

**NOTE: PUBLICATION OF NAME OR IDENTIFYING PARTICULARS OF  
COMPLAINANT PROHIBITED BY S 139 OF THE CRIMINAL JUSTICE  
ACT 1985.**

**NOTE: DISTRICT COURT ORDER SUPPRESSING THE NAME OF THE  
APPELLANT CONTINUES IN FORCE.**

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 28/2014  
[2014] NZSC 107**

BETWEEN                      L  
   Applicant  
  
AND                              THE QUEEN  
   Respondent

Court:                          McGrath, William Young and Arnold JJ  
  
Counsel:                      A N Isac for Applicant  
   A Markham and Z R Hamill for Respondent  
  
Judgment:                      8 August 2014

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**JUDGMENT OF THE COURT**

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- A      Leave to appeal out of time is granted (*L (CA707/2012) v R*  
         [2013] NZCA 191).**
- B      The approved grounds of appeal are:**
- (a)    **Whether the trial Judge should have given the jury  
         a warning, under s 122(1) of the Evidence Act 2006,  
         concerning the complainant's evidence; and**
- (b)    **Whether the Court of Appeal was wrong to conclude  
         that no miscarriage of justice arose from the Judge's  
         ruling as to the manner in which the appellant could  
         give evidence of a payment he had made to the  
         complainant.**
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## REASONS

[1] In its judgment the Court of Appeal rejected a submission from the applicant that the trial Judge should not have admitted in evidence a photograph of the complainant, taken two years before the period of the alleged offending that was the subject of the charge on which the applicant was convicted.<sup>1</sup> We refuse leave to appeal to this Court on that ground. It does not raise any issue of public or general importance. Nor in our view was the admission of the photograph capable of giving rise to a serious miscarriage of justice. Finally the photograph is not material to the grounds on which leave to appeal is given.

Solicitors:  
Fitzherbert Rowe, Palmerston North for Applicant  
Crown Law Office, Wellington for Respondent

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<sup>1</sup> *L (CA 707/2012) v R* [2013] NZCA 91.