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IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

**SC 125/2024
[2025] NZSC 24**

BETWEEN	MATHEW RAYMOND CHARLES WATSON Applicant
AND	THE KING Respondent

Court:	Glazebrook, Ellen France and Williams JJ
Counsel:	N P Chisnall KC for Applicant B J Thompson for Respondent
Judgment:	28 March 2025

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

Introduction

[1] Mr Watson was convicted of ten historic sexual offences and found not guilty on five other charges. He was sentenced to eight and a half years' imprisonment.¹

¹ The sentencing Judge had taken a starting point of 10 years' imprisonment and deducted five per cent for Mr Watson's lack of previous convictions and good character and 10 per cent for matters raised in the s 27 cultural report: *R v Watson* [2023] NZDC 12523 (Judge Marshall) [DC sentencing judgment] at [22]–[23] and [25].

His appeal against conviction and sentence was dismissed by the Court of Appeal.² He seeks leave to appeal against that decision.

Proposed appeal against conviction

Background

[2] It is submitted by Mr Watson that the trial should have been aborted after the Crown led inadmissible evidence in relation to the complainant's sexual experience. A young female relative of Mr Watson (R) testified, among other things, that when the complainant was a child, she (the complainant) had touched her (R) inappropriately putting her fingers in her (R's) genital area.³

[3] The trial Judge gave directions on this evidence, including:⁴

The concern is that you may be left with the impression that the only way that [the complainant] might know about that is because she is replicating behaviour that Mr Watson must have perpetrated on her. I want to give you a strong direction that you cannot draw that conclusion. The defence have not had the opportunity of questioning [the complainant] about that or where she might have acquired that knowledge or indeed whether she considers this even happened at all.

So I give you direction, as I say, in a fair trial context that you should draw no adverse inference or conclusion against Mr Watson because that evidence has been given. So I will also remind you of that when I give you directions at the conclusion of the case also.

Court of Appeal decision

[4] The Court of Appeal held that there was no miscarriage of justice. The Court accepted the evidence was inadmissible but said:

[29] In summary, the error did not occasion a miscarriage of justice because of: the confined nature of the inadmissible evidence; the absence of further reference to it; the Judge's "strong" directions to the jury about the evidence; the appellate discretion attaching to the Judge's associated decision(s);^[5] and the admissible nature of the related evidence.^[6]

² *Watson v R* [2024] NZCA 576 (Palmer, Whata and Downs JJ) [CA judgment].

³ Referred to at [11] of the CA judgment.

⁴ Set out at [13] of CA judgment.

⁵ Referring at [26] to *R v Thompson* [2006] NZSC 3, [2006] 2 NZLR 577.

⁶ Discussed at [28].

Our assessment

[5] The criteria for leave are not met. The issue is confined to the facts of this case and nothing raised by Mr Watson suggests that the Court of Appeal was in error in its conclusion on this issue. There is therefore no issue of general or public importance and no risk of a miscarriage of justice.⁷

Proposed appeal against sentence

Background

[6] Mr Watson seeks to reprise his argument made in the Court of Appeal that he should have been given an additional 15 per cent discount to his sentence for undue delay (a three-year delay between when he was arrested and determination of the charges at trial).

[7] The sentencing Judge refused to make an allowance for delay, saying it was in large part due to COVID-19. There was also a delay due to the ill health of a Crown witness leading to one trial being aborted.⁸

Court of Appeal decision

[8] The Court of Appeal dismissed Mr Watson's sentence appeal, saying that it was unclear if the delay was unjustifiable and therefore undue.⁹ In addition, Mr Watson's conditions of bail revealed no significant interference with liberty:¹⁰

Mr Watson had a residence condition but no curfew; was prevented from leaving the country; and was not permitted contact with the complainant or other Crown witnesses. The last condition affected Mr Watson's contact with his relatives, but a condition of this nature is common and Mr Watson was found guilty of the most serious charges.

⁷ Senior Courts Act 2016, s 74(2)(a) and (b).

⁸ DC sentencing judgment, above n 1, at [24].

⁹ CA judgment, above n 2, at [50]–[51].

¹⁰ At [52].

Our assessment

[9] Nothing raised by Mr Watson shows any error of principle. Nor, given the circumstances, does anything raised suggest any risk of a miscarriage of justice.¹¹

Result

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

Solicitors:

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

¹¹ Senior Courts Act, s 74(2)(b).