

IN THE SUPREME COURT OF NEW ZEALAND

SC 142/2016
[2017] NZSC 125

BETWEEN JACQUELINE ANN CAMERON
Applicant
AND THE QUEEN
Respondent

Court: Glazebrook, O'Regan and Ellen France JJ
Counsel: Applicant in person
K S Grau for Respondent
Judgment: 21 August 2017

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] On 19 April 2013, Ms Cameron was found guilty after a jury trial of charges under s 127 of the Social Security Act 1964 and of using a document for pecuniary advantage.¹

[2] The Court of Appeal dismissed her appeal against conviction but allowed a sentence appeal.² It upheld a reparation amount of \$42,957.84 fixed by the District Court.³

[3] Ms Cameron now seeks leave to appeal to this Court.⁴

¹ Crimes Act 1961, s 228(b) (now found in s 228(1)(b) since 7 November 2015: Crimes Amendment Act 2015, s 10).

² *Cameron v R* [2015] NZCA 363 (Wild, Clifford and Dobson JJ) [Conviction appeal].

³ *Cameron v R* [2016] NZCA 536 (Wild, Clifford and Dobson JJ) [Sentence appeal].

⁴ Ms Cameron has been unwell and was granted a number of extensions of time for filing submissions, which have now been received.

Background

[4] Ms Cameron separated from her husband in September 2003. In August 2006, Ms Cameron, who was responsible for the five children of the marriage, was granted the domestic purposes benefit and an accommodation supplement. She began living with a Mr Bloomfield from mid-December 2006. By May 2008 they had a son together and had become engaged. Ms Cameron did not advise the Ministry of Social Development (the Ministry) of her change in circumstances as she had agreed to when she applied for the benefit. The domestic purposes benefit continued to be paid to her.⁵

[5] The Ministry, after an investigation beginning in December 2008, concluded that Ms Cameron had been living in a relationship in the nature of marriage with Mr Bloomfield since 1 March 2007. As part of the investigation Ms Cameron was interviewed. She confirmed that she was in a relationship with Mr Bloomfield and accepted that she had not disclosed that Mr Bloomfield lived with her. She said she needed the money, financial assistance for her daughters was not Mr Bloomfield's responsibility and such a disclosure would have resulted in a drop in benefit which she could not afford. Ms Cameron said she knew what she had done was legally wrong but she did not think it was morally wrong as she had to look after her children. Ms Cameron also explained in an additional statement that she had suffered violence in her previous relationship.

[6] Summary charges were laid in August 2009 and in November 2009 Ms Cameron elected summary jurisdiction and pleaded not guilty. In February 2010 Ms Cameron pleaded guilty but vacated her guilty pleas in October 2010 and elected trial by jury. The trial was set down to commence in September 2012, but Ms Cameron was granted an adjournment to enable her to obtain advice from a psychologist, a Ms Beekhuis.

⁵ Ms Cameron also submitted temporary additional support re-application forms to the Ministry in August 2007, November 2007 and February 2008. On each of these forms she stated she was not living with anyone in a relationship in the nature of marriage. In August 2008, in a form connected with a review of the entitlement to her benefit, she stated again that she was not living with anyone in a relationship in the nature of marriage.

[7] The trial eventually took place in April 2013. Ms Beekhuis did not give evidence at the trial. Ms Cameron had sought a further adjournment on the ground that Ms Beekhuis was unavailable but the District Court ruled the evidence inadmissible and declined the application to adjourn the trial.⁶

[8] Ms Cameron's defence at trial was that she honestly did not believe her relationship was in the nature of marriage because it lacked financial interdependence. A statement of agreed facts was placed before the jury recording that Ms Cameron had been diagnosed by Ms Beekhuis in 2010 as suffering from post-traumatic stress disorder (PTSD) starting at the time of her separation from her husband and continuing at the times relevant to the case in 2007 to 2009. Ms Cameron gave evidence at trial, maintaining she could not be financially dependent on another person because of the abuse she had suffered at the hands of her ex-husband.

