



Supreme Court of New Zealand | Te Kōti Mana Nui o Aotearoa

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7 OCTOBER 2022

**MEDIA RELEASE**

PETER HUGH MCGREGOR ELLIS v THE KING

(SC 49/2019) [2022] NZSC 114

**PRESS SUMMARY**

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at Judicial Decisions of Public Interest: [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).

**Suppression**

Publication of names or identifying particulars of complainants is prohibited by s 139 of the Criminal Justice Act 1985.

Publication of names or identifying particulars of witnesses under 17 years of age is prohibited by s 139A of the Criminal Justice Act 1985.

**Background**

Mr Ellis was convicted of sexual offending against seven complainants in 1993. Two appeals to the Court of Appeal (in 1994 and 1999) were largely unsuccessful. On 31 July 2019, this Court granted leave to appeal against the Court of Appeal decisions as well as an extension of time to do so.

Mr Ellis died on 4 September 2019 before the appeal could be heard. The Court held two hearings on whether the appeal should be allowed to continue, despite his death. The second hearing concerned the relevance of tikanga Māori to the issue of the continuation of the appeal.

On 1 September 2020, this Court issued a results judgment holding that the appeal could continue despite Mr Ellis' death. Today we release the Court's reasons for that decision, as well as the judgment on the substantive appeal.

**Reasons**

The Court holds unanimously that the appropriate test for deciding whether the discretion to allow an appeal to continue despite the death of the appellant is whether this would be in the

interests of justice. In this case the Court, by majority of Winkelmann CJ, Glazebrook and Williams JJ, holds that the public interest factors in this case mean that it is in the interests of justice to allow the appeal to proceed. In their view, the grounds of appeal are strong and raise systemic issues. There is also a broader public interest in ensuring convictions only follow from fair trials and there has been long running public concern about the possibility of a miscarriage of justice in this case.

In coming to their decision, the majority judges were conscious of the very high level of stress and public scrutiny already suffered by the complainants and their whānau over such a long period. They were also very conscious of the additional stress that will be occasioned by the hearing of the appeal in this Court. However, given the intense public interest in this case and the fact this Court has already granted leave to appeal, it is unlikely that not allowing the appeal to continue would in fact have meant finality for the complainants. Public scrutiny would have continued.

O'Regan and Arnold JJ would not have exercised the discretion to allow the appeal to continue. They consider that the interests of the complainants and their whānau outweigh all the other factors in this case. They also view the public interest factors as having less value than attributed to them by the majority judges, especially given the legislative changes that have occurred since Mr Ellis' trial took place.

A fuller summary of the reasons for the decision is contained in the judgment, including a summary of the Court's decision on the place of tikanga in the law of Aotearoa/New Zealand.

Contact person:

Sue Leaupepe, Supreme Court Registrar (04) 914 3613