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

IN THE SUPREME COURT OF NEW ZEALAND

SC 9/2016
[2016] NZSC 47

BETWEEN	IVAN JAMES WILSON Applicant
AND	THE QUEEN Respondent

Court: Elias CJ, William Young and Glazebrook JJ

Counsel: Applicant in person
K S Grau for Respondent

Judgment: 2 May 2016

JUDGMENT OF THE COURT

A An extension of time is granted.

B The application for leave to appeal is dismissed.

REASONS

[1] The applicant wishes to appeal against a judgment of the Court of Appeal dismissing his appeal against a sentence of preventive detention imposed in respect of sexual offending against an adolescent boy.[1] In the same judgment, the Court of Appeal dismissed his appeal against conviction.

[2] The application is well out of time but we are prepared to grant an extension of time.

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1 *W (CA591/2010) v R* [2011] NZCA 135 (Arnold, Keane and Fogarty JJ) [Court of Appeal judgment].

[3] In his submissions in support of the application, the applicant has suggested that the trial Judge was biased against him and, in support of this suggestion, there are complaints as to the way in which the trial was conducted. These complaints cover some of the ground which was addressed by the Court of Appeal when it dismissed the conviction appeal. We see nothing in this aspect of the submissions which would warrant the grant of leave to appeal.

[4] In the course of giving his reasons for imposing a sentence of preventive detention, the Judge referred to the reports from a psychiatrist and a psychologist which had been obtained.[2] The Judge noted that the psychiatric report indicated that the applicant did not suffer from a psychiatric illness. One or other of the reports referred to the applicant having a "bizarre belief system" but the Judge indicated that he did not see that as material. Later in his reasons, the Judge observed that both report writers were of the view that the applicant presented "as if [he has] some symptoms of a schizotypal personality disorder" (STPD).[3] He suggested that "this is something … that should be looked into and managed for the purpose of community protection".

[5] The applicant claims that the suggestion that he suffers from a STPD "has been proven to be a misdiagnosis". In support of this he referred to a report in relation to his earlier offending in which it was apparently asserted that "there was no evidence to support [a] diagnosis of a mental disorder." Whether there is other material which supports the applicant's challenge unclear. What is clear, however, is that the STPD issue was of very little moment in the sentencing exercise. The Judge put to one side as being irrelevant the suggestion that the applicant has a "bizarre belief system". The report writers did not conclude that the applicant has a STPD and the reference in the sentencing remarks to STPD was primarily forward looking that is; as something which should be inquired into and managed.

[6] The applicant has made some other complaints about the sentencing approach taken by the Judge but we see no need to discuss them in any detail. The Court of

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2 *R v Wilson* HC Gisborne CRI-2010-016-278, 27 August 2010 (Heath J) at [18]–[21].
3 At [37](e).

Appeal reviewed those reasons and saw no error in the Judge's approach,[4] a conclusion which is unsurprising given the nature of the offending, the applicant's prior offending and the reports which were made available to the Judge.

[7] The proposed appeal does not raise an issue of public or general importance and we see no appearance of a miscarriage of justice.

Solicitors:
Crown Law Office, Wellington for Respondent

[4] Court of Appeal judgment, above n 1, at [29]–[33].