IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 161/2025
[2026] NZSC 30

BETWEEN	REREAMANU RONAKI-WIHAPI Applicant
AND	THE KING Respondent

Court: Ellen France, Kós and Miller JJ

Counsel: R M Mansfield KC, B R Smith and J N Olsen for Applicant
F R J Sinclair and D Lye for Respondent

Judgment: 15 April 2026

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

Introduction

[1] The applicant, Rereamanu Ronaki-Wihapi, was convicted after a jury trial of two homicides, manslaughter and murder, in relation to the victim, Taku Paul.[1] On appeal, the Court of Appeal concluded Mr Ronaki-Wihapi could not be convicted twice of a culpable homicide relating to the same victim. The Court quashed the conviction and sentence for manslaughter but dismissed the appeal against

[1] The applicant was sentenced to a term of 17 years' imprisonment with a minimum period of imprisonment of seven years for murder and three years' imprisonment for manslaughter to be served concurrently: *R v Ronaki* [2024] NZHC 3019 (La Hood J).

conviction for murder.[2] The applicant now seeks leave to appeal against his conviction for murder.

Background

[2] The incidents giving rise to the charges are set out in detail in the judgment of the Court of Appeal.[3] The essential facts are these. On the evening of 26 December 2022, the applicant, then aged 17, was driving a car accompanied by his mother, Ephron Ronaki, and three others. The victim, Mr Paul, was Ms Ronaki's partner at the time. The two had been arguing over the telephone and the argument was escalating when the victim was seen on the road a short distance ahead of the car. Ms Ronaki told the applicant to hit Mr Paul with the car. The applicant then hit Mr Paul with the car on two separate occasions. As the Court of Appeal said: "The two impacts occurred within a very short time and certainly within a minute of each other."[4]

[3] When the trial commenced, the applicant faced one count of murder jointly with Ms Ronaki. Ms Ronaki relevantly faced another charge of attempting to pervert the course of justice by initially saying that she was the driver of the car at the time Mr Paul was killed. The applicant ultimately made a full statement accepting responsibility for his actions.

[4] During the trial, the Crown was granted leave to amend the charge of murder in relation to the applicant to add a second non-alternative charge of murder. The first charge then included as particulars the following: "The first strike of Mr Paul with the … vehicle." The particulars of the second charge of murder included the following: "The second strike of Mr Paul with the … vehicle."

[5] The amendment followed the evidence of Dr Stables, the forensic pathologist called by the Crown. Dr Stables said that the injuries from the two impacts were distinguishable. Either set of injuries could have caused Mr Paul's death although

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2 *Ronaki-Wihapi v R* [2025] NZCA 298, [2025] 3 NZLR 290 (Cooke, Venning and van Bohemen JJ) [CA judgment]. An application for recall of the CA judgment was dismissed: *Ronaki-Wihapi v R* [2025] NZCA 495 (Cooke, Venning and van Bohemen JJ) [Recall judgment].

3 CA judgment, above n 2, at [6]–[7].

4 At [3].

the second set of injuries would have caused rapid death. As to the time of death, Dr Stables said he could not exclude the possibility that Mr Paul had died between the first and second impacts. He said that he considered the first impact injuries "would have eventually resulted in death." The subsequent chest injuries had "hastened" death.

The proposed appeal

[6] The applicant wishes to argue that the two verdicts offended the principle of double jeopardy. The argument is that the earlier verdicts, that is, acquittal on murder and a conviction of manslaughter in relation to the first strike, precluded verdicts being taken on the second charge for the exact same offence. Essentially, once the verdicts on the first charge were received, the applicant submits that the Judge could not accept the later verdict. This was contrary to the autrefois acquit principle which is now encapsulated in s 47 of the Criminal Procedure Act 2011.

[7] In any event, the applicant says that the verdict in relation to the second charge was unreasonable. The jury could not be sure beyond reasonable doubt that the victim was not already dead by the time of the second strike. The trial Judge should have dismissed the second charge and the Court of Appeal was wrong to find that the verdict was not unreasonable.

