



SUPREME COURT OF NEW ZEALAND | TE KŌTI MANA NUI O AOTEAROA

10 JULY 2020

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

UHRLE v R

(SC 76/2019) [2020] NZSC 62

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.

In 2013, Ms Uhrle was convicted, together with three others, of murder. Her appeal against conviction was dismissed by the Court of Appeal in 2015. In 2016, the Supreme Court dismissed an application for leave to appeal from the decision of the Court of Appeal. In 2018, Ms Uhrle filed an application to bring a second appeal against conviction in the Court of Appeal on the basis of fresh evidence. The Court of Appeal determined that her application was properly characterised as one for recall of that Court’s 2015 decision. The Court of Appeal declined to recall its decision and, in 2019, Ms Uhrle applied again to the Supreme Court for leave to bring a second appeal against conviction.

The principal issue was whether this Court had jurisdiction to entertain a second application for leave to appeal and, if so, what the basis for that jurisdiction was. The Court has unanimously dismissed Ms Uhrle’s application for leave to appeal.

The Court held that a refusal of leave to appeal is final, so that successive applications for leave to appeal are not permitted. However, where proper grounds exist, the Supreme Court may recall its earlier decision declining leave to appeal and thereafter consider a second subsequent application for leave. The Court considered that the test for recall in the criminal jurisdiction had to be formulated to make it clear that reopening an appeal was an exceptional step. It held that the test for recall in the

civil jurisdiction is equally appropriate in the criminal jurisdiction and that recall is not limited to only errors of procedure.

There are three categories of cases in which a court may recall its judgment: first, where since the hearing there has been an amendment to a relevant statute or regulation or a new judicial decision of relevance and high authority; secondly, where counsel have failed to direct the court's attention to a legislative provision or authoritative decision of plain relevance; and thirdly, where for some other very special reason justice requires that the judgment be recalled. It is the third ground that is likely to be the most relevant in the criminal jurisdiction.

In Ms Uhrle's case, none of the three grounds was made out. In particular, there was no very special reason of justice requiring the 2016 leave judgment to be recalled. The proposed evidence faced several difficulties as a result of which it was not admissible. The matter is also more appropriately dealt with by way of application to the Criminal Cases Review Commission.

Contact person:

Kieron McCarron, Supreme Court Registrar (04) 471 6921