

**DONALD LYALL TROTTER**

v

**THE QUEEN**

Court: Gault J and Tipping J  
Counsel: M A Kennedy for Applicant  
F E Guy for Respondent  
Judgment: 3 March 2005

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed.**

**REASONS**

[1] The applicant seeks leave to appeal against the judgment of the Court of Appeal delivered on 14 October 2004 upholding the sentence of preventive detention imposed upon conviction after a jury trial in the District Court.

[2] Having considered the written submissions of counsel in support of, and in opposition to, the application, we are satisfied that an oral hearing is unnecessary and that the application should be dismissed.

[3] The applicant seeks to advance in this court substantially the same grounds as were considered in the Court of Appeal. They are, in effect, that by reference to the mandatory principles and purposes relating to the sentence of preventive detention, the sentence in the case of the applicant should not have been imposed. The challenges are to the assessment of the likelihood that the applicant would commit another qualifying offence upon release and of the need for preventive detention in preference to a lengthy determinate sentence.

[4] The grounds put forward do not raise issues of sentencing principle. They are directed to the application of established principles to the circumstances of the applicant and do not raise any matter of general or public importance.

[5] Before granting leave the Court must be satisfied that it is necessary in the interests of justice for the Court to hear the proposed appeal. Where a sentence has been reviewed in the Court of Appeal and there is not raised a question of law or of general sentencing principle that requirement will not be met.

[6] It is not sufficient to contend that a substantial miscarriage of justice may occur if the sentence is not reviewed on a second appeal. Justice requires that sentences be imposed in accordance with the law and by the application of correct principles, with the opportunity for review on appeal. It does not require a further review of the severity or appropriateness of the sentence by way of second appeal. A further appeal is appropriate only when there is raised a question whether the sentencing process has seriously miscarried. That is not this case.

[7] The approach that we are taking to the criteria for leave in s 13 of the Supreme Court Act is substantially the same as that in respect of second appeals in other Commonwealth jurisdictions. Although there are some differences in the statutory provisions conferring jurisdiction, the general approach to the grant of leave is the same: see *Taylor on Appeals* at 14.028 (House of Lords) and 18.096 et seq (Privy Council), *Lowe v The Queen* (1984) 154 CLR 606 (High Court of Australia) and *R v M* [1996] 1 SCR 500 at [33] (Supreme Court of Canada).

[8] Accordingly leave to appeal is refused.

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