

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 95/2011  
SC 100/2011  
[2011] NZSC 142**

**LLEWELLYN WILLIAM BURCHELL**

v

**THE QUEEN**

Court: Blanchard, McGrath and William Young JJ

Counsel: Applicant in Person  
P D Marshall (SC 95/2011) and A M Toohey (SC 100/2011) for  
Crown

Judgment: 24 November 2011

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**JUDGMENT OF THE COURT**

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**The applications for leave to appeal out of time are both dismissed.**

**REASONS**

[1] We decline leave on the same basis on each application, namely that the appeal against conviction is long out of time (the delay not being explained) and would in any event not meet the leave criteria, as essentially Mr Burchell is trying to re-litigate the particular facts which were reviewed in detail by the Court of Appeal in dismissing each appeal.<sup>1</sup>

[2] In SC 95/2011 he seeks to raise for the first time an argument that the transcript does not show that the jury actually delivered a verdict. This argument has

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<sup>1</sup> *Burchell v R* [2010] NZCA 314 and *Burchell v R* [2010] NZCA 311.

no prospect of success in the face of the absence of any objection to the entering of conviction from trial counsel, Mr Burchell's acknowledgment at sentencing that he had been found guilty and the Judge's reference at that time to the fact that the jury had delivered a verdict.<sup>2</sup>

[3] Both applications are plainly without merit and leave to appeal out of time is declined in both cases.

[4] There are also applications in relation to the sentences, but as both have been served this Court consequently has no jurisdiction: s 383A(3) of the Crimes Act 1961.

Solicitors:  
Crown Law Office, Wellington

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<sup>2</sup> *R v Burchell* DC Auckland CRI-2006-044-5625, 6 March 2008 at [6].