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

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 171/2025
[2026] NZSC 36

BETWEEN	GRAEME LEMANQUIS LIDGARD Applicant
AND	THE KING Respondent

Court: Ellen France, Kós and Miller JJ

Counsel: M J Dyhrberg KC and J N Olsen for Applicant
H G Clark for Respondent

Judgment: 24 April 2026

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Mr Lidgard was found guilty by a jury of 17 charges of historical sexual offending against two complainants in the District Court. He was sentenced to 11 years' imprisonment.[1] The Crown's case at trial largely consisted of the complainants' evidence. The defence case was that the complainants were lying.

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1 *R v Lidgard* [2024] NZDC 14843 (Judge Bonnar KC).

[2] Before giving the recommended *R v Wanhalla* direction and a tripartite direction,[2] the trial Judge at the start of his summing up directed the jury on the competing Crown and defence narratives:

> [3] Now, those two competing narratives—and that is what the case boils down to, at its essence—those two competing narratives are diametrically opposed. Both cannot be correct. Put at its simplest, either the two complainants are lying about what they said happened to them, or Mr Lidgard is lying when he says he did not do these things. Your decisions in this case will therefore turn on your assessment of the evidence you have heard; in essence, whether you accept the evidence of [AB] and [CD], as the Crown urges, or whether you reject their evidence or are left unsure, as the defence urges.

[3] Mr Lidgard appealed unsuccessfully to the Court of Appeal.[3] The Court found that the trial Judge's competing narratives direction was unhelpful and that it was not correct for the jury to be directed that determining the case involved a choice between the evidence of the complainants and the defendant.[4] However, the summing up read as a whole clearly and correctly directed the jury on the burden and standard of proof. It made clear that the jury was not merely to choose "whether they believed the complainants or Mr Lidgard" when reaching their verdict, that the Crown must prove the charges, and that rejection of Mr Lidgard's evidence could not, in itself, lead to a conclusion that he was guilty.[5]

Proposed appeal

[4] Mr Lidgard submits that the trial Judge's direction gave rise to a substantial miscarriage of justice. The direction on competing accounts led to an unfair trial because it presented the jury's decision as being one of choosing between two competing narratives. This confused the jury as to the burden and standard of proof, and ignored the third option that the jury may not believe Mr Lidgard but may still have a reasonable doubt. The Court of Appeal erred in finding that the rest of the summing up corrected the misleading direction, and its decision was inconsistent with previous authority, including on the significant effect of such a direction at the outset.[6]

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2 See *R v Wanhalla* [2007] 2 NZLR 573 (CA).
3 *Lidgard v R* [2025] NZCA 568 (Courtney, Downs and Harvey JJ).
4 At [21].
5 At [21]–[23].
6 See for example *R v Tanielu* CA409/02, 6 May 2003.

In fact, the later directions reinforced the error. Mr Lidgard also submits that clarifying the correct directions regarding competing narratives is a matter of general or public importance.

Our assessment

[5] The key question is whether the summing up as a whole misled the jury on the burden or standard of proof. While we agree with the Court of Appeal's assessment that the competing narratives direction was unhelpful, taking the summing up as a whole, we see no appearance of a substantial miscarriage of justice.[7] First, the direction did not present the stark contrast that Mr Lidgard suggests it does. The Judge directed that the jury's decision will turn on whether they "accept" the complainants' evidence, "reject" it "*or are left unsure*".[8] This made clear at once that the jury's task was not based on a simple choice between believing one account or the other, and directed that the jury need not accept Mr Lidgard's evidence to find him not guilty.

[6] Second, nothing raised by Mr Lidgard suggests the Court of Appeal erred by overlooking previous authority. While the cases Mr Lidgard cites show that timing of the direction can be important, they also show that its consequences involve a contextual evaluation.[9] As in *R v Boardman*, the jury here could not have been left in any doubt as to the proper scope of their task.[10] Nothing here indicates that the Court erred in finding that the summing up as a whole appropriately directed the jury and that the Judge did not reinforce a misleading view of the jury's task at later points in the summing up. In our view, the later directions made the jury's role clear.

[7] For these reasons, we also do not consider this case involves a matter of general or public importance requiring broader guidance from this Court.[11]

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7 Senior Courts Act 2016, s 74(2)(b).
8 See the extract quoted above at [2]. Emphasis added.
9 See for example *R v Boardman* CA173/03, 29 October 2003; and *R v Tanielu*, above n 6.
10 *R v Boardman*, above n 9.
11 Senior Courts Act, s 74(2)(a).

Result

[8] It is not necessary in the interests of justice for this Court to hear or determine the proposed appeal.[12] The application for leave to appeal is dismissed.

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

12 Section 74(1).