

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 104/2022  
[2022] NZSC 129

BETWEEN                      JOSEPH KARAITIANA WHEELER  
Applicant

AND                              THE KING  
Respondent

Court:                          Ellen France, Williams and Kós JJ

Counsel:                      D A Ewen and E T Blincoe for Applicant  
M J Lillico for Respondent

Judgment:                    10 November 2022

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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] Mr Wheeler pleaded guilty to murder following a sentencing indication. He was sentenced to life imprisonment with a minimum period of imprisonment (MPI) of 10 years.<sup>1</sup> The sentencing Judge rejected the argument for Mr Wheeler that life imprisonment would be manifestly unjust. In doing so, the Court did not accept the submission that an MPI of 10 years would be longer than necessary because Mr Wheeler's personal mitigating circumstances (including drug abuse and mental health issues) would usually result in various discounts and, as the 10 year MPI would be unjust, a life sentence could not be just.

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<sup>1</sup> *R v Wheeler* [2022] NZHC 2151 (Ellis J).

[2] Mr Wheeler has applied for leave to appeal directly to this Court from the decision of the High Court.

[3] On the proposed appeal, Mr Wheeler wishes to reprise the argument he made in the High Court about the approach to imposing a finite sentence. He also says that if leave is granted, his appeal should be heard along with that of *Van Hemert v R* which is to be heard on 18 November 2022. It is anticipated that one of the interveners in that appeal, Te Matakahi | Defence Lawyers Association New Zealand, will advance similar submissions to those Mr Wheeler wishes to argue.

[4] We accept the submission for the respondent that it has not been shown that there are exceptional circumstances that justify taking the proposed appeal directly to this Court.<sup>2</sup> The issue has not been raised in the Court of Appeal so this Court would not have the benefit of that Court's views on Mr Wheeler's case and the argument can be made in Mr Van Hemert's appeal in any event.

[5] Given our conclusion that the application for leave to appeal does not meet the leave criteria in the Senior Courts Act 2016, there is no utility in granting an extension of time to make an application for leave to appeal. We therefore dismiss the application for an extension of time.

Solicitors:  
Crown Law Office, Wellington for Respondent

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<sup>2</sup> Senior Courts Act 2016, s 75(b).