[8] The applicant says that there has accordingly been a miscarriage of justice.[5] He could not at law be convicted and nor on the evidence could a guilty verdict be returned.

Our assessment

[9] The applicant's argument in relation to double jeopardy was addressed by the Court of Appeal in its decision declining the application for recall of the earlier judgment. The Court noted that, differing from the approach on the appeal initially, the argument made in support of the recall application was that the manslaughter verdict was taken first with the result that the murder conviction was impermissible because of the rule against double jeopardy. As to this, the

5 Senior Courts Act 2016, s 74(2)(b).

Court of Appeal made the point that it had accepted the applicant "could not be convicted twice for the same culpable homicide".[6] Having considered the principles, the Court said its conclusion was that the error here was essentially a charging error. That was because, on the facts, the charges had to be laid either in the alternative or as a single charge addressing the underlying events in the alternative.

[10] The Court continued that it was:[7]

> … necessary for the two impacts to be separately addressed to ensure that the consideration by the jury of the culpable acts, and the mental elements connected to those acts, coincided. But the appellant could not face charges that led to the prospect of him being convicted of culpable homicide twice. That error is reflected in the fact that the way the appellant was charged potentially could have resulted in two convictions of murder for the same homicide. But once only one alleged offence was involved, there was no issue of double jeopardy.

[11] Nothing raised by the applicant suggests there is an error in the Court of Appeal's assessment of the position. The applicant says that the same issue was addressed in an equivalent factual situation in *Filitonga v R* but with the result that the Court concluded it was not open for the Court to enter convictions on both charges without infringing the rule against double jeopardy.[8] However, that case was about simultaneous actus rei, as the relevant acts occurred simultaneously. The double jeopardy plea was not displaced because the elements making up each offence were insufficiently different. *Filitonga* was also distinguished on its facts by this Court in *Mitchell v R*, another of the authorities referred to by the applicant.[9] *Mitchell* involved simultaneous actus rei but with sufficiently different elements to displace the double jeopardy plea. By contrast, the present case does not involve simultaneous actus rei but, rather, two distinct acts.

[12] As the Court of Appeal in the recall judgment observed, the remaining issue was as to the effect of the charging error. This aspect was dealt with in more detail

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6 Recall judgment, above n 2, at [13].

7 At [13] (footnote omitted).

8 *Filitonga v R* [2017] NZCA 492, [2017] NZAR 1667. The appellant in that case faced trial on charges of both infecting his partner with HIV causing grievous bodily harm and having unprotected sex with a resultant risk of infection, that is, criminal nuisance.

9 *Mitchell v R* [2023] NZSC 104, [2023] 1 NZLR 238. In that case, the appellant failed an evidential breath test, which gave rise to two charges: driving with a breath alcohol level exceeding 400 micrograms per litre of breath, and driving contrary to a zero alcohol licence.

in the Court's earlier judgment where the Court concluded the verdict was not unreasonable.[10] The Court referred to Dr Stables' evidence and made the point that the fact Dr Stables accepted it was possible that Mr Paul died before he was struck on the second occasion did not mean the jury was not entitled to be sure that the victim was still alive when that occurred. Nor did the first verdict represent a finding that death had occurred before the second strike. The burden of the verdicts was that both strikes in combination caused Mr Paul's death.

[13] As the Court of Appeal said in the recall judgment:[11]

> It was important for the Court's conclusions in this respect that the jury had been asked the appropriate questions in the question trail and had been addressed on the elements by counsel and the Judge, notwithstanding the error. In particular, in relation to the second impact, the jury had been asked if they were sure that Mr Paul was still alive at the time of the second impact …, that the second impact was a substantial and operative cause of his death …, and that the appellant had murderous intent when running him over as he lay on the road … . The essential elements of murder were addressed and answered by the jury.

[14] In the circumstances, it is plain that the Court of Appeal had properly addressed the erroneous entry of a homicide conviction on the first count. In these circumstances, we are not satisfied there is an appearance of a miscarriage of justice.

Result

[15] 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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10 CA judgment, above n 2, at [57]–[63].
11 Recall judgment, above n 2, at [14] (footnote omitted).