

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 103/2021
[2021] NZSC 146

BETWEEN ASHOR CHRISTIAN GORGUS
Applicant

AND THE QUEEN
Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: Applicant in person
J A Eng for Respondent

Judgment: 3 November 2021

JUDGMENT OF THE COURT

A The application for an extension of time to apply for leave to appeal is granted.

B The application for leave to appeal is dismissed.

REASONS

Background

[1] On 23 December 2019, Mr Gorgus pleaded guilty to charges of theft and receiving stolen property. He was convicted and sentenced to 18 months' imprisonment.¹ His appeal against conviction was dismissed on 5 August 2021.²

¹ *R v Gorgus* [2019] NZDC 26079 (Judge Sharp) at [15].

² *Gorgus v R* [2021] NZCA 367 (Goddard, Venning and Peters JJ) at [43].

Grounds of application

[2] Mr Gorgus seeks leave to appeal against the Court of Appeal decision on essentially the same grounds he advanced in the Court of Appeal, namely that a pre-trial ruling was erroneous.³ Additionally, Mr Gorgus claims that the Court of Appeal failed to take proper account of discrepancies in witness evidence.

Our assessment

[3] The points that Mr Gorgus seek to raise relate to the particular circumstances of his case. No point of general or public importance arises.⁴ Further, nothing raised by Mr Gorgus suggests that the analysis of the Court of Appeal may have been in error or that there may have been a risk of a miscarriage of justice.⁵ It follows that it is not in the interests of justice for leave to appeal to be granted.⁶

Result

[4] The applicant's notice of appeal was filed one day out of time.⁷ Given that the delay was not material, we grant an extension of time to apply for leave to appeal.⁸

[5] The application for leave to appeal is dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent

³ *R v Gorgus* [2019] NZDC 24941 (Judge Taumaunu). The pre-trial ruling had held that the search of a backpack in the possession of Mr Gorgus and his arrest were lawful. In order to establish the judge's decision about the legality of the search was wrong, Mr Gorgus would need to show both that the search was unlawful and that the judge erred in his evaluation under s 30 of the Evidence Act 2006.

⁴ Senior Courts Act 2016, s 74(2)(a).

⁵ Section 74(2)(b).

⁶ Section 74(2).

⁷ Supreme Court Rules 2004, r 11(1)(b).

⁸ We also formally allow the filing of Mr Gorgus' amended application for leave as it was not opposed by the Crown.