



## Supreme Court of New Zealand

16 November 2010

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

#### ***RAYMOND EVEREST HESSELL v THE QUEEN***

**SC 102/2009 [2010] NZSC 135**

### **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 [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

The appellant pleaded guilty a few days before his trial to nine charges of sexual offending against two girls aged under 16 years. He was sentenced to two years and eight months' imprisonment. The Judge had treated the guilty plea as a mitigating factor which justified a 10 per cent reduction in the sentence. Mr Hessell appealed to the Court of Appeal against his sentence, arguing that the sentencing Judge should have made a greater allowance for his guilty plea in the sentence.

The Court of Appeal's judgment set out guidance for sentencing judges on the basis on which they should give credit for guilty pleas in sentencing. The Court decided that in future a guilty plea should be recognised by giving a discrete reduction, calculated as a percentage of the sentence that otherwise would have been imposed. The percentage would be determined according to a sliding scale. For a plea at the first reasonable opportunity, there would be a 33 per cent reduction. If the plea came at the first callover, the reduction would be 20 per cent. At three weeks before trial it would be 10 per cent. The Court of Appeal dismissed Mr Hessell's appeal against sentence.

The Supreme Court has decided that the prescriptive nature of the Court of Appeal's guidance involves a departure from the requirements of the Sentencing Act that judges when sentencing evaluate the full circumstances of each individual case. Where a defendant pleads guilty, when during the process the plea is entered is only one of those circumstances. Other relevant factors, including the strength of the prosecution's case, must be considered in determining the sentence. The judge had to be satisfied that the sentence imposed was the right sentence for the offending in light of the offender's acknowledgement of guilt and all other relevant circumstances.

In this case holding the reduction for a very late plea to 10 per cent was a course properly available to the sentencing judge. The Supreme Court accordingly dismissed Mr Hessel's appeal.

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