



remaining convictions, however, but reduced Mr Hosking's sentence to 12 months' imprisonment. The Crown has decided not to proceed with the retrials.

[2] Mr Hosking now seeks leave to appeal, albeit out of time, on the grounds that:

- (a) The evidence of each of the incidents giving rise to the charges should not have been treated as propensity evidence in relation to the other incidents.
- (b) If they were properly treated as propensity evidence, the trial Judge's instructions to the jury were inadequate.
- (c) Having allowed appeals in respect of two of the convictions, the Court of Appeal should have allowed the appeal in respect of the remaining convictions and ordered a new trial on them all.

[3] We are not satisfied that it is necessary in the interests of justice for this Court to hear and determine an appeal in this case. The Court has previously discussed the principles applicable to propensity evidence, most particularly in *Mahomed v R*.<sup>3</sup> We do not see the present case as raising any matter of general or public importance in that connection. Moreover, we see no risk of a substantial miscarriage of justice. No challenge was made to the joinder of the counts at trial or before the Court of Appeal.<sup>4</sup> The evidence going to the various counts was undoubtedly propensity evidence in relation to the other counts, as the Court of Appeal explained.<sup>5</sup> Finally, the evidence against Mr Hosking on the lead offence was, as the Court of Appeal also said, strong<sup>6</sup> and the Court's analysis of the evidence on the other counts raises no obvious issue. In these circumstances, we are satisfied that leave should not be granted.

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<sup>3</sup> *Mahomed v R* [2011] NZSC 52, [2011] 3 NZLR 145.

<sup>4</sup> *Hosking (CA)*, above n 2, at [2].

<sup>5</sup> At [29]–[35].

<sup>6</sup> At [21].