



**Supreme Court of New Zealand
Te Kōti Mana Nui**

31 July 2019

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

PETER HUGH McGREGOR ELLIS v THE QUEEN

(SC 49/2019) [2019] NZSC 83

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 Judicial Decisions of Public Interest www.courtsofnz.govt.nz

Suppression

Please note that the publication of the names or identifying particulars of the complainants and child witnesses under the age of 17 is prohibited by ss 139 and 139A of the Criminal Justice Act 1985.

Introduction

Mr Ellis was convicted on 16 charges of sexual offending against seven children in 1993. The complainants attended the Christchurch Civic Childcare Centre where Mr Ellis was employed.

Mr Ellis appealed twice to the Court of Appeal, the second time after a referral by the Governor-General. The first appeal quashed three of the convictions. The second appeal against the remaining 13 convictions was dismissed in 1999.

Mr Ellis applied to the Supreme Court for leave to appeal against his convictions in June 2019. Mr Ellis also applied for an extension of time to make the application for leave to appeal.

The Crown opposed both applications.

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The Court's approach

In this case, before determining whether to grant leave to appeal, the Supreme Court had first to consider whether Mr Ellis should be permitted to bring the application given the length of time that has passed since his second appeal was dismissed.

In its judgment, the Court noted the touchstone in deciding whether to grant an extension will always be the interests of justice. Other factors the Court may have regard to include the seriousness of the charges, the strength of the proposed appeal, the impact on others and prejudice to the Crown. Also relevant is whether fresh evidence has come to light.

The Court's decisions

Application for extension of time

The Supreme Court considered that, despite the delay, the interests of justice require that the application for an extension of time be granted so that the issues can be fully aired on appeal.

Leave application

The Supreme Court granted Mr Ellis' application for leave to appeal. In accordance with its usual practice, the Court did not give reasons for granting leave to appeal. This is because leave is decided at a preliminary stage and full arguments are dealt with on appeal. There may also be further evidence called by the Crown at the appeal hearing.

The Court instructed the Registrar to arrange a telephone conference to canvass arrangements for the hearing of the appeal including:

- (a) whether Mr Ellis will apply for leave to adduce further evidence (apart from the affidavits already filed);
- (b) whether the Crown objects to the admission at the appeal hearing of the affidavits filed in support of the application for leave to appeal;
- (c) the approximate timeframe for the Crown to file its evidence in reply;
- (d) a timetable for filing submissions; and
- (e) the likely duration and timing of the appeal hearing.

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