

# Ellis v R [2020]

**NOTE: PUBLICATION OF NAMES OF  
COMPLAINANTS PROHIBITED BY §  
ACT 1985.**

**NOTE: PUBLICATION OF NAMES OR IDENTIFYING PARTICULARS OF  
WITNESSES UNDER 17 YEARS OF AGE PROHIBITED BY S 139A OF THE  
CRIMINAL JUSTICE ACT 1985.**

**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI**

**SC 49/2019  
[2020] NZSC 89**

BETWEEN PETER HUGH MCGREGOR ELLIS  
Appellant  
AND THE QUEEN  
Respondent

Hearings: 14 November 2019  
25 June 2020

Court: Winkelmann CJ, Glazebrook, O'Regan, Williams and Arnold JJ

Counsel: R A Harrison, S J Gray and B L Irvine for Appellant  
(14 November 2019) U R Jagose QC, K S Grau and A D H Colley for Respondent

Counsel: R A Harrison, N R Coates, K D W Snelgar and S J Gray for  
(25 June 2020) Appellant  
U R Jagose QC, J R Gough, K S Grau and A D H Colley for  
Respondent  
M K Mahuika and H K Irwin-Easthope for Te Hunga Rōia Māori  
o Aotearoa as Intervener

Judgment: 1 September 2020

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## JUDGMENT OF THE COURT

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**P**

**The appeal is to continue despite the death of the appellant.**

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## REASONS

### Introduction

[1] Mr Ellis was convicted, after a trial in the High Court in Christchurch in 1993, of a number of counts of sexual offending against seven child complainants.<sup>1</sup> He applied to this Court for leave to appeal against the decision of the Court of Appeal dismissing his appeal against conviction.<sup>2</sup> He also applied for an extension of time to make the application.

[2] On 31 July 2019, this Court granted the application for an extension of time and also granted leave to appeal.<sup>3</sup> As is the Court's practice, reasons were not given for granting the application for leave to appeal but brief reasons were given with regard to the extension of time.<sup>4</sup>

[3] On 4 September 2019, Mr Ellis passed away. This raised the issue of whether the appeal should continue despite his death. The Court heard argument on this issue on 14 November 2019 and 25 June 2020. The second hearing addressed the relevance of tikanga to the issue of continuation of the appeal.

### Decision

[4] The Court has decided that the appeal is to continue despite the death of the appellant.

[5] Reasons for this decision will be provided at the same time as our judgment on the substantive appeal. These reasons will deal with the issues raised at both of the hearings on continuation.

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<sup>1</sup> Mr Ellis was acquitted on a further nine charges. He was also discharged on three charges during the trial under s 347 of the Crimes Act 1961.

<sup>2</sup> *R v Ellis* (1999) 17 CRNZ 411 (CA) (Richardson P, Gault, Henry, Thomas and Tipping JJ). This was Mr Ellis' second appeal. His first had also largely been dismissed: *R v Ellis* (1994) 12 CRNZ 172 (CA) (Cooke P, Casey and Gault JJ).

<sup>3</sup> *Ellis v R* [2019] NZSC 83 (Glazebrook, O'Regan and Williams JJ).

<sup>4</sup> The reason for the Court's practice of not giving reasons for granting applications for leave to appeal is that leave is decided at a preliminary stage and full arguments will be made and dealt with on appeal: see *Greymouth Gas Kaimiro Ltd v GXL Royalties Ltd* [2010] NZSC 30 at [1]. The Court is required to give reasons when declining leave to appeal: Senior Courts Act 2016, s 77.

[6] The Registry will contact the parties within the next two weeks to set up a telephone conference with Glazebrook J to discuss the management of the appeal.

Solicitors:  
Crown Law Office, Wellington for Respondent  
Kāhui Legal and Whāia Legal for Intervener