



## Supreme Court of New Zealand

**5 September 2014**

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

**PAKI HOANI TAIATINI v THE QUEEN  
(SC 2/2014)  
[2014] NZSC 122**

### **PRESS SUMMARY**

**This summary is provided to assist in the understanding of the Court’s judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at Judicial Decisions of Public Interest [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

The appellant was found guilty on six counts of indecent assault and three counts of sexual violation by unlawful sexual connection. He appeals to this Court on the basis that on three occasions, Crown witnesses gave evidence which was inadmissible and that the associated prejudice to the appellant was not addressed by the trial Judge.

The disputed evidence related to comments by the complainant’s boyfriend that the complainant was unlikely to initiate sexual contact and observations by the complainant’s mother that the complainant was incapable of lying and that she lived in a black and white moral world in which she would never engage in sexual conduct with a married man. The trial Judge did not address the disputed evidence in his summing up.

The appellant’s appeal against conviction was dismissed by the Court of Appeal on the basis that the evidence and the absence of any direction did not give rise to any material risk of a miscarriage of justice, even though the evidence was likely to be inadmissible if challenged pre-trial.

The Court by a majority (McGrath, William Young and Arnold JJ) has dismissed the appeal and upheld the appellant's conviction. The majority considered that the disputed evidence was responsive to the defence theory that the complainant had been pressured to assert that the sexual activity was non-consensual, was of limited moment and did not give rise to a miscarriage of justice.

The Chief Justice and Glazebrook J dissented. They considered that the admission of the evidence resulted in a miscarriage of justice, as the three disputed pieces of evidence as to the complainant's truthfulness and propensity in sexual matters went to the heart of the case and impacted on the critical issues at trial.

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