



Supreme Court of New Zealand

23 July 2012

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

HASTIE v THE QUEEN
(SC 120/2011) [2012] NZSC 58

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.

In August 2010 Michael Hastie faced trial in the New Plymouth District Court on charges relating to sex offending and underage prostitution. After a little more than ten hours' deliberation, the jury indicated to the trial Judge that it was unanimous on two counts of offending but could not agree on the other six counts. The jury sought further direction from the Judge. Trial counsel for Mr Hastie asked the Judge to accept the verdicts on the two counts on which the jury were unanimous and to discharge the jury from delivering verdicts on the other six. The Judge did not accept this submission. Instead he explained to them they could deliver a majority verdict, provided 11 out of the 12 jurors agreed with it. With that explanation, the Judge asked the jury to continue their deliberations, stating he would not keep them for too long. The jury did so. Within 30 minutes they unanimously found Mr Hastie not guilty on two counts and delivered majority guilty verdicts on the other six counts.

Mr Hastie appealed on the basis that the trial Judge had inadequately directed the jury when they had indicated they could not agree. The Court of Appeal dismissed the appeal against conviction. Mr Hastie brought a further appeal to the Supreme Court. The Supreme Court has also dismissed that appeal, essentially for the same reasons as the Court of Appeal.

Mr Hastie's lawyer submitted to the Supreme Court that the trial Judge should have directed the jury, as part of his majority verdict direction, that jurors should be true to

their oaths and that no one should give in merely for the sake of agreement or to avoid inconvenience. A direction of that kind traditionally forms part of a direction known to lawyers as a *Papadopoulos* direction. Neither the prosecutor nor defence counsel had asked the trial Judge to give a *Papadopoulos* direction and he did not do so. *Papadopoulos* directions are often given where juries have indicated they are having trouble reaching unanimous verdicts. A *Papadopoulos* direction encourages jurors to persevere with their deliberations and to demonstrate a willingness, having listened carefully to the views of other jurors, to change their view. Inherent in such a direction is a subtle pressure on the jury to conform, which is why the law requires, if such a direction is given, a counterbalance to the effect that jurors should nonetheless be true to their oaths.

Such a reminder was not necessary in this case because the Judge had not given a *Papadopoulos* direction. All he did was explain to the jury what was required for a majority verdict. He did not put pressure on the jury to try to reach a majority verdict. His direction was entirely informational. It was appropriate.

The Supreme Court has also reiterated that trial judges are uniquely placed to weigh all relevant considerations when deciding how to react to an indication by the jury of difficulty in achieving unanimity. Without limiting that discretion, the Supreme Court suggested it was desirable for trial judges to keep any informational direction about the requirements of majority verdicts separate from any *Papadopoulos* direction or its equivalent.

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