

IN THE SUPREME COURT OF NEW ZEALAND

**SC 3/2005
[2005] NZSC 13**

JOSEPH TUA COLEMAN

v

THE QUEEN

Court: Keith J and Blanchard J

Counsel: S Bonnar for Applicant
F E Guy for Respondent

Judgment: 23 March 2005

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The proposed ground of appeal concerns the admissibility of evidence of certain words spoken about him by the applicant's co-accused, when possibly he was not present.

[2] We are satisfied that no oral hearing is required and that the application can properly be dismissed on the papers.

[3] The applicant has not shown that there has been a miscarriage of justice. The intended ground of appeal is also without merit. The evidence in question may well have been admissible against the applicant under an exception to the hearsay rule. But whether or not that is so, it was given at the trial in response to cross-examination by the applicant's own counsel directed to eliciting it for an advantage perceived by counsel. Further, when Crown counsel sought to use the evidence against the applicant, the trial Judge very clearly directed the jury that it was not to be taken into account against him if the jury concluded that he may not have been present. That direction may in fact have been unduly favourable to the applicant.

Solicitors:
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