

LAWRENCE PAUL WHARTON

v

THE QUEEN

Court: Tipping, McGrath and William Young JJ

Counsel: C B Wilkinson-Smith for Applicant
M F Laracy for Crown

Judgment: 12 December 2011

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] This application for leave to appeal raises two issues. The first concerns the process by means of which the applicant was found guilty by majority verdicts on two counts of indecent assault and two counts of sexual violation. The second relates to concerns said to have been expressed by two members of the jury about the verdicts. We are satisfied that neither point justifies the granting of leave.

[2] The point concerning the way the majority verdicts were delivered is semantic at best. In substance the statutory process was followed. The second point cannot prevail against the strict requirements of s 76 of the Evidence Act 2006. The

circumstances of the present case do not approach the exceptional level at which evidence can be given about the deliberations of a jury. Furthermore, this point was not raised in the Court of Appeal¹ and it would be wholly inappropriate to allow it to be raised for the first time in this Court. We have no concerns on either issue that there may have been a miscarriage which this Court should investigate. The application for leave must therefore be dismissed.

Solicitors:
Crown Law Office, Wellington

¹ *Wharton v R* [2011] NZCA 476.