

IN THE SUPREME COURT OF NEW ZEALAND

SC 112/2014
[2014] NZSC 187

BETWEEN JACOBUS VAN DER LUBBE
Applicant
AND THE QUEEN
Respondent

Court: McGrath, William Young and Glazebrook JJ

Counsel: Applicant in person
M J Lillico for the Respondent

Judgment: 17 December 2014

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

Introduction

[1] After a jury trial in the Whanganui District Court, the applicant, Mr van der Lubbe, was convicted of one count of threatening to cause grievous bodily harm and one count of threatening to kill.¹ He was fined \$1,000 on each count.²

[2] The Court of Appeal dismissed his appeal against conviction and sentence on 8 October 2014.³ Mr van der Lubbe seeks leave to appeal against the Court of Appeal decision.

¹ Contrary to the Crimes Act 1961, s 306(1)(a).

² *R v van der Lubbe* DC Whanganui CRI-2012-083-402, 29 April 2013 (Sentencing Notes of Judge Cameron).

³ *van der Lubbe v R* [2014] NZCA 495 (Ellen France P, MacKenzie and Andrews JJ).

Background

[3] The object of the threats was Mr van der Lubbe's neighbour but the threats were made in the course of two telephone conversations with police communicators on the 111 emergency services line and not to the neighbour.

[4] Mr van der Lubbe admitted the telephone calls but sought to rely on provocation and self defence. He explained in evidence that he had made the telephone calls to lay a "paper trail" and that he wanted to be arrested so he could "tell [his] story" in court about the dispute with his neighbour and thereby bring an end to that dispute.

Discussion

[5] Mr van der Lubbe essentially seeks to raise the same issues before us as in the Court of Appeal. The issues he wishes to canvass raise no issues of principle and largely concern factual issues. Nothing he has raised suggests that the Court of Appeal's conclusion on those matters may have been wrong. There is no risk of a miscarriage of justice.

Result

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

Solicitors:
Crown Law Office, Wellington for Respondent