

**NOTE: ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS OF CONNECTED PERSON CD PURSUANT TO S 202 CRIMINAL PROCEDURE ACT 2011 REMAINS IN FORCE. SEE**

**<http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360349.html>**

**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>**

**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI**

**SC 93/2018  
[2019] NZSC 42**

BETWEEN                      LEMUEL MISA  
   Applicant

AND                              THE QUEEN  
   Respondent

Court:                          William Young, Glazebrook and O'Regan JJ

Counsel:                      W C Pyke for Applicant  
   K L Kensington for Respondent

Judgment:                      17 April 2019

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**JUDGMENT OF THE COURT**

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- A      Leave to appeal is granted (*Misa v R* [2018] NZCA 293).**
- B      The approved question is whether there was a miscarriage of justice at the applicant's trial.**
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## REASONS

[1] Leave has been granted in generic terms which will allow all matters raised in the application for leave and submissions to be advanced at the hearing of the appeal. However, we highlight the following issues and ask counsel to ensure that they are addressed in their submissions:

- (a) the interpretation of s 232(2)(c) of the Criminal Procedure Act 2011 (miscarriage of justice); and
- (b) the arguments relating to the applicant's trial counsel's preparation for the trial and the additional evidence adduced in support of the applicant's appeal to the Court of Appeal.

[2] We direct counsel to confer and arrange for the preparation of a chronology which should be filed at the same time as (or before) the submissions in support of the appeal are filed. We ask that this be a single document with any areas of disagreement highlighted in the document. The items in the chronology should be cross-referenced to the evidence adduced at the trial or in the Court of Appeal.

[3] The submissions of the respondent refer (at [12]) to a question trail. The Court has a handwritten document that we understand may have been used as a question trail. We ask that counsel confer and ensure that the Court is provided with the actual question trail that was provided to the jury at the applicant's trial.

Solicitors:  
Crown Law Office, Wellington for Respondent