



## Supreme Court of New Zealand

9 June 2011

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

**B(SC 114/2010) v THE QUEEN**

**(SC 114/2010)  
[2011 ] NZSC 64**

### **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](http://www.courtsofnz.govt.nz).**

The appellant was tried on representative counts of sexual offending against a relative. He was found guilty and the Court of Appeal dismissed his appeal against conviction. The appellant's further appeal to the Supreme Court turned on the complainant's evidence of having complained about the offending on two separate occasions to other relatives. It was contended that the evidence as to the second complaint was a previous consistent statement which was inadmissible under s 35 of the Evidence Act 2006.

The defence case involved a claim of recent invention for the purposes of s 35. As well, the defence had directly challenged the complainant's veracity by calling evidence from the relative to whom the first complaint was made which suggested that the complainant had acknowledged that this complaint was untrue. While this was disputed by the complainant, it is clear that her complaint had not been acted on. Against that background, the complainant's willingness to complain again might well have been seen by the jury as material to the contention of recent invention and the evidence of the second complaint was accordingly admissible under s 35 to the extent necessary to respond to that contention.

Although some of the evidence given in relation to the second complaint went beyond what was necessary in this respect, there was no associated prejudice to the appellant and thus no miscarriage of justice.

The Court accordingly has dismissed the appeal.

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