NOTE: PUBLICATION OF NAMES, ADDRESSES, OCCUPATIONS OR IDENTIFYING PARTICULARS, OF COMPLAINANTS PROHIBITED BY S 203 OF THE CRIMINAL PROCEDURE ACT 2011.

ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS OF APPLICANT PURSUANT TO S 200 OF THE CRIMINAL PROCEDURE ACT 2011.

IN THE SUPREME COURT OF NEW ZEALAND

SC 133/2015
[2016] NZSC 26

BETWEEN	K (SC 133/2015) Applicant
AND	THE QUEEN Respondent

Court: William Young, Arnold and O'Regan JJ

Counsel: J C Gwilliam for Applicant
A Markham for Respondent

Judgment: 15 March 2016

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant was found guilty by a jury of sexual offending (rape and indecent assault) against three of his children and the daughter of a neighbour and of injuring one of them with intent to injure. The charges related to events which occurred between 1972 and 1983. One of the complainants made a complaint to a social worker in 1984. Formal complaints to the police were made in December 2004 as well as May and June 2005. The applicant was by then living in Australia. There were substantial delays with extradition (apparently the result of the ill-health

of the responsible police officer) and the applicant was not approached over the allegations until October 2011.

[2] The applicant's trial preceded the release of the judgment of this Court in *CT v R* and the trial Judge did not give the jury a warning under s 122 of the Evidence Act 2006.[1]

[3] The applicant's conviction appeal was dismissed by the Court of Appeal.[2] That Court concluded that, despite the delays, the applicant had received a fair trial.[3] And although the Court recognised that the Judge ought to have given a s 122 warning, it concluded that failure to do so had not resulted in a miscarriage of justice.[4]

[4] The applicant wishes to challenge the conclusions reached by the Court of Appeal in the two respects just mentioned. That Court, however, gave both points extremely careful and thorough consideration. The applicant's submissions do not identify any error in the approach taken and we see no appearance of a miscarriage of justice. As well, there is no point of public or general importance raised by the proposed appeal.

Solicitors:
Crown Law Office, Wellington for Respondent

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1 *CT v R* [2014] NZSC 155, [2015] 1 NZLR 465.
2 *K v R* [2015] NZCA 566 (Ellen France P, Asher and Collins JJ).
3 At [45].
4 At [59].