

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

IN THE SUPREME COURT OF NEW ZEALAND

**SC 130/2013
[2014] NZSC 139**

BETWEEN LARRY GORDON CANT
 Applicant

AND THE QUEEN
 Respondent

Court: William Young, Glazebrook and Arnold JJ

Counsel: Applicant in person, assisted by M V Lyttelton as McKenzie
 Friend
 A Markham for Respondent

Judgment: 9 October 2014

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Following a 19-day trial before Judge Gittos and a jury, the applicant, Mr Cant, was found guilty on a charge of assault with intent to commit sexual violation. He was sentenced in the High Court to preventive detention, with a minimum period of imprisonment of six and a half years.¹ His appeal against both conviction and sentence having been unsuccessful in the Court of Appeal,² Mr Cant seeks leave to appeal to this Court.

¹ *R v Cant* HC Auckland CRI-2006-004-26731, 20 May 2010.

² *Cant v R* [2013] NZCA 513.

[2] The judgment of the Court of Appeal records the difficulties faced by the District Court in getting the matter to trial and by the Court of Appeal in having the appeal brought on for hearing. Much of the difficulty arose from the fact that, although Mr Cant was granted legal aid and several different lawyers were appointed to act for him, his relationship with each broke down, in one case because Mr Cant threatened physical violence against the lawyer. At trial, Mr Cant ultimately chose to represent himself with the help of a McKenzie friend, Mr Lyttelton, who has assisted Mr Cant throughout. However, Judge Gittos also appointed an amicus curiae, Mr Cordwell, whom he permitted to adopt a partisan stance, particularly in relation to cross-examination of the complainant.³ Moreover, the Court of Appeal appointed an amicus, Mr Gibson, in relation to Mr Cant's sentence appeal.

[3] This Court has also faced difficulties in bringing this leave application to the point that it can be determined. Mr Cant sought and was granted several extensions of time to file his submissions. Ultimately on 20 June 2014 Arnold J issued a minute noting that Mr Cant had filed a very detailed application for leave to appeal (35 pages) and making the following directions:

- (a) If Mr Cant wished to file any further submissions, he was to do so by 31 July 2014. Failing that, the Court would proceed on the basis of the detailed grounds in his application.
- (b) In either event, the Crown was to file its response by 15 August 2014.

[4] Mr Cant filed no further submissions but Mr Lyttelton did forward an email indicating that he was seeking further information from the District Court. Presumably, he wanted a further extension of time to accommodate this. In any event, the Crown filed its submissions on 11 August 2014. The Court is not prepared to grant any further extension and will determine the application.

[5] Mr Cant, through Mr Lyttelton, raises numerous grounds of appeal against his conviction. He argues that:

³ At [32]–[33].

- (a) the Court of Appeal acted corruptly in dismissing his appeal;
- (b) his right to counsel was breached because he was forced to go to trial representing himself, albeit with the assistance of his McKenzie friend;
- (c) he should have been permitted to cross-examine the complainant about her alleged occupation as a sex worker;
- (d) there was prosecutorial misconduct in that the prosecutor, in breach of s 33 of the Evidence Act 2006, mentioned in closing to the jury that Mr Cant had not given evidence;
- (e) a *Papadopoulos* direction was given in circumstances that were unfair to him;
- (f) certain DNA evidence should not have been admitted in the way that it was;
- (g) all involved in his trial – the trial Judge, the prosecutor, the amicus, the complainant and the police – misconducted themselves in various ways.

[6] Apart from the allegation of corruption on the part of the Court of Appeal, all of these grounds were raised before the Court of Appeal and are addressed in its judgment. The material advanced in support of the various grounds appears to be essentially a repetition of very detailed arguments about the facts made before the Court of Appeal, accompanied by some inappropriate invective. The Court of Appeal's judgment addresses most of the grounds raised in some detail, although others, in particular the general allegations of corruption, are dealt with more briefly.

[7] Given the factual background, none of the grounds raises any issue of general or public importance. Nor, having considered the grounds in the light of the Court of Appeal's fully reasoned decision, do we consider that there is any risk of a substantial miscarriage of justice. We take a similar view in relation to Mr Cant's

application for leave to appeal against sentence. Accordingly, we are not satisfied that it is necessary in the interests of justice that we hear and determine this appeal.

[8] The application for leave to appeal is dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent