

CURRICULUM VITAE: GUY O'LOGHLEN REYNOLDS

Education: Sydney Grammar School; University of Sydney

Degrees: BA (Hons*); LLB (Hons)

Career:

- House President, St John's College (Univ of Sydney): 1983
- Associate to Sir William Deane (High Court of Australia): 1985-1987
- Commenced practice at the NSW Bar in February 1987: aged 27
- Appointed Senior Counsel for NSW in 1998: aged 38 (also appointed Queen's Counsel for Western Australia)
- Admitted as a barrister in Hong Kong: 2006
- Admitted to practice in New Zealand: 2019

Cases in High Court of Australia:

- *David Securities Pty Ltd v Commonwealth Bank of Australia* (1991) 175 CLR 353 (revenue law; restitution)
- *Commonwealth Bank of Australia v Quade* (1991) 178 CLR 134 (foreign currency loans; discovery)
- *Carson v John Fairfax & Sons Ltd [No 2]* (1992) 178 CLR 44 (damages)
- *Rogers v Whitaker* (1992) 175 CLR 479 (medical negligence – informed consent)
- *Mann v O'Neill* (1997) 191 CLR 204 (defamation; absolute privilege)
- *Nationwide News Pty Ltd v Wills* (1991) 177 CLR 1 (constitutional law; crime; industrial law)
- *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520 (constitutional law)
- *McKain v R W Miller & Co (SA) Pty Ltd* (1991) 174 CLR 1 (constitutional law; tort: private international law)
- *Batemans Bay Local Aboriginal Land Council v The Aboriginal Community Benefit Fund Pty Ltd* (1998) 194 CLR 247 (administrative law; standing)

- *SZBYR v Minister for Immigration* (2007) 81 ALJR 1190; 235 ALR 609 (immigration; administrative law)
- *Smith Kline & French v Commonwealth* (1991) 173 CLR 194 (constitutional law)
- *John Fairfax Publications Pty Ltd v Gacic* (2007) 230 CLR 291 (defamation)
- *Suvaal v Cessnock City Council* (2003) 77 ALJR 1449; 200 ALR 1 (negligence)
- *Stephens v West Australian Newspapers Ltd* (1994) 182 CLR 211 (constitutional law)
- *Favell v Queensland Newspapers* (2005) 79 ALJR 1716; 221 ALR 186 (defamation)
- *John Fairfax & Sons Ltd v Cojuangco* (1988) 165 CLR 346 (preliminary discovery)
- *Oshlack v Richmond Council* (1998) 193 CLR 72 (costs in public interest litigation)
- *Chakravarti v Advertiser Newspapers* (1998) 193 CLR 519 (defamation: justification)
- *Gordon v Tolcher* (2006) 231 CLR 334 (federal jurisdiction; *Judiciary Act* s.79; corporations: winding up)
- *Mulligan v Coffs Harbour City Council* (2005) 223 CLR 486 (negligence)
- *United Telecasters Sydney Ltd v DPP* (1990) 168 CLR 594 (criminal law)
- *Marsden v Amalgamated Television Services Pty Ltd* (1996) 70 ALJR 535; 136 ALR 243 (constitutional law; injunctions)
- *MW v Director General of the Department of Community Services* (2008) 82 ALJR 629; 244 ALR 205 (Hague Convention on child abduction)
- *Lumbers v W. Cook Builders Pty Ltd* (2008) 232 CLR 635 (restitution; quantum meruit; building and construction)
- *Cesan v R* (2008) 236 CLR 358 (criminal law; proviso)
- *Bashford v Information Australia* (2004) 218 CLR 366 (defamation; qualified privilege)
- *Gedeon v NSW Crime Commission* (2008) 236 CLR 120 (administrative law)
- *Northern Territory v Collins* (2008) 234 CLR 619 (patents)

