IN THE SUPREME COURT OF NEW ZEALAND

SC CRI 17/2004

JESSE MICHAEL GUILD

v

THE QUEEN

Court:	Blanchard and Tipping JJ
Counsel:	G J King for Appellant S P France for Crown
Judgment:	2 February 2005

JUDGMENT OF THE COURT

[1] We are of the view that this application for leave to appeal can properly be dealt with on the papers. The appellant, Jesse Michael Guild, appealed to the Court of Appeal against his convictions for manslaughter and reckless operation of a motor vehicle causing injury. Those convictions were based on the premise that Mr Guild had deliberately turned right at a busy intersection against a red arrow, and had thereby caused the deaths and injury in question. His appeal was dismissed.

[2] He now seeks leave to appeal to this Court on the basis that the Court of Appeal was wrong in rejecting his contention that certain similar fact evidence should not have been admitted at his trial. That evidence was to the effect that he had previously turned right against a red arrow at the same intersection. Although, in abstract terms, the principles relating to the admission of similar fact evidence are of

general importance, we do not regard this as a proper case in which they should be examined by this Court. In short, the disputed evidence was of identical wrongdoing at the very same intersection and within a very short time of the events in issue. The evidence in question would qualify for admission whatever the precise test might be. The relevance of the evidence is accepted and the probative/prejudice balance clearly favours admission with a proper direction.   There cannot be any reasonable suggestion that the jury were not properly directed on the use of the evidence.

[3] In terms of s13 of the Supreme Court Act 2003 we are not satisfied it is necessary in the interests of justice for the Supreme Court to hear and determine the proposed appeal. None of the specific criteria set out in s13(2) has been shown to apply to this case. The application for leave to appeal is therefore dismissed.

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