Court of Appeal judgment

[9] Ms Cameron based her appeal on the proposition that the Ministry and the District Court had failed to take proper account of the fact that she was suffering from PTSD caused by abuse suffered at the hands of her former husband and therefore that she had not committed to a relationship in the nature of marriage with Mr Bloomfield.⁷ The appeal was also based on criticisms of her trial counsel but she had not provided a waiver of privilege. The Court was thus unable to deal with that issue.⁸

[10] The Court of Appeal considered the District Court had been wrong to rule the evidence of Ms Beekhuis inadmissible.⁹ The evidence could have explained Ms Cameron's self-reliance and reluctance to pool financial resources which was relevant to her defence that she honestly believed she was not in a relationship in the nature of marriage. However, the Court did not consider a miscarriage of justice had resulted. The District Court Judge had not necessarily been wrong to decline the

⁶ *R v Cameron* DC Christchurch CRI-2009-009-13562, 10 April 2013.

⁷ Conviction appeal, above n 2, at [3].

⁸ At [4].

⁹ At [48].

adjournment application. Further, the trial itself focussed the jury on Ms Cameron's experiences and why that meant she could not depend financially on a man.¹⁰

[11] The Court of Appeal observed that the jury's verdicts were almost inevitable given Ms Cameron's admissions at her interview and the fact that Ms Cameron and Mr Bloomfield had a child together, were engaged and were living together in an intimate relationship with a degree of financial interdependence.¹¹

[12] After seeking further information from Ms Cameron and the Ministry, the Court of Appeal was satisfied that Ms Cameron's possible entitlement to other benefits was appropriately considered by the Ministry.¹² That is why the reparation amount was upheld.

This application

[13] Ms Cameron says that the Court of Appeal should not have upheld the reparation amount. She says that she and members of her family were entitled to other benefits which were not properly taken into account. She says also that the background of violence from her former husband was not fully before the jury. In particular, she should have been allowed to call Ms Beekhuis. She also says that her trial counsel had a conflict of interest and did not represent her adequately and makes allegations of unethical behaviour on the part of Ministry investigators.

The Crown's submissions

[14] As the Court of Appeal has pointed out, the combination of the defence advanced at trial, the agreed facts concerning Ms Cameron's diagnosis of PTSD and the Judge's summing up all focused the jury on Ms Cameron's experiences and why that meant she said she would not be financially dependent on a man with whom she was in a relationship. The evidence of Ms Beekhuis would not have advanced that defence any further and the Judge's summing up set out in considerable detail why Ms Cameron said she did not believe she was in a relationship in the nature of marriage.

¹⁰ At [49]–[51].

¹¹ At [56]–[58].

¹² Sentence appeal, above n 3, at [13].

[15] The Crown submits therefore that Ms Cameron's history as a victim of domestic violence was squarely before the jury at her trial but says that her frank admissions she had been wrong in staying on the domestic purposes benefit while she lived with her partner made the verdict inevitable.

[16] The Crown submits that further Ms Cameron's allegations of a corrupt Ministry investigation and false evidence at trial are unsubstantiated. Nor do the allegations give rise to concern about the fairness of the trial process or the safety of the convictions.

[17] The Crown also submits that there remains no evidential foundation on which the Court of Appeal or this Court could rely to determine Ms Cameron's allegations about her trial counsel's conduct. The Crown comments that Ms Cameron was represented by very experienced counsel who advanced a defence based on Ms Cameron's experience of domestic violence, her subsequent PTSD and her inability to repose trust in others.

[18] With regard to Ms Cameron's potential entitlement to other benefits, the Crown points out that the Court of Appeal, having sought further information from the parties, made a factual finding upholding the District Court's assessment, based on information provided by Ms Cameron and the Ministry. The two Courts below have made concurrent factual findings about the amount owed. In the Crown's submission the type of complex factual analysis Ms Cameron seeks is unsuitable for a second tier appeal.

Our assessment

[19] We have considered Ms Cameron's extensive submissions very carefully. These submissions largely duplicate those made in the Court of Appeal.

[20] There is nothing in the submissions that would suggest the Court of Appeal was in error in its assessment of the issues. Nor is there anything to suggest a miscarriage of justice.

[21] In particular we agree with the Court of Appeal's assessment of the inevitability of the verdicts given Ms Cameron's circumstances and her admissions.¹³ We also accept the Crown's submissions relating to the reparation amount. The Court of Appeal has already considered and rejected Ms Cameron's submissions related to her entitlement to other benefits.¹⁴

[22] The application for leave to appeal is dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent

¹³ See above at [11].

¹⁴ See above at [18].