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

NOTE: PUBLICATION OF NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS OF COMPLAINANT PROHIBITED BY S 203 OF THE CRIMINAL PROCEDURE ACT 2011 AND PURSUANT TO SS 107RA AND 107G OF THE PAROLE ACT 2002. SEE https://www.legislation.govt.nz/act/public/2011/0081/153.0/DLM3360350.html

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 92/2024
[2024] NZSC 172

BETWEEN	PIERRE JOHN PARSONS Applicant
AND	CHIEF EXECUTIVE OF THE DEPARTMENT OF CORRECTIONS Respondent

Court: Williams, Kós and Miller JJ

Counsel: A J Bailey for Applicant
I L M Archibald for Respondent

Judgment: 13 December 2024

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] In 1995 the applicant was convicted of the rape and abduction of a 12-year-old girl. The applicant was then 18 years old. The victim, who was not known to the applicant, was attacked in the bathroom of a sports stadium. A rope was tied around the victim's neck, causing her to lose consciousness. The victim was then dragged into a series of adjacent rooms, stripped, and then raped. The applicant pleaded guilty in

the High Court to abducting a child under 16 years and sexual violation by rape. She was sentenced to 11 years' imprisonment.[1]

[2] After being paroled, she was recalled to prison and the Chief Executive of the Department of Corrections applied for an extended supervision order (ESO). That was imposed on 16 June 2006 for a term of 10 years.[2] A second 10-year order was made with effect from 22 February 2017.[3] During the period the orders were in place, the applicant had approached a 15-year-old girl on two occasions with what would appear to be inappropriate intent,[4] and was also found to have child pornography on her phone.

[3] A sentencing court must review an ESO where a person has been subject to such orders for 15 years.[5] Dunningham J was satisfied that the applicant remained at high risk of committing a relevant sexual offence and confirmed the ESO.[6] The Court of Appeal dismissed her appeal.[7] She seeks leave to appeal to this Court.

Statutory framework

[4] Section 107IAA(1) of the Parole Act 2002 provides:

> **107IAA Matters court must be satisfied of when assessing risk**
>
> (1) A court may determine that there is a high risk that an eligible offender will commit a relevant sexual offence only if it is satisfied that the offender—
>
> (a) displays an intense drive, desire, or urge to commit a relevant sexual offence; and
>
> (b) has a predilection or proclivity for serious sexual offending; and
>
> (c) has limited self-regulatory capacity; and

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1 The applicant is transgender but had not transitioned at the time of the offending.
2 *Chief Executive of the Department of Corrections v Parsons* HC Christchurch CRI-2006-409-44, 31 May 2006 at [29].
3 *Chief Executive of the Department of Corrections v Parsons* [2017] NZHC 229 at [40(a)].
4 *Department of Corrections v Parsons* [2016] NZDC 18002.
5 Parole Act 2002, s 107RA(2)(a).
6 *Chief Executive of the Department of Corrections v Parsons* [2023] NZHC 2600 [HC judgment] at [66]–[67].
7 *Parsons v Chief Executive of the Department of Corrections* [2024] NZCA 338 (Cooke, Venning and van Bohemen JJ) [CA judgment].

(d) displays either or both of the following:

(i) a lack of acceptance of responsibility or remorse for past offending:

(ii) an absence of understanding for or concern about the impact of his or her sexual offending on actual or potential victims.

Proposed appeal

[5] The applicant says that the Court of Appeal erred in respect to its interpretation of s 107IAA(1)(a). She accepts the Court of Appeal was correct in holding that an offender can "display" an intense drive/desire/urge without it being "externally manifested".[8] But she challenges the Court's further conclusion that:[9]

> … it was possible for the requisite intense drive, desire, or urge to commit a relevant sexual offence to be 'displayed' for the purposes of s 107IAA(1)(a) of the Act when it was present, but latent and might only emerge in certain contexts.

She wishes to argue that a trait which is "latent and might only emerge in certain circumstances" is incompatible with an "intense" drive to offend being "displayed" by an offender.

Our assessment

[6] We consider the criteria for leave are not made out. We do not consider the proposed argument raises a matter of general or public importance which is necessary in the interests of justice for this Court to hear.[10] In our view it seeks to give the statutory language an overly narrow meaning inconsistent with the more likely parliamentary intent that the provision be engaged where the risk-related intense drive, desire or urge is able, on the evidence, to be discerned in the offender.[11] As the High Court's conclusion is supported by the expert evidence, and the proposed appeal turns solely on the interpretation of the provision discussed, we do not consider the proposed appeal raises any concern of a substantial miscarriage of justice.[12]

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8 At [35] citing *Chief Executive, Department of Corrections v Alinizi* [2016] NZCA 468 at [25]–[27].
9 CA judgment, above n 7, at [36].
10 Senior Courts Act 2016, s 74(1) and (2)(a).
11 See for example *Alinizi*, above n 8, at [26].
12 Senior Courts Act, s 74(2)(b).

Result

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

Solicitors:
Te Tari Ture o te Karauna | Crown Law Office, Wellington for Respondent