

**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI**

**SC 55/2021  
[2021] NZSC 79**

BETWEEN                      RHYS RICHARD NGAHIWI WARREN  
   also known as TE RANGATIRA TANGATA  
   WHENUA  
   Applicant

AND                              THE QUEEN  
   Respondent

Court:                          O'Regan, Ellen France and Williams JJ

Counsel:                      Applicant in person  
   J E Mildenhall for Respondent

Judgment:                      5 July 2021

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**JUDGMENT OF THE COURT**

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**The application for an extension of time to apply for leave to appeal is dismissed.**

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**REASONS**

[1]     In March 2017, the applicant was convicted after a High Court jury trial of two charges of attempted murder, one charge of using a firearm against a law enforcement officer and one charge of wounding with intent to cause grievous bodily harm. In August 2017, he was sentenced to preventive detention with a minimum period of imprisonment of 10 years.<sup>1</sup>

[2]     In September 2017, he appealed to the Court of Appeal against conviction and sentence. However, in September 2018, he notified the Court of Appeal that he was

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<sup>1</sup>     *R v Warren* [2017] NZHC 1913 (Brewer J).

withdrawing his appeal. In December 2018, he filed a formal notice of abandonment of his appeal to the Court of Appeal. On 2 February 2019, that Court issued a notice of result certifying that the appeal had been abandoned.

[3] The applicant now seeks leave for a leapfrog appeal to this Court against his convictions and sentence. His notice of application for leave to bring a criminal appeal was filed in this Court on 19 May 2021. However, he had earlier filed a notice of appeal to the Court of Appeal, which was received by that Court on 2 March 2021. Counsel for the respondent described this document as an application to withdraw the notice of abandonment of the applicant's earlier appeal to the Court of Appeal, but the applicant says it is a fresh appeal. Whatever it is, it seeks to engage the jurisdiction of the Court of Appeal to challenge his convictions and sentence.

[4] Under s 75 of the Senior Courts Act 2016, this Court must not give leave for a leapfrog appeal unless it is satisfied that it is in the interests of justice for the Court to hear and determine the appeal, applying the criteria in s 74, and, in addition, that there are exceptional circumstances that justify taking the proposed appeal directly to this Court.

[5] In addition, it is necessary for the applicant to satisfy us that he should be granted an extension of time to apply for leave to appeal to this Court, given that his notice of application for leave to appeal is more than three years out of time.

[6] We are not satisfied that there is any proper basis to allow the applicant to pursue a leapfrog appeal to this Court at the same time as he is seeking to challenge his convictions and sentence in the Court of Appeal. The appropriate course is to allow the Court of Appeal proceedings to run their course.

[7] Given that the matter is currently before the Court of Appeal, we do not consider it is appropriate to express any view about the grounds of appeal which the applicant wishes to pursue.

[8] The application for an extension of time to apply for leave to appeal is dismissed.

Solicitors:  
Crown Law Office, Wellington for Respondent