010
[2010] NZSC 142

KENT JAMES BOND

v

THE QUEEN

Court: Elias CJ, McGrath and William Young JJ

Counsel: R M Gould for Applicant
M F Laracy for Crown

Judgment: 23 November 2010

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant was found guilty by a jury in the District Court on two counts of sexual violation by unlawful sexual connection. The complainant was a young girl. His subsequent appeal against the conviction and sentence was dismissed by the Court of Appeal.[1] He now seeks leave to appeal on the basis that the

[1] *Bond v R* [2010] NZCA 381.

interviewing techniques employed in relation to the complainant were flawed and likely to elicit untruthful evidence.

[2] The proposed appeal primarily relates to questions asked of the complainant at an evidential interview as to where and how the applicant had touched her and in particular whether he had touched her on the inside or outside of her genitalia. The particular passage of the interview in question is in these terms:

Interviewer	Okay. Just want you to explain a bit more because I am not quite sure if I have got it exactly where it was that that touched happened. And so you said it was in the middle where the wees comes out, was it like on the outside where the wees come out or on the inside where the wees come out or what.
Complainant	Inside.
Interviewer	Okay, so how did you know it was on the inside. What what made you know it was on the inside.
Complainant	Aw the outside.
Interviewer	Sorry?
Complainant	Outside.
Interviewer	Ah okay, did did I hear you wrong?
Complainant	(shakes head indicating no).
Interviewer	Okay, I'm just a bit, just a bit confused and I just need to make sure that I understand what you are saying to me. So when he did that touch with his finger on your fanny, on the part where the wees come out, I am just trying to figure out was that touch on the outside or the inside or both of what.
Complainant	Both.

[3] In the Court of Appeal, the argument advanced was that the last question by the interviewer was leading in nature. On this issue the Court concluded that the form of the question posed genuine alternatives for the complainant to choose from and accordingly was not leading. The applicant wishes to advance the same argument in this Court but we see the conclusion of the Court of Appeal as unassailable.

[4] The applicant has also sought to broaden the argument by contending that the interview was not conducted in accordance with what is now understood to be best practice. This contention was not advanced at trial or to the Court of Appeal. Such an issue cannot sensibly be explored for the first time in this Court.

[5] The proposed appeal does not involve a matter of general or public importance, and there is no appearance of a miscarriage of justice. Accordingly we are not persuaded that it is necessary in the interest of justice for the Court to hear and determine the proposed appeal.

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