

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 32/2022
[2022] NZSC 88

BETWEEN JASON BRENDON PHILIP
 Applicant

AND THE QUEEN
 Respondent

Court: Winkelmann CJ, Glazebrook and Ellen France JJ

Counsel: P V C Paino for Applicant
 J A Eng for Respondent

Judgment: 20 July 2022

JUDGMENT OF THE COURT

- A The application for leave to appeal (*McMillan v R* [2022] NZCA 128) is granted.**
- B The approved question is whether the Court of Appeal was correct to allow the appeal by the Solicitor-General against the sentence imposed on Mr Philip in the High Court (*R v Philip* [2021] NZHC 2393).**
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REASONS

[1] Leave to appeal has been granted on a general basis. We should however indicate that counsel should focus on the approach taken by the Court of Appeal in this case to the guideline judgment of *Zhang v R*.¹ We add that we do not want to hear from counsel on the approach of the Court of Appeal to the process followed by the High Court in departing from the sentence indication.

¹ *Zhang v R* [2019] NZCA 507, [2019] 3 NZLR 648.

[2] The Registrar is to set the appeal down for hearing as soon as possible.

Solicitors:

Paino & Robinson, Upper Hutt for Applicant

Crown Law Office, Wellington for Respondent