- *Channel Seven Adelaide v Manock* (2007) 232 CLR 245 (defamation: fair comment)
- *Keramianakis v Regional Publishers* (2009) 237 CLR 268 (appeal and new trial; constitutional law; Constitution: s.73)
- *Cush v Dillon* (2011) 243 CLR 298 (defamation: qualified privilege)
- *Monis v R* (2013) 249 CLR 92: (constitutional law)
- *Attorney-General (SA) v Corporation of the City of Adelaide* (2013) 249 CLR 1 (delegated legislation; constitutional law)
- *Beckett v State of NSW* (2013) 248 CLR 432 (malicious prosecution)
- *Tajjour v State of NSW* (2014) 254 CLR 508 (constitutional law)
- *Obeid v R* (2016) 90 ALJR 447; 329 ALR 372 (crime; stay of proceedings)
- *Gnych v Polish Club Limited* (2015) 255 CLR 414 (illegality; leases)
- *Harbour Radio Pty Ltd v Trad* (2012) 247 CLR 31 (defamation: qualified privilege)
- *R v Beckett* (2015) 256 CLR 305 (crime; perverting course of justice)
- *Attwells v Jackson Lalic Lawyers* (2016) 259 CLR 1 (negligence: advocates' immunity)
- *Obeid v R [No 2]* (2016) 90 ALJR 452; 329 ALR 379 (suppression orders)
- *UBS AG v Tyne* (2018) 265 CLR 77 (estoppel, abuse of process)
- *Pipikos v Trayans* (2018) 265 CLR 522 (equity: specific performance; part-performance)
- *Nobarani v Mariconte* (2018) 265 CLR 236 (wills; probate and succession; natural justice)
- *ETA067 v Republic of Nauru* (2018) 92 ALJR 1003 (administrative law; natural justice)
- *Castle v R* (2016) 259 CLR 449 (crime; murder; extended joint enterprise)
- *Ramsay Healthcare Australia Pty Ltd v Compton* (2017) 261 CLR 132 (bankruptcy; going behind judgment)
- *Alley v Gillespie* (2018) 264 CLR 328 (constitutional law: Constitution ss.44, 46, 47, 49)

- *Preston v Avery* (2019) 267 CLR 171 (constitutional law; crime)
- *Trkulja v Google Inc* (2018) 264 CLR 123 (defamation; internet search engine; defamatory meaning)
- *Hossain v MIBP* (2018) 264 CLR 123 (administrative law; jurisdictional error)
- *Nobarani v Mariconte [No 2]* (2018) 92 ALJR 1031 (wills, probate and administration; practice and procedure)
- *Clubb v Edwards* (2019) 93 ALJR 448 (constitutional law; crime)
- *Comptroller General of Customs v Zappia* (2018) 265 CLR 416 (revenue: customs duty)
- *Bell Lawyers Pty Ltd v Pentelow* (2019) 269 CLR 333 (legal practitioners; rule in *Chorley's* case; costs)
- *Kadir v R* (2020) 267 CLR 109 (crime: illegally obtained evidence)
- *Namoa v R* [2021] 271 CLR 442 (crime: conspiracy)
- *McNamara v R* (2023) 98 ALJR 1 (Crime: discretionary exclusion of evidence)

Selection of Reported Cases by Categories

(1) Constitutional Law

- *Nationwide News Pty Ltd v Wills* (1991) 177 CLR 1
- *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520
- *McKain v R W Miller & Co (SA) Pty Ltd* (1991) 174 CLR 1
- *Smith Kline & French v Commonwealth* (1991) 173 CLR 194
- *Keramianakis v Regional Publishers* (2009) 237 CLR 268 (at [38]-[39])
- *Stephens v West Australian Newspapers Ltd* (1994) 182 CLR 211
- *Marsden v Amalgamated Television Services Pty Ltd* (1996) 70 ALJR 535; 136 ALR 243
- *Monis v R* (2013) 249 CLR 92
- *Alley v Gillespie* (2018) 264 CLR 328
- *Attorney-General (SA) v Corporation of the City of Adelaide* (2013) 249 CLR 1

