

LIAM JAMES REID

v

THE QUEEN

Court: Elias CJ, Blanchard and Tipping JJ

Counsel: R M Mansfield for Applicant

Judgment: 28 February 2012

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] On 7 July 2009 the Court of Appeal dismissed Mr Reid's appeal against conviction and sentence for the rape and murder of one woman and the rape, attempted murder and robbery of a second woman.¹

[2] An application for leave to appeal was not made to this Court until 21 February 2011, more than a year and a half out of time. In summary, the proposed grounds of appeal are that, because of late disclosure by the prosecution of certain DNA evidence and evidence of the tracking of the murdered woman's mobile phone, the defence was unable to review that evidence before the trial and a

¹ *R v Reid* [2009] NZCA 281.

miscarriage of justice thereby occurred. The evidence in question was also not able to be reviewed prior to the hearing in the Court of Appeal.

[3] New counsel, Mr Mansfield, has been instructed for the appeal to this Court but, a year after the making of the application and despite the granting by the Court of numerous extensions of time, counsel has been unable to progress the matter to the stage of filing any written submissions. Counsel has now advised the Court that, in the absence of any review of the evidence (which has not occurred because legal aid funding has not been made available), he is not in a position to advise the applicant whether there are any grounds to appeal.

[4] Nothing has been put before this Court which could provide any basis for the conclusion that either the DNA evidence or the evidence of the tracking of the mobile phone was actually unreliable, so that a substantial miscarriage of justice may have occurred. The suggestion that upon a review either of those pieces of evidence may prove to be suspect in some respect is therefore entirely speculative.

[5] In these circumstances, and in the absence of any indication that the position concerning funding is likely to change, no grounds have been established for the proposed appeal. The application for leave must therefore be dismissed.

[6] If, in the future, the position alters and doubt can be cast upon the reliability of the evidence in question, it will remain possible for the applicant to ask the Governor-General to exercise his powers under s 406 of the Crimes Act 1961. That will normally be the appropriate course in any case which is likely to require re-appraisal of the whole or a substantial portion of the trial evidence in the light of new material and where no question of legal principle appears to arise.