

IN THE SUPREME COURT OF NEW ZEALAND

SC 44/2017
[2017] NZSC 85

BETWEEN MICHAEL JOHN DENNEY
 Applicant

AND THE QUEEN
 Respondent

Court: Elias CJ, Glazebrook and Ellen France JJ

Counsel: J F Pereira for Applicant
 A J Ewing for Respondent

Judgment: 9 June 2017

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant was convicted after trial of intentionally causing grievous bodily harm by using his vehicle to run over the complainant, Mr Blain. The applicant appealed unsuccessfully against conviction and sentence to the Court of Appeal.¹ He seeks leave to appeal to this Court against conviction.

[2] The background is as follows. After an argument with Mr Blain at a party, the applicant left in his car. Others at the party watched while Mr Blain chased after the applicant's car on foot before disappearing out of sight. Mr Blain was found some minutes later lying on the road with serious injuries.

[3] Against this background, there are three proposed grounds of appeal. The first ground is a challenge to the reasonableness of the verdict. The second proposed

¹ *Denney v R* [2017] NZCA 80 (Winkelmann, Woodhouse and Collins JJ) [*Denney* (CA)].

ground concerns the directions of the trial Judge, Judge Bergseng, in relation to evidence of a statement made by the applicant to the arresting officer which the Court of Appeal found was admissible under s 30 of the Evidence Act 2006.² The final ground also concerns the Judge's directions to the jury, in particular, as to expert evidence relating to tyre track measurements at the scene.

[4] None of the three proposed grounds of appeal raise questions of general or public importance. Rather, all three grounds are specific to the particular circumstances of this case.

[5] Nor is there a risk of a miscarriage of justice. In relation to the first proposed ground, the Court of Appeal was satisfied looking at all of the evidence that the jury's verdict was reasonable. There is no appearance of miscarriage arising from that assessment. In terms of the other two proposed grounds, the Court of Appeal considered the directions given were sufficient. There is nothing in the material before this Court to call in doubt that conclusion.

[6] The criteria for leave are accordingly not met. The application for leave is dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent.

² Judge Bouchier in *R v Denney* [2015] NZDC 8062 at [74] ruled the evidence was not improperly obtained. The Court of Appeal held that ruling was incorrect but that the evidence was nonetheless admissible under s 30(2)(b) of the Evidence Act 2006: *Denney* (CA), above n 1, at [23]–[37].