

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

IN THE SUPREME COURT OF NEW ZEALAND

**SC 2/2014
[2014] NZSC 26**

BETWEEN **PAKI HOAINI TAIATINI**
Applicant

AND **THE QUEEN**
Respondent

Court: McGrath, William Young and Glazebrook JJ

Counsel: T Sutcliffe for the Applicant
P D Marshall for the Respondent

Judgment: 25 March 2014

JUDGMENT OF THE COURT

- A. The application for leave to appeal is granted.**
- B. The approved questions are:**
- (a) Was the evidence of the complainant's mother and her boyfriend admissible in terms of the veracity or propensity provisions of the Evidence Act 2006?**
- (b) If the evidence was admissible:**
- (i) should there have been a direction from the trial judge as to the use that could be made of the evidence?**
- (ii) was Mr Taiatini placed at any disadvantage from the fact that the evidence arose in the course of the trial?**
- (c) If the evidence was not admissible, did its admission and/or the absence of a direction from the trial judge create the risk of a miscarriage of justice?**

REASONS

[1] The evidence at issue is summarised at [13]–[15] of the Court of Appeal’s judgment.¹ The application for leave did not ask the Court to address the issue of the admissibility of that evidence.²

[2] The Court is of the view, however, that the question of whether the evidence at issue and/or the lack of direction created the risk of a miscarriage of justice cannot sensibly be addressed without considering whether the evidence was in fact admissible.

Solicitors:
Crown Law, Wellington for the Respondent

¹ *Taiatini v R* [2013] NZCA 563.

² Indeed, the ground of appeal in the application for leave generally challenging the admissibility of all of the mother’s evidence was abandoned.