

IN THE SUPREME COURT OF NEW ZEALAND

**SC 91/2009
[2010] NZSC 7**

PHILLIP MICHAEL MCMASTER

v

THE QUEEN

Court: Elias CJ, Blanchard and McGrath JJ

Counsel: B J Hart for Applicant
M D Downs for Crown

Judgment: 11 February 2010

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The application is for leave to appeal against dismissal by the Court of Appeal of an appeal against conviction on charges of aggravated robbery and unlawfully taking a motor vehicle.

[2] There are two proposed grounds, the first challenging the parties direction given by the trial Judge and the second being the refusal by the Court of Appeal to admit new evidence.

[3] We are not persuaded that it is arguable that the Court of Appeal erred in its conclusions in respect of either matter. The trial directions were most unlikely on the facts of this case to have confused the jury as the applicant suggests. The proposed new evidence was neither fresh nor cogent, for the reasons given by the Court of Appeal.

Solicitors:
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