

**NOTE: PUBLICATION OF NAME, ADDRESS, OCCUPATION OR  
IDENTIFYING PARTICULARS OF APPLICANT PROHIBITED BY S 201  
OF THE CRIMINAL PROCEDURE ACT 2011. SEE  
<http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360347.html>**

**NOTE: PUBLICATION OF NAME, ADDRESS, OCCUPATION OR  
IDENTIFYING PARTICULARS OF COMPLAINANT PROHIBITED BY S 203  
OF THE CRIMINAL PROCEDURE ACT 2011. SEE  
<http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360350.html>**

**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI O AOTEAROA**

**SC 94/2025  
[2025] NZSC 175**

BETWEEN                      X (SC 94/2025)  
   Applicant

AND                              THE KING  
   Respondent

Court:                      Glazebrook, Kós and Miller JJ

Counsel:                      R J T George for Applicant  
   J G Fenton for Respondent

Judgment:                      25 November 2025

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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 sexually abused his stepdaughter on a daily basis from the age of 6 until she was 14 years old, including an attempt to have sexual intercourse when she was 12. She reported it to her mother when she was 14, saying she wanted it to end. This it did for a period while the applicant was overseas. During that period the mother became unwell, and the complainant became her primary carer. When the

applicant returned he resumed his abuse of his stepdaughter, saying that he would help look after the mother if the complainant would let him have sex with her. Reluctantly she agreed. Sexual intercourse began when she was 15, and continued once or twice a week thereafter. At 15 the complainant became pregnant and gave birth to the applicant's child. When she said she would not have sex with the applicant again, he threatened to commit suicide. At 18 the abuse finally ended.

[2] The applicant pleaded guilty in the District Court to three representative charges of sexual violation by unlawful sexual connection together with representative charges involving allegations that he had committed indecent acts or engaged in sexual conduct with a dependent family member.

[3] The complainant filed a victim impact statement stating that she had forgiven the applicant and "would not be against him getting out of prison", adding "[I] think this would be best for my Mum considering her health, and would be helpful for me to be able to move on".

[4] The applicant was however sentenced to seven years and two months' imprisonment.<sup>1</sup> He appealed against sentence, contending that the Judge erred in principle by failing to adjust the sentence to take into account the views of the victim of his offending.

[5] The Court of Appeal dismissed the appeal.<sup>2</sup> It found the applicant may have indirectly placed pressure on the victim through her mother, and that the wording in the victim impact statement did not amount to a plea for leniency.<sup>3</sup> It said it would be wrong in principle to impose an overly lenient sentence to give effect to a victim's views just as it would be inappropriate to impose an overly severe sentence to give effect to a victim's views. That was "particularly so in cases of serious offending because public policy issues are likely to be to the forefront in such circumstances".<sup>4</sup> The seriousness of the offending meant that the need for a deterrent sentence, and one that held the applicant accountable for the offending, had to be at the forefront as

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<sup>1</sup> *R v [X]* [2024] NZDC 26397 (Judge Gilbert). No minimum period of imprisonment was imposed.

<sup>2</sup> *X (CA738/2024) v R* [2025] NZCA 351 (French P, Lang and Downs JJ).

<sup>3</sup> At [26].

<sup>4</sup> At [24].

matters of sentencing principle. The Court was not persuaded the Judge erred in principle in not reducing the sentence to reflect the views expressed by the victim in her victim impact statement.<sup>5</sup>

[6] The applicant seeks leave to appeal to this Court, essentially advancing the same argument rejected by the Court of Appeal. He submits that there has been a “long-running trajectory towards greater avenues for participation of victims in the criminal justice process inherent in various legislative developments in New Zealand and internationally”, citing matters such as s 17AB of the Victims’ Rights Act 2002, s 8(1)(f) of the Sentencing Act 2002, and the 2015 report of the Law Commission on *The Justice Response to Victims of Sexual Violence: Criminal Trials and Alternative Processes*.<sup>6</sup>

### **Our assessment**

[7] We do not consider the criteria for leave to appeal are made out.<sup>7</sup> The proposed appeal does not raise a matter of general or public importance.<sup>8</sup> Rather, it would turn on the application of well-established principles to the facts of the case. As the respondent submitted, the law is clear and settled that the weight to be given to a victim’s views should be considered carefully depending on the context in which they are expressed, but (as the Court of Appeal observed in *R v AM*) crime is a public wrong and so the victim’s views are a factor that, like others, cannot normally overwhelm the outcome.<sup>9</sup>

[8] Nor do we consider a substantial miscarriage of justice may occur unless the proposed appeal is heard.<sup>10</sup> The offending here was very grave indeed, and the sentence might well have been more severe. We find no error in the approach taken by the Court of Appeal in its consideration of the complainant’s victim impact

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<sup>5</sup> At [28].

<sup>6</sup> Law Commission | Te Aka Matua o te Ture *The Justice Response to Victims of Sexual Violence: Criminal Trials and Alternative Processes* (NZLC R136, 2015).

<sup>7</sup> Senior Courts Act 2016, s 74.

<sup>8</sup> Section 74(2)(a).

<sup>9</sup> *R v AM (CA27/2009)* [2010] NZCA 114, [2010] 2 NZLR 750 at [64].

<sup>10</sup> Senior Courts Act, s 74(2)(b).

statement. It is not therefore necessary in the interests of justice for this Court to hear and determine the proposed appeal.<sup>11</sup>

## **Result**

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

Solicitors:

Te Tari Ture o te Karauna | Crown Law Office, Wellington for Respondent

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<sup>11</sup> Section 74(1).