Supreme Court of New Zealand | Te Kōti Mana Nui o Aotearoa

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MEDIA RELEASE

RAYMOND IVEAGH JURY v THE KING
(SC 114/2024) [2026] NZSC 171

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at Judicial Decisions of Public Interest: www.courtsofnz.govt.nz.

What this judgment is about

The main issue in this appeal was whether statements made by a person who had died before trial were admissible in evidence at trial. These statements were hearsay statements — that is, statements made by a person who was not a witness at trial, offered as evidence to prove that what is said in the statement is true.

The admissibility of the statements required consideration of the reliability test for the admission of hearsay statements in s 18(1)(a) of the Evidence Act 2006. Under that section, a hearsay statement is admissible only if "the circumstances relating to the statement provide reasonable assurance that the statement is reliable".

Background

In the early hours of 30 January 2019, Mr Te Aonui found a severely injured Mr Rikihana on his driveway and took him to hospital. Mr Rikihana was pronounced dead soon after his arrival.

Mr Maney made a statement to police (the first police statement) claiming he had no knowledge about Mr Rikihana's death. When police searched Mr Maney's house, they found a letter (the letter) that appeared to provide a contemporaneous account of the appellant, Mr Jury, bringing a severely beaten Mr Rikihana to Mr Maney's house and then leaving with Mr Rikihana to go to Mr Te Aonui's house. Mr Maney then made another statement to police (the second police statement) also implicating Mr Jury.

Mr Maney died in July 2019, before Mr Jury was tried by jury for murdering Mr Rikihana in August 2020. The three statements were admitted at trial, the letter and the second police statement as hearsay statements.

Mr Jury and the Crown were aware that Mr Maney had earlier been convicted of wilfully attempting to pervert the course of justice, but did not have the details of that conviction. Nor was evidence of the conviction adduced at trial.

Mr Jury was found guilty of murder. In July 2024, the Court of Appeal dismissed his appeal against conviction. In March 2025, this Court granted Mr Jury leave to appeal against the Court of Appeal decision.

Issues

The appeal principally concerned whether or not the hearsay statements of Mr Maney should have been admitted at trial, which as noted above, depended on the reliability test for the admissibility of hearsay statements under s 18(1)(a).

A related issue was whether the trial Judge's omission to give a s 122 reliability direction with regard to Mr Maney's statements was an error. The Court also had to consider whether defence counsel erred by not adducing evidence of Mr Maney's prior conviction for attempting to pervert the course of justice.

Assuming any errors were identified, the next question was whether any error gave rise to a miscarriage of justice as defined in s 232(4)(a) of the Criminal Procedure Act 2011 (that the error created a real risk the outcome of the trial was affected).

The Court then had to decide whether any errors were so fundamental that they meant Mr Jury did not receive a fair trial. If Mr Jury did not receive a fair trial, the appeal had to be allowed.

Assuming that any of the errors gave rise to a miscarriage of justice but the trial was fair, the Court had to consider whether it was nevertheless sure of guilt beyond reasonable doubt. If it was, then the outcome of the trial was not affected by the errors and there would therefore be no actual miscarriage of justice, meaning the appeal would be dismissed.

Supreme Court decision

The Supreme Court has dismissed the appeal by majority comprising Glazebrook, Ellen France, Kós and Miller JJ. The Chief Justice dissented.

Glazebrook, Ellen France, Kós and Miller JJ's reasons for dismissing the appeal

The majority held that the test in s 18(1)(a) means just what it says (at [438]). The judge will need to give the circumstances relating to the statement a hard look against the background of the dangers of hearsay (at [439]). The s 18(1)(a) test is different to that set out in s 7, but the s 7 test (and s 8 test) must also be met (at [440]). The exercise involved is a threshold one and does not involve a general review of the overall evidence or of the Crown case (at [441]). Circumstances are widely and inclusively defined. The context in which the circumstances are being assessed may be relevant, and some circumstances may call for a broader inquiry into

other evidence (at [442]). All circumstances need to be considered, although that will not necessarily require slavish examination under headings of each circumstance (at [443]). The exercise is evaluative and depends on the facts (at [444]). Dangers of hearsay will also be relevant to the application of the s 8 test as the inability to cross-examine may impact on fair trial rights, including the right to examine witnesses for the prosecution (at [445]). (See also at [115].)

