

**NOTE: PUBLICATION OF NAME OR IDENTIFYING PARTICULARS OF  
COMPLAINANT PROHIBITED BY S 139 CRIMINAL JUSTICE ACT 1985.**

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 57/2012  
[2012] NZSC 82**

**T**

**v**

**THE QUEEN**

Court: William Young, Chambers and Glazebrook JJ

Counsel: J J Corby for Applicant  
F E Cleary for Crown

Judgment: 4 October 2012

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed.**

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**REASONS**

[1] Judge Gibson sentenced the applicant to six years' imprisonment on counts of sexual violation, burglary and assault with intent to injure, to which the applicant had pleaded guilty.<sup>1</sup> The Court of Appeal dismissed his appeal against sentence.<sup>2</sup> The applicant now seeks leave to appeal. The sole ground of appeal is that the sentence should have been lower because, while Judge Tremewan had indicated at a

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<sup>1</sup> *R v T* DC Waitakere CRI-2011-090-7705, 27 April 2012.

<sup>2</sup> *T (CA249/2012) v R* [2012] NZCA 362.

sentencing indication hearing that six years' imprisonment would be appropriate, she had also indicated that there could "conceivably ... be additional credit available on sentence for remorse and any other matters arising".<sup>3</sup> Exactly this argument was put to the Court of Appeal, which in some detail explained why Judge Gibson's sentence was in line with the sentencing indication. Mr Corby, for the applicant, submitted the Court of Appeal had "missed the point". It did not. The Court fully explained how Judge Gibson's sentence was consistent with Judge Tremewan's indication and how it could be analysed as providing a discount for remorse.<sup>4</sup> Further, the Court of Appeal held the sentence was not manifestly excessive, a view Mr Corby does not dispute in his submissions.

[2] The proposed appeal raises no point of general or public importance. We are not satisfied that a substantial miscarriage of justice will occur if we refuse to hear the appeal.

Solicitors:  
Crown Law Office, Wellington

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<sup>3</sup> *R v T DC Waitakere*, CRI-2011-090-7705, 23 September 2011 at [15].  
<sup>4</sup> At [10]-[15].