

ORDER PROHIBITING PUBLICATION OF THE JUDGMENT AND ANY PART OF THE PROCEEDINGS (INCLUDING THE RESULT) IN NEWS MEDIA OR ON THE INTERNET OR OTHER PUBLICLY AVAILABLE DATABASE UNTIL FINAL DISPOSITION OF TRIAL. PUBLICATION IN LAW REPORT OR LAW DIGEST PERMITTED.

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

**SC 20/2022
[2022] NZSC 33**

BETWEEN TAANE MURUIWI GRANT IRAIA
Applicant

AND THE QUEEN
Respondent

Court: William Young, Glazebrook and O'Regan JJ

Counsel: M G Robinson for Applicant
B F Fenton for Respondent

Judgment: 30 March 2022

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B There is an order prohibiting publication of the judgment and any part of the proceedings (including the result) in news media or on the internet or other publicly available database until final disposition of trial. Publication in law report or law digest is permitted.**
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REASONS

Introduction

[1] Mr Iraia is due to stand trial for one charge of aggravated robbery. He seeks leave to appeal pre-trial against the admission of identification evidence from three Corrections officers.

Background

[2] Mr Iraia and a co-defendant are accused of robbing and attacking the complainant. The complainant was unable to identify his attackers. Police obtained CCTV footage and Mr Iraia was ultimately identified by three Corrections officers after police shared that footage.

[3] Both the District Court¹ and the Court of Appeal² held the identification evidence of the officers to be admissible at Mr Iraia's trial. Both Courts found the evidence is reliable, relevant and has strong probative value. The Court of Appeal noted that the potential for prejudice can be mitigated in a number of ways. For example, there could be a carefully worded agreed statement of facts.³

Grounds of application

[4] Mr Iraia submits first that the CCTV identification evidence is not relevant for admission under s 7 of the Evidence Act 2006. He submits that the jury can assess for itself whether the CCTV footage depicts the accused. Second, even if s 7 is met, he says that the prejudicial effect of admission of the evidence would outweigh its probative value.

Our analysis

[5] This Court must not give leave to appeal in a pre-trial matter unless it is in the interests of justice to hear the appeal before trial.⁴ This threshold is not met. Mr Iraia can raise the issues in an appeal against conviction should he be found guilty at trial. The issues would then be addressed in the full context of the trial.

Result

[6] The application for leave to appeal is dismissed.

¹ *R v Wira* [2021] NZDC 14084 (Judge S M Harrop).

² *Iraia v R* [2021] NZCA 698 (Brown, Venning and Cull JJ), Cull J dissenting.

³ At [33]–[34].

⁴ Senior Courts Act 2016, s 74(4).

[7] For fair trial reasons, we make an order prohibiting publication of the judgment and any part of the proceedings (including the result) in news media or on the internet or other publicly available database until final disposition of trial. Publication in law report or law digest is permitted.

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