

CHRISTOPHER JAMES BALL

v

THE QUEEN

Court: Tipping, McGrath and William Young JJ

Counsel: R G Glover for Applicant
R J Collins for Crown

Judgment: 23 August 2011

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant seeks leave to appeal against a sentence of preventive detention imposed in the High Court¹ and upheld in the Court of Appeal.² His argument in its essentials is that a finite sentence would have been appropriate and sufficient for all the relevant purposes of sentencing. That argument is supported by reference to the desirability of his undergoing the Kia Marama programme as soon as possible, his comparative youth, and the appropriate length of a finite sentence as against the length of the mandatory minimum non-parole period attaching to a sentence of preventive detention.

¹ *R v Ball* HC Christchurch CRI-2009-009-019868, 8 July 2010.

² *Ball v R* [2011] NZCA 43.

[2] Both the High Court and the Court of Appeal addressed these and other issues and considered that no other sentence than preventive detention would be appropriate. We do not consider the applicant has established any of the statutory grounds for an appeal to this Court, particularly with regard to the fact that this is a proposed second appeal against sentence. In substance the Courts below held that the applicant's risk level was too high for a finite sentence to be appropriate, and that the applicant could still undergo the Kia Marama or some similar programme during the course of serving his preventive detention sentence.

[3] In our view this case does not involve any matter of general principle or any point of general or public importance, and no tenable claim of a miscarriage of justice can be made. Furthermore, and in any event, we do not consider the applicant has sufficient prospects of success in his proposed appeal for it to be in the interests of justice to grant leave. His application must accordingly be dismissed.

Solicitors:
Crown Law Office, Wellington