- *Preston v Avery* (2019) 267 CLR 171
- *Gordon v Tolcher* (2006) 231 CLR 334
- *Tajjour v State of NSW* (2014) 254 CLR 508
- *Clubb v Edwards* (2019) 93 ALJR 448
- *NSW Aboriginal Land Council v Jones* (1998) 43 NSWLR 300 (CA)
- *Chau v DPP* (1995) 37 NSWLR 639 (CA)
- *Keating v Dickson* (1991) 23 NSWLR 433 (CA)
- *Jones v R* (2008) 6 DCLR (NSW) 293
- *Kirella v Hooper* (1999) 96 FCR 1 (Full Ct)
- *Monis v R* (2011) 256 FLR 28; 215 A Crim R 64 (NSWCCA)
- *Hunt v Hunt* (2006) 36 Fam LR 64
- *A-G (NSW) v 2UE Sydney* (2006) 226 FLR 62; 236 ALR 385 (NSWCA)
- *R v Monis* (2011) 12 DCLR (NSW) 266
- *O'Shane v Harbour Radio* (2013) 85 NSWLR 698 (CA)
- *Obeid v R* (2017) 96 NSWLR 155 (CCA)
- *Qarase v Bainimarama* [2008] FJHC 241; [2009] 3 LRC 614 (Fiji: 2006 coup)
- *Obeid v R* (2015) 91 NSWLR 226 (CCA)

(2) Administrative Law

- *Batemans Bay Local Aboriginal Land Council v The Aboriginal Community Benefit Fund Pty Ltd* (1998) 194 CLR 247 (administrative law; standing)
- *SZBYR v Minister for Immigration* (2007) 81 ALJR 1190; 235 ALR 609 (immigration; administrative law)
- *Oshlack v Richmond Council* (1998) 193 CLR 72 (costs in public interest litigation)
- *Gedeon v NSW Crime Commission* (2008) 236 CLR 120 (administrative law; jurisdictional facts)

- *ETA067 v Republic of Nauru* (2018) 92 ALJR 1003 (natural justice)
- *Attorney-General (SA) v Corporation of the City of Adelaide* (2013) 249 CLR 1 (delegated legislation; constitutional law)
- *Hossain v MIBP* (2018) 264 CLR 123 (jurisdictional error)
- *Packham v Minister for Environment* (1993) 31 NSWLR 65 (CA) (environmental law)
- *Wagh Hotel Management Pty Ltd v Marrickville Council* (2009) 171 LGERA 112 (NSWCA) (environmental planning)
- *Ganin v NSW Crime Commission* (1993) 32 NSWLR 423 (statutory commissions of inquiry)
- *Re Aboriginal Community Benefit Fund* (1997) 93 LGERA 345 (NSWCA) (aboriginals; environmental planning)
- *Obeid v Lockley* (2018) 98 NSWLR 258 (CA) (misfeasance in public office; declaration)
- *Camenzuli v Morrison* (2022) 107 NSWLR 49 (justiciability: political party)
- *Leighton Contractors (Asia) Ltd v HKSAR* [2014] HKCFI 1860 (Hong Kong: judicial review)

(3) Commercial Law and Equity

- *David Securities Pty Ltd v Commonwealth Bank of Australia* (1991) 175 CLR 353 (revenue law; restitution)
- *Commonwealth Bank of Australia v Quade* (1991) 178 CLR 134 (foreign currency loans; discovery)
- *Pipikos v Trayans* (2018) 265 CLR 522 (equity: specific performance)
- *Nobarani v Mariconte* (2018) 265 CLR 236 (wills, probate and administration; practice and procedure)
- *Gordon v Tolcher* (2006) 231 CLR 334 (*Judiciary Act* s.79; corporations: winding up)
- *Lumbers v W. Cook Builders Pty Ltd* (2008) 232 CLR 635 (restitution; quantum meruit; building and construction)
- *Nobarani v Mariconte [No 2]* (2018) 92 ALJR 1031 (wills, probate and administration; practice and procedure)

