

IN THE SUPREME COURT OF NEW ZEALAND

SC 96/2009
SC 17/2011
[2014] NZSC 171

BETWEEN ALEX KWONG WONG
 Applicant

AND THE QUEEN
 Respondent

Court: McGrath, William Young and Glazebrook JJ

Counsel: O E Harold for the Applicant
 M J Lillico and K J Cooper for Respondent

Judgment: 25 November 2014

JUDGMENT OF THE COURT

The application for recall and leave to bring a further appeal is dismissed.

REASONS

[1] In March 2010, this Court dismissed Mr Wong's application for leave to appeal against a judgment of the Court of Appeal upholding his conviction at a retrial on charges of serious drug offending.¹ In March 2011, this Court dismissed a further application by Mr Wong for leave to appeal directly from the convictions imposed in the High Court.² The proposed ground of that appeal was the inadequacy of interpretation at his trial, a contention which had not previously been raised before the Court of Appeal or this Court.

¹ *Wong v R* [2010] NZSC 14.

² *Wong v R* [2011] NZSC 18.

[2] The applicant subsequently sought to pursue that ground in the Court of Appeal, applying for leave to file a further appeal in that Court. In November 2011, the Court of Appeal dismissed that application.³

[3] Mr Wong's present application seeks recall of one or both of this Court's earlier judgments and seeks leave to appeal against the Court of Appeal judgment(s) or, directly, his earlier conviction. The appeal would principally be based on the ground of inadequacy of interpretation at his trial.

[4] The Court of Appeal addressed this contention in its November 2011 judgment. The Court of Appeal refused that application for jurisdictional reasons but it also discussed the merits of the proposed ground that there had been a fundamental failure of trial process due to inadequate interpretation.⁴ Although expressing itself cautiously, because the Court did not have information of the same extent as it would have on an appeal, in a fully reasoned judgment which goes into the circumstances of the trial and wider relevant context, their Honours concluded that it was not seriously arguable that the applicant's right to an interpreter at his retrial was breached.

[5] The present application seeks to challenge this finding. It is supported by submissions from new counsel, Mr Harold, and an affidavit by the applicant, both prepared in May 2014. In them the applicant raises a further issue concerning lack of assistance from an interpreter in the Court of Appeal hearing that resulted in its judgment in November 2011. The applicant also raises a concern that the Court of Appeal Judges did not listen to an audio recording of the trial which was available. Reference is also made to the applicant's misunderstanding of procedural issues during the trial.

[6] No question of public importance is raised by these proposed grounds. We are also satisfied that none of these matters require that this Court undertake a reappraisal of the Court of Appeal's finding in its November 2011 judgment. It is not arguable that justice miscarried at his retrial or appeal through failures of

³ *Wong v R* [2011] NZCA 563.

⁴ At [22]–[32].

interpretation. Nor is it arguable that any aspect of the Court of Appeal's procedure in hearing the appeal requires reconsideration by this Court.

[7] The application for recall and leave to bring a further appeal is accordingly dismissed.

Solicitors:
Jenny Wang & Associates, Auckland for Applicant
Crown Law Office, Wellington for Respondent