

**ORDER PROHIBITING PUBLICATION OF THIS JUDGMENT UNTIL
2 PM ON 25 MAY 2023.**

**INTERIM ORDER PROHIBITING PUBLICATION OF LF'S NAME, ADDRESS,
OCCUPATION OR IDENTIFYING PARTICULARS PENDING THE
DETERMINATION OF THE APPEALS BY THE SUPREME COURT.**

**NOTE: COURT OF APPEAL ORDER PROHIBITING PUBLICATION OF
NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS OF
E PURSUANT TO S 202 CRIMINAL PROCEDURE ACT 2011. SEE
<http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360349.html>**

**NOTE: PUBLICATION OF NAMES, ADDRESSES, OCCUPATIONS OR
IDENTIFYING PARTICULARS OF THE SECOND, THIRD AND FOURTH
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 THE SECOND, THIRD AND FOURTH
COMPLAINANTS 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 13/2023
[2023] NZSC 61**

BETWEEN E (SC 13/2023)
Applicant

AND THE KING
Respondent

SC 14/2023

BETWEEN LF (SC 14/2023)
Applicant

AND THE KING
Respondent

Court: O'Regan, Ellen France and Kós JJ

Counsel: E P Priest and P D Wilks for Applicants
Z R Johnston and Z Zhang for Respondent
T C Goatley and K M Wilson for NZME Publishing Limited

Judgment: 23 May 2023

JUDGMENT OF THE COURT

- A** The application for leave to appeal by E is granted (*LF (CA596/2022) v R* and *E (CA671/2022) v R* [2022] NZCA 656). The approved question is whether the Court of Appeal was correct to dismiss E’s appeal in so far as it sought suppression of LF’s name under ss 200(1) and 200(2)(f) of the Criminal Procedure Act 2011.
- B** The application for an extension of time by LF to appeal direct to this Court, against the High Court’s judgment (*[LF] v R* [2022] NZHC 2547) is granted. Leave to appeal is granted. The approved question is whether the High Court was correct to decline to grant LF permanent name suppression.
- C** We make an interim order prohibiting publication of LF’s name, address, occupation or identifying particulars pending the determination of the appeals by the Supreme Court.
- D** We make an order prohibiting publication of this judgment until 2 pm on 25 May 2023.

REASONS

[1] LF pleaded guilty to sexual offending in relation to six complainants. The offending occurred when LF was aged 14–17 years. He was sentenced to a term of 12 months’ home detention.¹ Having unsuccessfully sought permanent name suppression in the District Court on the basis that publication would be likely to cause him extreme hardship or endanger his safety under ss 200(2)(a) and (e) of the Criminal Procedure Act 2011,² LF appealed from the decision declining name suppression to the High Court. The High Court dismissed the appeal.³ Leave to bring a second appeal

¹ *R v LF* [2022] NZDC 7356 (Judge Ryan).

² *R v LF* [2022] NZDC 8361 (Judge Ryan).

³ *[LF] v R* [2022] NZHC 2547 (Moore J).

in relation to the decision not to grant him permanent name suppression having been declined by the Court of Appeal,⁴ leave is sought to appeal directly to this Court.

[2] In dismissing the application for leave, the Court of Appeal did not accept the submissions for LF that the proposed appeal raised questions about the interplay between youth justice principles and name suppression. Nor did the Court accept submissions that the assessment of the risk to LF in the High Court may have given rise to a miscarriage of justice.

[3] The Court of Appeal accepted that, as a connected person under s 202(1)(c) of the Criminal Procedure Act, E had made out grounds for suppression of her name on the basis publication would cause her undue hardship.⁵ An order for permanent suppression of her name in connection with LF's offending was made. The Court dismissed E's appeal in so far as it also sought suppression of LF's name. The Court found that while suppression of her name alone might not be effective to prevent the harm to E, there was no basis to grant suppression of LF's name.

[4] We consider the proposed appeals do raise questions of general or public importance about the way in which youth justice principles, rehabilitation prospects, and the risks arising from publication for both applicants intersect with the principles of open justice. On this basis, E's case satisfies the criteria for leave.⁶ Given the particular combination of circumstances, LF's case is one of those rare, and exceptional, cases where leave to appeal should be granted notwithstanding the decision of the Court of Appeal to decline leave.⁷

[5] We add that in order not to render LF's appeal nugatory, we have made an interim order suppressing publication of his name, address, occupation or identifying particulars pending the determination of the appeals by the Supreme Court. We have

⁴ *LF (CA596/2022) v R* [2022] NZCA 656 (Miller, Gilbert and Palmer JJ).

⁵ Criminal Procedure Act 2011, s 202(2)(a).

⁶ Senior Courts Act 2016, s 74(2)(a).

⁷ Senior Courts Act, s 75.

also made an order deferring publication of this judgment for a short period in order to provide the respondent with the opportunity to communicate the result as it needs to.

Solicitors:
Crown Law Office, Wellington for Respondent
Bell Gully, Auckland for NZME Publishing Ltd