- *Northern Territory v Collins* (2008) 234 CLR 619 (patents)
- *Ramsay Healthcare Australia Pty Ltd v Compton* (2017) 261 CLR 132 (bankruptcy; going behind judgment)
- *UBS AG v Tyne* (2018) 265 CLR 77 (estoppel)
- *Bell Lawyers Pty Ltd v Pentelow* (2019) 93 ALJR 1007 (legal practitioners: costs)
- *Gnych v Polish Club Limited* (2015) 225 CLR 414 (illegality; leases)
- *Attwells v Jackson Lalic Lawyers* (2016) 259 CLR 1 (negligence: advocates' immunity)
- *Nobarani v Mariconte* (2018) 92 ALJR 806 (succession)
- *E I Du Pont v Commissioner of Patents* (1987) 9 NSWLR 206 (patents)
- *APRA v Commonwealth Bank* (1992) 40 FCR 59 (copyright)
- *Rapee v Kas Cushions* (1989) 15 IPR 577 (industrial designs)
- *Wenkart v Pantzer* (2003) 132 FCR 204 (Full Ct) (bankruptcy)
- *Hammoud Bros Pty Ltd v Insurance Australia* (2005) 13 ANZ Insurance Cases 61-639 (NSWCA) (insurance)
- *Wellcome International v Mobil Oil* (1998) 81 FCR 475 (Full Ct) (contract; estoppel; trade practices; bias)
- *ASIC v P. Dawson Nominees* (2008) 169 FCR 227 (Full Ct) (public interest immunity)
- *Haynes v Top Slice Deli* (1995) ATPR (Digest) 46-147 (trade practices)
- *F & D Normoyle Pty Ltd v Transfield Pty Ltd* (2005) 63 NSWLR 502 (CA) (guarantee; industrial law)
- *TPC v CC (NSW) Pty Ltd* (1995) 58 FCR 426 (restrictive trade practices; discovery)
- *Re Australian Elizabethan Theatre Trust* (1991) 30 FCR 491 (trusts – Quistclose trust)
- *TPC v CC (NSW) Pty Ltd* [1995] ATPR 41-406 (restrictive trade practices)
- *ACCC v CC (NSW) Pty Ltd* (1998) ATPR 41-650 (*Trade Practices Act* ss.45, 76, 155)

- *NRMA v Geeson* (2001) 40 ACSR 1 (NSWCA) (confidential information; injunctions)
- *Hitchcock v TCN Channel Nine* [2000] Aust Torts Rep 81-550 (injunctions; contract)
- *TPC v CC (NSW) Pty Ltd* (1994) 125 ALR 94 (solicitor and client; conflict of interest)
- *Fowler v La Fontaine* (2007) 5 DCLR (NSW) 373 (barrister's immunity from suit)
- *NRMA v Geeson* (2001) 39 ACSR 401 (confidential information)
- *Johnston v Brightstars Holding Co Ltd* (2015) 31 BCL 103 (NSWCA) (contract; estoppel)
- *Ashton v Pratt* (2015) 88 NSWLR 281 (CA) (contract; estoppel; equity; assignments)
- *Hudson v Sigalla [No 2]* (2015) 294 FLR 219 (bankruptcy)
- *ACCC v Cascade Coal Pty Ltd* (2019) 374 ALR 90 (competition law)

(4) Criminal Law

- *Nationwide News Pty Ltd v Wills* (1991) 177 CLR 1 (crime; contempt: bringing IRC into disrepute; industrial law)
- *United Telecasters Sydney Ltd v DPP* (1990) 168 CLR 594 (criminal law; broadcasting)
- *MW v Director General of the Department of Community Services* (2008) 82 ALJR 629; 244 ALR 205 (Hague Convention on child abduction)
- *Cesan v R* (2008) 236 CLR 358 (criminal law; operation of proviso)
- *Clubb v Edwards* (2019) 93 ALJR 448 (crime; abortion clinic protest)
- *R v Beckett* (2015) 256 CLR 305 (crime; perverting course of justice)
- *Preston v Avery* (2019) 267 CLR 171 (crime; abortion clinic protest)
- *Castle v R* (2016) 259 CLR 449 (crime; murder; joint enterprise)
- *Obeid v R* (2016) 90 ALJR 447; 329 ALR 372 (crime; stay of proceedings)
- *Kadir v R* (2020) 267 CLR 109 (crime: illegally obtained evidence)

