

**NOTE: HIGH COURT ORDER PROHIBITING PUBLICATION OF WITNESS
A'S NAME AND IDENTIFYING PARTICULARS REMAIN IN FORCE.**

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

**SC 82/2024
[2024] NZSC 185**

BETWEEN DAVID WAYNE TAMIHERE
Applicant

AND THE KING
Respondent

Court: Glazebrook, Williams and Kós JJ

Counsel: M S Gibson and J E L Carruthers for Applicant
F R J Sinclair and R K Thomson for Respondent

Judgment: 20 December 2024

JUDGMENT OF THE COURT

- A Leave to appeal is granted (*Tamihere v R* [2024] NZCA 300).**
- B The approved question is whether the Court of Appeal was correct not to exercise its jurisdiction under s 406(1)(a) of the Crimes Act 1961 to quash Mr Tamihere's convictions.**
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REASONS

[1] Leave has been granted in general terms but the Court is particularly interested in hearing submissions on the issues of principle involved in: whether the trial was unfair, whether there was (in the light of new evidence or otherwise) a fundamental error at trial and whether, in light of the changes to the Court case, it was right for the Court of Appeal to apply the proviso to s 385(1) of the Crimes Act 1961, given the importance of the constitutional role of the jury.

[2] The parties may make submissions on the admissibility and relevance of the evidence of Sir Robert Jones at the hearing. It will be admitted de bene esse (provisionally) for this purpose.

Solicitors:

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