The majority held that Mr Maney's statements were not admissible. The second police statement was false in a fundamental way: CCTV evidence of the car Mr Jury drove on the night in question showed that the events described in the second police statement could not have occurred in the manner described (at [170]–[173], [188(a)(ii)] and [454]). Given the two police statements were fundamentally inconsistent, no weight could be placed on them being made to police with an acknowledgement of the consequences of giving false evidence and under caution (at [158]–[159], [188(b)] and [451]–[452]).

There were also inconsistencies between the letter and the second police statement (at [164]–[167], [188(c)] and [452]). Mr Maney also had a prior conviction for perverting the course of justice in not dissimilar circumstances and had a motive to lie given he himself was a suspect (at [179]–[181], [188(f)], [453] and [456]). The circumstances provided fertile grounds for cross-examination, itself an indicator of low reliability. It was no answer to assert cross-examination would not have made a difference, or that the issues relating to reliability could be pointed out to the jury (at [185]–[187] and [188(g)] and see [456]).

The majority held that the admission of Mr Maney's statements was an error that created a real risk the outcome of the trial was affected and thus caused a miscarriage of justice (at [211] and [457]). However, they did not consider that the wrongful admission of Mr Maney's statements was a fundamental error that meant his trial was unfair (at [254] and [458]).

The majority were satisfied that Mr Jury's account was false and that the Crown had proved Mr Jury's guilt beyond reasonable doubt (at [407]–[409] and [411] and [458]). This meant that, despite the errors, the outcome of the trial was not affected and therefore no actual miscarriage of justice occurred. The appeal was, therefore, dismissed.

Additional holdings

Glazebrook and Kós JJ addressed some additional matters. First, as to the s 18(1)(a) test, and in agreement with the Chief Justice, Glazebrook and Kós JJ held that the availability of a warning as to reliability under s 122 does not affect the s 18(1)(a) (nor the s 8) analysis (at [113] and [481]). The approach of the High Court and Court of Appeal in the present case was wrong and would allow facially unreliable evidence to be admitted where a judge considered that any unreliability could be exposed for the jury's consideration through submissions or other evidence at trial (at [117] and [477]–[478]). The s 18(1)(a) threshold is higher than that under s 7, and judges must satisfy themselves as to whether they are reasonably assured as to a statement's reliability (at [98], [117], [475] and [478]–[479]).

Second, the Chief Justice, Glazebrook and Kós JJ considered the judge was required to give a reliability warning (at [225] and [549]). It was not, however, necessary for Glazebrook and Kós JJ to consider whether the omission caused a miscarriage of justice (at [232]).

Third, Glazebrook and Kós JJ held that Mr Maney's prior conviction for attempting to pervert the course of justice was significant, no matter the length of time that had passed since conviction, and that details of the conviction should have been placed before the jury. It was not, however, necessary for them to consider whether the failure to adduce this evidence caused a miscarriage of justice (at [249] and [251]). The Chief Justice agreed that the details of that conviction should have been before the jury (at [548]).

Winkelmann CJ's reasons for dissent

The Chief Justice took a different view of the inquiry under ss 16(1) and 18(1)(a). In particular, she considered that reliability is assessed through reference to circumstances related to the statement and its maker and that the sections do not contemplate a general review of other evidence or a search for corroboration in other evidence (at [483]–[484], [505] and [520]).

The Chief Justice considered that the majority were wrong to rely on conflict between the second police statement and the CCTV evidence, and Ellen France and Miller JJ wrong to note areas of consistency between Mr Maney's statements and evidence of other witnesses (at [527]–[531]). However, she agreed that the statements were inadmissible (at [539]). Mr Maney's statements were contradictory of each other, and there is every indication Mr Maney lied to police (at [533]). Mr Maney's conviction for attempting to pervert the course of justice was a powerful indicator of unreliability (at [536]).

The Chief Justice agreed with the majority that the admission of Mr Maney's statements was an error that created a real risk the outcome of the trial was affected and thus caused a miscarriage of justice (at [541]). The Court was therefore unanimous in this holding.

However, the Chief Justice considered that the threshold for unfair trial was reached in this case, meaning that the appeal had to be allowed (at [546] and [551]). She considered the trial was unfair because the evidence was significant to the Crown's case; the fact and details of Mr Maney's prior conviction for attempting to pervert the course of justice should have been before the jury; and the trial Judge failed to give a reliability warning (at [546]–[550]). In any event, she considered that the evidence at trial was inconclusive as to the fact and degree of Mr Jury's culpability (at [552]). The Chief Justice would therefore have allowed the appeal, quashed Mr Jury's conviction and ordered a retrial (at [554]).

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