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<http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360350.html>**

**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI**

**SC 114/2020  
[2021] NZSC 21**

**BETWEEN**                      **GARRY NANCARROW**  
Applicant

**AND**                              **THE QUEEN**  
Respondent

**Court:**                      Glazebrook, Ellen France and Williams JJ

**Counsel:**                      S Brickell for Applicant  
R K Thomson for Respondent

**Judgment:**                      11 March 2021

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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**

**Introduction**

[1] Mr Nancarrow was convicted of sexual offending against three young persons. The offending was historic (ranging from 1970–1986). He applies for leave to appeal against the Court of Appeal’s decision dismissing his appeal against conviction on the following grounds:

- (a) that the trial judge's failure to provide a relevance and repetition warning with regards to previous consistent statements of the complainants resulted in a miscarriage of justice;
- (b) that a miscarriage of justice arose from the prosecutor's linking of counter-intuitive evidence to the facts of the case and the judge's failure to give directions on the use of counter-intuitive evidence; and
- (c) that the cumulative effect of the trial judge's failure to provide adequate jury directions and prosecutorial misconduct caused a miscarriage of justice.

[2] Mr Nancarrow also submits that the first two grounds of appeal raise issues of general or public importance.

### **Our assessment**

[3] All of the above issues were thoroughly examined by the Court of Appeal. The Court concluded that ultimately none of the alleged flaws in the trial, including a number no longer pursued, caused a risk of a miscarriage of justice.<sup>1</sup>

[4] There is no error of principle involved in the Court of Appeal's decision and the matters raised relate to the particular facts and circumstances of this case. Nor does anything raised by Mr Nancarrow suggest that the Court of Appeal's conclusion on miscarriage of justice was erroneous.

### **Result**

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

Solicitors:  
Crown Law Office, Wellington for Respondent

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<sup>1</sup> *Nancarrow v R* [2020] NZCA 636 (Collins, Mallon and Ellis JJ) at [114].