

IN THE SUPREME COURT OF NEW ZEALAND

**SC 126/2013
[2014] NZSC 29**

BETWEEN WAN YEE CHOW
 Applicant

AND THE QUEEN
 Respondent

Court: Elias CJ , McGrath and Glazebrook JJ

Counsel: M M Wilkinson-Smith for Applicant
 M E Ball for Respondent

Judgment: 28 March 2014

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant was convicted in 2006 of a contract killing and sentenced to life imprisonment with a 17-year minimum term. He seeks leave to appeal out of time against the judgment of the Court of Appeal delivered on 12 August 2013, which dismissed his appeal against conviction and sentence.¹

[2] The issue of the proposed ground for appeal against conviction is that the applicant did not receive a fair trial because necessary accommodations were not made for his intellectual and linguistic difficulties. These criticisms were carefully examined by the Court of Appeal which concluded, on the basis of clinical assessments, that there was no reasonable possibility that the applicant was unfit to

¹ *Chow v R* [2013] NZCA 360.

plead at the time of his trial in 2006.² The Court decided that neither the disclosure of documents in English, without translation into Cantonese, nor the standard of interpretation at his trial, created any impediment to the conduct of his defence.³ The applicant was represented by very experienced senior counsel who the Court was satisfied had a good grasp of the detail of his defence.⁴ As well, delays inherent in the simultaneous interpretation approach that had been applied at the trial had given the applicant further time to assimilate the information.⁵ We are satisfied that the Court of Appeal's approach to the issues was correct in law and there is no indication that a miscarriage of justice arises from its judgment.

[3] In relation to the sentence appeal, the applicant submits that the 17-year minimum term of imprisonment fails to take account of the applicant's intellectual deficits, limited English skills, and isolation within the prison environment. The Court of Appeal concluded that the applicant's personal circumstances did not justify a departure from the mandatory 17-year minimum term of imprisonment having regard to the circumstances of the offending, which was a pre-meditated and planned contract killing for financial gain.⁶ We see no basis to challenge that finding.

[4] We are satisfied that the interests of justice do not require a further appeal and the application for leave to appeal against conviction and sentence is accordingly dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent

² At [32].

³ At [44] and [58].

⁴ At [43] and [58(b)].

⁵ At [58(d)].

⁶ At [80].