NOTE: PUBLICATION OF NAMES, ADDRESSES, OCCUPATIONS OR IDENTIFYING PARTICULARS OF COMPLAINANTS PROHIBITED BY S 203 OF THE CRIMINAL PROCEDURE ACT 2011. SEE http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360350.html

NOTE: PUBLICATION OF NAMES, ADDRESSES, OCCUPATIONS OR IDENTIFYING PARTICULARS OF ANY COMPLAINANTS UNDER THE AGE OF 18 YEARS PROHIBITED BY S 204 OF THE CRIMINAL PROCEDURE ACT 2011. SEE http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360352.html

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 124/2022
[2023] NZSC 15

BETWEEN	COREY JOHN TAYLOR Applicant
AND	THE KING Respondent

Court: Ellen France, Williams and Kós JJ

Counsel: E J Forster for Applicant
J E Mildenhall for Respondent

Judgment: 8 March 2023

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

Introduction

[1] The applicant has filed an application for leave to appeal from a decision of the Court of Appeal dismissing his sentence appeal.[1]

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1 *Taylor v R* [2022] NZCA 524 (Collins, Muir and Cull JJ) [CA judgment].

Background

[2] The applicant pleaded guilty to a number of serious sexual offences involving 14 different victims ranging in age from eight through to their twenties or thirties. The offending took place over a 12 year period from when the applicant was in his late teens to when he was 30. At the time of sentencing, the applicant had no previous criminal convictions involving sexual offending.

[3] In the High Court, Cooke J imposed a sentence of 14 years' imprisonment with a minimum period of imprisonment (MPI) of nine years (a little over 64 per cent of the determinate sentence).[2] The applicant appealed against the length of the MPI to the Court of Appeal.

[4] In dismissing the appeal, the Court of Appeal assessed the offending and the applicant's personal circumstances in light of the criteria applicable to the imposition of an MPI in s 86(2) of the Sentencing Act 2002. In that context, the Court considered that the seriousness of the offending could not be overstated referring to, amongst other matters, the period of offending, the number of victims and "in many instances, the use of significant force and violence".[3] The applicant was seen by the pre-sentence report writer as having "a high likelihood of re-offending" and a report by a clinical psychologist noted there had been no demonstration of insight into the offending.

[5] In the circumstances, the Court saw protection of the community as of "paramount significance".[4] Given what was, in the Court's view, a "generous" determinate sentence that had been imposed, "the need to protect the community [could] only be achieved by imposing a long MPI".[5] The Court concluded that although the MPI was close to the available maximum, this responded proportionately to the offending and the risk posed.

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2 *R v Taylor* [2022] NZHC 1471.
3 CA judgment, above n 1, at [38].
4 At [41].
5 At [41].

The proposed appeal

[6] On the proposed appeal the applicant would argue that a shorter MPI is justified. He says the proposed appeal raises questions of general importance about how MPIs should be set and, in particular, how guilty pleas are factored into MPIs and the role that the absence of previous convictions has in setting the term of an MPI.[6] He also wishes to argue that the MPI imposed is out of line with cases where the offender has not previously been sentenced for like offending and that this has given rise to a miscarriage of justice.[7]

[7] The application of the approach to guilty pleas in *R v Hessell*[8] to the calculation of length of an MPI may raise a question of general or public importance.[9] However, the prospects of success of the proposed appeal are such that we do not consider the present case is an appropriate vehicle in which to consider the topic particularly where the argument was not addressed by the Court of Appeal.

[8] The proposed ground of appeal based on the relevance of the applicant's lack of previous convictions for sexual offending and the question about consistency with other cases turns on the particular set of facts. No question of general or public importance arises. Nor does anything raised by the applicant suggest that the Court of Appeal was wrong in its assessment that the term of the MPI was not manifestly excessive in the circumstances. Accordingly, there is no appearance of a miscarriage of justice.

Result

[9] The application for leave to appeal is dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent

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6 Senior Courts Act 2016, s 74(2)(a).
7 Section 74(2)(b).
8 *R v Hessell* [2010] NZSC 135, [2011] 1 NZLR 607.
9 The issue was addressed by the Court of Appeal in *Taueki v R* [2005] 3 NZLR 372 at [56].