

**NOTE: HIGH COURT ORDER PROHIBITING PUBLICATION OF NAMES,  
ADDRESSES, OCCUPATIONS OR IDENTIFYING PARTICULARS OF  
APPLICANT/DEFENDANT/VICTIM(S)/CONNECTED PERSONS REMAINS  
IN FORCE: [2019] NZHC 2177.**

**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI**

**SC 24/2022  
[2022] NZSC 30**

BETWEEN	PN (SC 24/2022) Applicant
AND	NEW ZEALAND POLICE Respondent

Court: William Young and Ellen France JJ

Counsel: Applicant in person

Judgment: 30 March 2022

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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**

[1] The applicant was convicted after a judge-alone trial of various charges including threatening to kill and threatening to do grievous bodily harm.<sup>1</sup> His appeal against conviction and sentence to the High Court was dismissed.<sup>2</sup> The Court of Appeal declined to grant leave to appeal to bring a second appeal against conviction and sentence.<sup>3</sup>

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<sup>1</sup> *New Zealand Police v [PN]* [2018] NZDC 17777 (Judge P S Rollo).

<sup>2</sup> *[PN] v New Zealand Police* [2019] NZHC 2177 (Cull J).

<sup>3</sup> *PN v New Zealand Police* [2021] NZCA 658 (Collins, Duffy and Dunningham JJ) [CA judgment].

[2] The applicant's application for leave to appeal to this Court from the decision of the Court of Appeal was rejected for filing by the Deputy Registrar. This was on the basis that the Court has no jurisdiction to consider the proposed appeal. The applicant sought a review of the Registrar's decision which has been referred to us.

[3] We have treated the application as an application for leave to appeal. As the Deputy Registrar advised the applicant, there is no jurisdiction for this Court to hear the proposed appeal. Under s 213(3) of the Criminal Procedure Act 2011, a decision of the Court of Appeal dismissing an application for leave to appeal is "final", which precludes an appeal to this Court from that decision.<sup>4</sup> None of the provisions referred to by the applicant affect that position.

[4] Nor would there be any point at this stage in the Court treating the application as an application for leave to appeal directly from the High Court judgment. The applicant says he has Vodafone phone records which would show that he was not the author of various threatening messages but those records have not been provided to the Court. The Court of Appeal in its judgment addressed various complaints the applicant made about the non-production of "Vodafone records" and appointed counsel to assist the Court to investigate if third-party disclosure issues could be pursued with Vodafone both in New Zealand and in Australia.<sup>5</sup> Counsel assisting subsequently advised the Court that records had been obtained for the relevant period from Vodafone Australia and handed to the applicant. The applicant did not provide this information to the Court of Appeal but said that what was provided was not the correct information. The Court of Appeal drew the inference that the information received did not assist the applicant.<sup>6</sup> The position is no different before this Court.

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

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<sup>4</sup> *Lihou v R* [2015] NZSC 161; *Gorgus v R* [2016] NZSC 161; *Silby v New Zealand Police* [2017] NZSC 46; and *Pese v R* [2017] NZSC 77.

<sup>5</sup> CA judgment, above n 3, at [19]–[23].

<sup>6</sup> At [23].