- *Namoa v R* (2021) 271 CLR 442 (crime: conspiracy)
- *McNamara v R* (2023) 98 ALJR 1 (crime: discretionary exclusion of evidence)
- *Civil Aviation Authority v ABC* (1995) 39 NSWLR 540 (CA) (contempt)
- *DPP v United Telecasters* (1988) 13 NSWLR 478 (CCA) (criminal law)
- *Obeid v R* (2017) 97 NSWLR 155 (CCA) (misconduct in public office)
- *A-G (NSW) v Mayas Pty Ltd* (1988) 14 NSWLR 432 (CA) (contempt)
- *R v LK* (2008) 73 NSWLR 80 (CA) (criminal law)
- *Obeid v R* (2015) 91 NSWLR 226 (CCA) (misconduct in public office)
- *Doe v John Fairfax* (1995) 125 FLR 372 (contempt)
- *Byrnes v Barry* (2004) 150 A Crim R 471 (ACTCA) (criminal law)
- *HKSAR v Gammon Construction Ltd* (2015) 18 HKCFAR 110 (Hong Kong: OHS prosecution: Court of Final Appeal)
- *HKSAR v Kanjanapas* [2009] HKCA 46 (Hong Kong: criminal appeal; attempt)
- *Macartney v State of Fiji* [2010] FJCA 18 (Fiji: murder appeal)
- *Ali v State of Fiji* [2011] FJCA 28; [2011] 4 LRC 281 (Fiji: murder appeal)
- *HKSAR v Christopher Munce* (Hong Kong: stay pending appeal; jockey: secret commissions)
- *Patel v State of Fiji* [2011] FJCA 30 (Fiji: stay pending appeal; abuse of public office)
- *HKSAR v Tran Qui* [2010] HKCFI 419 (Hong Kong: criminal appeal – drug importation)
- *Patel v Fiji ICAC* [2011] FJCA 56 (Fiji: appeal: abuse of public office)
- *Chaudhry v State of Fiji* [2014] FJHC 122 (Fiji: crime: exchange control regulation)
- *HKSAR v Gammon Construction Ltd* [2014] HKCFI 342 (Hong Kong: appeal: OHS prosecution)
- *HKSAR v Gammon Construction Ltd and Leighton Contractors (Asia) Ltd* [2014] HKCFI 1148 (Hong Kong: appeal: noise pollution)

- *Creighton v R* NZCA no. 116 / 2019 (New Zealand Court of Appeal: sexual assault appeal)
- *Gould v R* (2023) 377 FLR 26 (Jurisdiction of NSWCCA)

(5) Revenue

- *David Securities Pty Ltd v Commonwealth Bank of Australia* (1991) 175 CLR 353 (revenue law; restitution)
- *Spassked v FCT* (2002) 49 ATR 647 (revenue law; subpoenas)
- *Power v DFCT* (2013) 284 FLR 42 (NSWCA) (revenue law)
- *Comptroller General of Customs v Zappia* (2018) 265 CLR 416 (customs duty)

(6) Common Law

- *Carson v John Fairfax & Sons Ltd [No 2]* (1992) 178 CLR 44 (damages)
- *Rogers v Whitaker* (1992) 175 CLR 479 (medical negligence – informed consent)
- *Mann v O'Neill* (1997) 191 CLR 204 (defamation; absolute privilege)
- *John Fairfax Publications Pty Ltd v Gacic* (2007) 230 CLR 291 (defamation)
- *Suvaal v Cessnock City Council* (2003) 77 ALJR 1449; 200 ALR 1 (negligence)
- *Favell v Queensland Newspapers* (2005) 79 ALJR 1716; 221 ALR 186 (defamation)
- *McKain v R. W. Miller & Co (SA) Pty Ltd* (1991) 174 CLR 1 (tort: private international law)
- *John Fairfax & Sons Ltd v Cojuangco* (1988) 165 CLR 346 (preliminary discovery)
- *Chakravarti v Advertiser Newspapers* (1998) 193 CLR 519 (defamation: justification)
- *Mulligan v Coffs Harbour City Council* (2005) 223 CLR 486 (negligence)
- *Bashford v Information Australia* (2004) 218 CLR 366 (defamation; qualified privilege)
- *Channel Seven Adelaide v Manock* (2007) 232 CLR 245 (defamation: fair comment)

