

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

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 100/2014  
[2015] NZSC 9**

BETWEEN T (SC 100/2014)  
Applicant

AND THE QUEEN  
Respondent

Court: McGrath, Glazebrook and Arnold JJ

Counsel: Applicant in person  
M D Downs and K J Cooper for Respondent

Judgment: 19 February 2015

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed.**

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**REASONS**

[1] At a jury trial presided over by Judge Kelly, the applicant was convicted on eight representative counts of historic sexual offending against his daughter. He was sentenced to imprisonment for 10 years.<sup>1</sup> He appealed to the Court of Appeal against his convictions and his sentence but was unsuccessful.<sup>2</sup> He now seeks leave to appeal to this Court against his convictions.

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<sup>1</sup> *R v [T]* DC Wellington CRI-2010-032-3076, 24 August 2011 (Judge Kelly).

<sup>2</sup> *T(CA693/2011) v R* [2014] NZCA 378 (O'Regan P, Courtney and Clifford JJ).

[2] The applicant chose to represent himself before the Court of Appeal.<sup>3</sup> He continues to represent himself before this Court, although he says that he has attempted to obtain legal representation.

[3] The applicant's leave submissions focus first on alleged misconduct by the police when he was taken to the police station, before he was interviewed and formally arrested. The applicant submits that he was wrongfully pressured into accompanying the police to the police station and that this misconduct rendered his trial unfair and resulted in a miscarriage of justice.

[4] This issue was addressed by the Court of Appeal. While acknowledging that the events as described by the applicant gave rise to concern about the conduct of the police, the Court of Appeal pointed out that the applicant did not make any incriminating admissions in his statement to police. Having taken legal advice, the applicant declined to make a video statement and refused to answer questions relating to the alleged offending. The Court of Appeal said that in those circumstances, any alleged misconduct by the police in the course of taking the appellant to the police station could not have had any impact on the fairness of his trial.<sup>4</sup> In the circumstances of this case, that is plainly correct.

[5] The applicant also raises a ground not raised before the Court of Appeal, namely that the trial Judge should have granted the jury's request to see the transcript of the complainant's video statement and her written statement. The applicant says that, because its request was rejected, the jury did not have before it all relevant evidence.

[6] The trial Judge rejected the jury's request following a discussion with counsel, on the ground that the statements were not in evidence and reminded the jury that they were to determine the case on the basis of the evidence adduced in court. This is consistent with this Court's recent decision in *Guy v R*.<sup>5</sup>

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<sup>3</sup> At [3].

<sup>4</sup> At [23].

<sup>5</sup> *Guy v R* [2014] NZSC 165.

[7] This case does not raise any issue of general principle. Moreover, we see nothing to indicate that there is any risk of a substantial miscarriage of justice. Accordingly, we dismiss the application for leave to appeal.

Solicitors:  
Crown Law Office, Wellington for Respondent