



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

02 October 2023

MEDIA RELEASE

E (SC 13/2023) v THE KING

LF (SC 14/2023) v THE KING

Hearing in the Supreme Court Thursday 19 October 2023

CASE HISTORY SYNOPSIS

This synopsis is provided to assist in understanding the history of the case and the issues to be heard by the Court. It does not represent the views of the panel that will hear the appeal in the Supreme Court. The synopsis does not comprise part of the reasons for the judgment of the Court of Appeal.

NOTE: INTERIM ORDER PROHIBITING PUBLICATION OF LF'S NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS PENDING THE DETERMINATION OF THE APPEALS BY THE SUPREME COURT REMAINS IN FORCE.

NOTE: COURT OF APPEAL ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS OF E PURSUANT TO S 202 CRIMINAL PROCEDURE ACT 2011. SEE <http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360349.html>

NOTE: PUBLICATION OF NAMES, ADDRESSES, OCCUPATIONS OR IDENTIFYING PARTICULARS OF THE SECOND, THIRD AND FOURTH COMPLAINANTS PROHIBITED BY S 203 OF THE CRIMINAL PROCEDURE ACT 2011. SEE <http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360350.html>

NOTE: PUBLICATION OF NAMES, ADDRESSES, OCCUPATIONS OR IDENTIFYING PARTICULARS OF THE SECOND, THIRD AND FOURTH COMPLAINANTS PROHIBITED BY S 204 OF THE CRIMINAL PROCEDURE ACT 2011. SEE <http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360352.html>

Background

The Criminal Procedure Act 2011 allows the court to make an order prohibiting publication of the identity of a person who is convicted of an offence (**section 200(1)**). Some of the qualifying circumstances in which this may occur are where publication would be likely to:

- cause *extreme* hardship to the person convicted of the offence, or any person connected with that person (**section 200(2)(a)**);
- endanger the safety of any person (**section 200(2)(e)**); or
- lead to the identification of another person whose name is suppressed (**section 200(2)(f)**).

The Court may also suppress the identity of a connected person in certain qualifying circumstances. Relevantly, this includes where publication would be likely to cause *undue* hardship to the connected person (**section 202(2)(a)**).

Even if a qualifying circumstance is met, the Court still has a discretion to refuse suppression for a person convicted of an offence, or a connected person.

LF pleaded guilty to sexual offending in relation to six complainants. The offending occurred when LF was aged 14 to 17. He applied for name suppression on the basis that publication of his name would be likely to cause him extreme hardship or endanger his safety. His application was denied by the District Court and the High Court.

Name suppression was also sought for E, who is a connected person. The Court of Appeal accepted that, as a person connected to LF, E had made out grounds for suppression of her name on the basis publication would cause her undue hardship. An order for permanent suppression of E's name in connection with LF's offending was made. However, the Court dismissed E's appeal in so far as it also sought suppression of LF's name. The Court found that while suppression of her name alone might not be effective to prevent harm to E, there was no basis to grant suppression of LF's name.

This appeal

The Supreme Court granted E leave to appeal on the question of whether the Court of Appeal was correct to dismiss her appeal in so far as it sought suppression of LF's name under sections 200(1) and 200(2)(f) of the Criminal Procedure Act.

The Court also granted LF leave to appeal directly against the High Court judgment. The approved question is whether the High Court was correct to decline to grant LF permanent name suppression.

The issues for the Court are therefore whether the qualifying circumstances are met and, if so, whether the Court should nevertheless exercise its discretion to refuse suppression. The Court also considered that the proposed appeals raise questions of general or public importance about the way in which youth justice principles, rehabilitation prospects, and the risks arising from publication for both appellants intersect with the principles of open justice.

Viewing of hearing

The courtroom is open to the public.

The panel

The Hon Justice Ellen France	The Hon Justice Glazebrook	The Rt Hon Chief Justice Winkelmann	The Hon Justice O'Regan	The Hon Justice Kós
---------------------------------	-------------------------------	-------------------------------------------	----------------------------	------------------------

Judges as seen from the public gallery

Counsel

- E and LF (Appellants): *E P Priest, S O Mandeno and P D Wilks*
- The King (Respondent): *Z R Johnston and H G Clark*
- NZME Publishing Ltd: *T C Goatley and K M Wilson*

Sitting hours

Court will begin at 10:00am and conclude at 4:00pm with adjournments taken from 11:30am to 11:45am and from 1:00pm to 2:15pm. There is no afternoon adjournment.

Enquiries

Any enquiries about the hearing should be directed via email to supremecourt@justice.govt.nz. While attending the hearing, enquiries can also be directed to the Court Registry, which is located outside the main courtroom in the Supreme Court foyer.

Contact person:

Sue Leaupepe, Supreme Court Registrar (04) 914 3613

Supreme Court leave decision: [\[2023\] NZSC 61](#) (23 May 2023)

