

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

**SC 40/2020
[2020] NZSC 125**

BETWEEN WILLIAM ALLAN BERKLAND
 Applicant

AND THE QUEEN
 Respondent

Court: Glazebrook, Ellen France and Williams JJ

Counsel: L C Ord and E T Blincoe for Applicant
 C Ure for Respondent

Judgment: 17 November 2020

JUDGMENT OF THE COURT

- A The application for leave to appeal is granted (*Berkland v R* [2020] NZCA 150).**
- B The approved question is whether the Court of Appeal’s decision was correct.**
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REASONS

[1] While the approved question is general, the Court is particularly interested in hearing from the parties in relation to the following issues:

- (a) whether, given the more limited role attributed to Mr Berkland by the Court of Appeal (compared to that of his co-offender), sufficient weight was placed on that factor in setting the starting point;
- (b) whether the Court of Appeal applied the correct approach to personal mitigating circumstances in relation to Mr Berkland, and in particular

in requiring a causal link between his addiction or history of deprivation and the offending; and

- (c) whether the Court of Appeal was correct to uphold the imposition of a minimum period of imprisonment.

[2] It will be clear from the foregoing that it is not intended that this appeal should proceed as a wholesale re-litigation of the Court of Appeal's guideline judgment in *Zhang v R*.¹

Solicitors:
Ord Legal, Wellington for Applicant
Crown Law Office, Wellington for Respondent

¹ *Zhang v R* [2019] NZCA 507, [2019] 3 NZLR 648.