- *Keramianakis v Regional Publishers* (2009) 237 CLR 268 (High Court; appeal and new trial)
- *Cush v Dillon* (2011) 243 CLR 298 (defamation: qualified privilege)
- *Trkulja v Google Inc* (2018) 92 ALJR 619 (defamation: internet search engine)
- *Harbour Radio Pty Ltd v Trad* (2012) 247 CLR 31 (defamation: qualified privilege)
- *Beckett v State of NSW* (2013) 248 CLR 432 (malicious prosecution)
- *Bell Lawyers Pty Ltd v Pentelow* (2019) 93 ALJR 1007 (costs: *Chorley* principle)
- *Marsden v ATS* (1998) 43 NSWLR 158 (CA) (defamation)
- *TCN Channel Nine v Antoniadis* (1998) 44 NSWLR 682 (CA) (defamation)
- *A v Commission for Children and Young People* (2000) 104 IR 131 (industrial law)
- *NSW Bar Association v Thomas* (1989) 18 NSWLR 193 (CA) (professional misconduct – appearance not recorded)
- *Witness v Marsden* (2000) 49 NSWLR 429 (CA) (open justice)
- *Pillai v Messiter [No 2]* (1989) 16 NSWLR 197 (CA) (professional misconduct)
- *John Fairfax v Cojuangco* (1987) 8 NSWLR 145 (CA) (preliminary discovery)
- *Ettingshausen v ACP* (1995) 38 NSWLR 404 (CA) (costs: offers of compromise)
- *Rogers v Whitaker* (1991) 23 NSWLR 600 (CA) (medical negligence)
- *John Fairfax v Carson* (1991) 24 NSWLR 259 (CA) (defamation)
- *Mulligan v CHCC* [2004] Aust Torts Reports 81-754 (NSWCA) (negligence)
- *Zunter v John Fairfax* (2005) 62 NSWLR 594 (contribution)
- *John Fairfax v Blake* (2001) 53 NSWLR 541 (CA) (defamation)
- *Ness v Graffen* (2003) 60 NSWLR 549 (traffic law)
- *Obeid v John Fairfax* (2006) 68 NSWLR 150 (defamation)
- *Habib v Nationwide News* (2006) 65 NSWLR 264 (CA) (defamation)
- *John Fairfax v Obeid* (2005) 64 NSWLR 485 (CA) (defamation)

- *Cojuangco v John Fairfax & Sons Ltd [No 2]* (NSWCA) (1991) Aust Torts Reports 81-068 (preliminary discovery)
- *Bennette v Cohen* (2005) 64 NSWLR 81 (CA) (jurisdiction of CA; appeal and new trial)
- *John Fairfax v ACP* (2005) 157 ACTR 28 (ACTCA) (defamation)
- *TNT Australia Pty Ltd v Wills* (2004) 43 MVR 175 (NSWCA) (employment law)
- *Mann v Medical Centre* (1991) 105 FLR 419 (defamation; identification)
- *Obeid v Lockley* (2018) 98 NSWLR 258 (NSWCA) (misfeasance in public office)

Selection of Cases Outside Australia:

- *HKSAR v Gammon Construction Ltd* (2015) 18 HKCFAR 110 (Hong Kong: OHS prosecution: Court of Final Appeal)
- *Qarase v Bainimarama* [2008] FJHC 241; [2009] 3 LRC 614 (Fiji: constitutional law: 2006 coup)
- *HKSAR v Kanjanapas* [2009] HKCA 46 (Hong Kong: criminal appeal; attempt)
- *Macartney v State of Fiji* [2010] FJCA 18 (Fiji: murder appeal)
- *Ali v State of Fiji* [2011] FJCA 28; [2011] 4 LRC 281 (Fiji: murder appeal)
- *HKSAR v Christopher Munce* (Hong Kong: stay pending appeal; jockey: secret commissions)
- *Patel v State of Fiji* [2011] FJCA 30 (Fiji: stay pending appeal; abuse of public office)
- *HKSAR v Tran Qui* [2010] HKCFI 419 (Hong Kong: criminal appeal – drug importation)
- *Patel v Fiji ICAC* [2011] FJCA 56 (Fiji: appeal: abuse of public office)
- Arbitration (Hong Kong International Arbitration Centre): 2013: restraint of trade (instructed by Reed Smith Richards Butler)
- *Chaudhry v State of Fiji* [2014] FJHC 122 (Fiji: crime: exchange control regulation)
- *HKSAR v Gammon Construction Ltd* [2014] HKCFI 342 (Hong Kong: appeal: OHS prosecution)

- *Shuchi Singh v Anamika Chawal* [2013] HKCFI 1694 (Hong Kong: injunctions)
- *HKSAR v Gammon Construction Ltd and Leighton Contractors (Asia) Ltd* [2014] HKCFI 1148 (Hong Kong: criminal appeal: noise pollution)
- *Leighton Contractors (Asia) Ltd v HKSAR* [2014] HKCFI 1860 (Hong Kong: judicial review)
- *Creighton v R* NZCA no. 116 / 2019 (New Zealand Court of Appeal: sexual assault appeal)