



## Supreme Court of New Zealand

3 November 2010

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

***James Louis Mason v The Queen***  
**(SC 47/2010 [2010] NZSC 129)**

### **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 [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

Mr Mason was convicted after a jury trial of assaulting his four-year-old son and sentenced to nine months' supervision, which he has been serving. The Supreme Court has allowed his appeal against conviction because of a misdirection by the trial Judge.

The charge was framed in one composite count of assaulting the child by pulling his ear and by punching him. The Judge told the jury that Mr Mason could be convicted either of the ear-pulling or the punching but did not tell them that they must be unanimous about which of those assaults had been committed. It was therefore possible that some members of the jury had found him guilty on the basis of the ear-

pulling only and the others on the basis of the punching only, without unanimity on either basis.

The Supreme Court has said that the composite count should have been divided into two separate counts.

The Crown did not seek a retrial.

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