

**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>**

**NOTE: PUBLICATION OF NAMES, ADDRESSES, OCCUPATIONS OR IDENTIFYING PARTICULARS OF ANY COMPLAINANT UNDER THE AGE OF 18 YEARS WHO APPEARED AS A WITNESS PROHIBITED BY S 204 OF THE CRIMINAL PROCEDURE ACT 2011. SEE**

**<http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360352.html>**

**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI**

**SC 107/2018  
[2019] NZSC 11**

BETWEEN	CHRISTOPHER ROBERT HALPIN Applicant
AND	THE QUEEN Respondent

Court: William Young, Glazebrook and O'Regan JJ

Counsel: Applicant in person  
E J Hoskin for Respondent

Judgment: 21 February 2019

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed.**

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**REASONS**

[1] The applicant pleaded guilty to two charges of indecent assault. This occurred on the morning on which his trial in the District Court was due to commence, and occurred after the Judge had given a sentence indication. He was subsequently

sentenced to a term of imprisonment of two years, but was released immediately because of the time he had spent in custody on remand.

[2] The applicant wished to withdraw his guilty pleas but his application to do so in the District Court was dismissed.<sup>1</sup> He appealed to the Court of Appeal but that appeal was dismissed.<sup>2</sup> He now seeks leave to appeal to this Court against the decision of the Court of Appeal.

[3] The application is advanced on the basis that a miscarriage of justice will arise if leave is not granted.

[4] The charges to which the applicant pleaded guilty were a charge of indecent assault of an eight-year-old girl in September or October 2010 and an indecent assault of another eight-year-old girl on three occasions during December 2014. The applicant's application to the District Court to vacate his guilty pleas was advanced on the basis that he had a tenable defence to each charge and that he had immediately regretted entering the guilty pleas and still maintained his innocence. The application was supported by a detailed affidavit that he had sworn as well as affidavits from witnesses. The Crown filed an affidavit from the applicant's counsel at the time that he entered the pleas, the applicant having waived privilege. In that affidavit, counsel deposed that the applicant had signed written instructions confirming his decision to plead guilty after receiving advice from counsel.

[5] The District Court Judge evaluated the affidavit evidence relied upon by the applicant and concluded that the evidence contained in those affidavits did not provide a defence to the charges. He concluded that the applicant had not demonstrated that he had a tenable defence to either charge.<sup>3</sup> He also noted that regret at entering a guilty plea was not a basis for vacating it.<sup>4</sup>

[6] The Court of Appeal reviewed the affidavit evidence and reached the same conclusion as that reached by the District Court Judge, namely that the affidavit

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<sup>1</sup> *R v Halpin* [2017] NZDC 1000 (Judge Spear) [*Halpin* (DC)].

<sup>2</sup> *Halpin v R* [2018] NZCA 477 (Cooper, Venning and Collins JJ) [*Halpin* (CA)].

<sup>3</sup> *Halpin* (DC), above n 1, at [32].

<sup>4</sup> At [37].

evidence fell short of demonstrating that a tenable defence was open to the applicant.<sup>5</sup> It also agreed with the District Court Judge that regret at the entry of a guilty plea was not a basis for the vacation of the plea.<sup>6</sup>

[7] The applicant seeks to argue that his intention had been to vacate his guilty plea immediately after entering it so that he could place defence evidence before a jury. However, the evidence of his trial counsel was that the applicant had asked trial counsel whether, if he pleaded guilty, he could then find witnesses and have a trial. Trial counsel advised that that was technically possible, but that the chance of such an application to vacate his guilty pleas being granted was remote. The applicant went ahead with his guilty pleas, having received that advice.

[8] The application for leave to appeal does not raise any point of public importance. In essence, the applicant seeks to challenge the concurrent findings of the District Court and the Court of Appeal that the applicant had not established that a miscarriage of justice would occur if his convictions were not overturned. We see no appearance of miscarriage in the way those Courts dealt with his application.

[9] We therefore decline to grant leave to appeal.

Solicitors:  
Crown Law Office, Wellington for Respondent

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<sup>5</sup> *Halpin (CA)*, above n 2, at [21].

<sup>6</sup> At [22].