

IN THE SUPREME COURT OF NEW ZEALAND

**SC 53/2012
[2012] NZSC 104**

ARTHUR WILLIAM TAYLOR

v

THE QUEEN

Court: Elias CJ, McGrath and Glazebrook JJ

Counsel: C J Tennet for Applicant
S B Edwards for Respondent

Judgment: 28 November 2012

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed

REASONS

[1] The appellant was found guilty on one count of conspiring to supply a Class A drug, methamphetamine. The jury which convicted him, acquitted him of three other counts of offering to supply methamphetamine. Mr Taylor appealed to the Court of Appeal on the basis that the jury's verdicts were inconsistent and the conviction unreasonable. He also claimed that a number of rulings made by the trial judge before and at the trial were wrong in law or resulted in a miscarriage of justice.

[2] The Court of Appeal dismissed Mr Taylor's appeal against conviction, although it allowed his appeal against sentence in substituting a sentence of 5½ years for the 7 years imposed in the High Court. In dismissing the appeal against

conviction the Court of Appeal held that the verdict was not shown to be against the evidence.

[3] The appellant claims that it is necessary in the interests of justice for this Court to grant leave to appeal against the Court of Appeal's dismissal of his appeal against conviction on four grounds. He also appeals against the sentence imposed in the Court of Appeal on the basis that the sentence should have been reduced further.

[4] The first three grounds upon which the conviction is sought to be appealed concern the delay in the use of evidence obtained by interception warrants which led to the prosecution. The delay was invoked to oppose admission of the evidence obtained on interception warrants and to argue that the prosecution should have been stayed. It is also suggested that the fact that the Judge's pre-trial ruling to admit the interception evidence was not available until the hearing in the Court of Appeal (when Mr Taylor's application for adjournment was declined) effectively denied him his right of appeal. The fourth ground of appeal re-runs the argument advanced in the Court of Appeal that the conviction was not supported by the evidence.

[5] In the submissions made on behalf of the applicant it is also suggested that Harrison J, who sat on the Court of Appeal, should not have sat because his previous dealings with the applicant (in rulings made in the High Court) gave rise to the appearance of bias.

[6] The appeal in the Court of Appeal turned essentially on matters of fact. The applicant was not denied an effective appeal. There is no basis for any suggestion that the applicant was disadvantaged through the late provision of the reasons for the pre-trial ruling. Mr Taylor's matters of complaint concerning delay were considered after argument in a judgment which turned on the facts. No matter of general importance is raised in the proposed further appeal to this Court. The assertion of apparent bias on the part of Harrison J falls far short of raising such reasonable apprehension. Previous judicial dealings of themselves do not amount to a reason for a judge recusing himself.

[7] Neither the application for leave to appeal nor the submissions in support of it raise any basis for challenging the Court of Appeal's conclusion that the jury verdict was not unreasonable. It was a purely factual assessment and no point of principle or law arises for determination on further appeal.

[8] Nor does the proposed appeal against sentence raise any matter of principle. The Court of Appeal applied well established authority and the reasons it gave for not reducing the sentence further because of the delay in laying charges against the applicant give rise to no concern about the sentence substituted by the Court of Appeal.

[9] Leave to appeal is accordingly declined.

Solicitors:
Crown Law Office, Wellington for Respondent