

**ORDER PROHIBITING PUBLICATION OF NAME(S), ADDRES(ES),
OCCUPATION(S) OR IDENTIFYING PARTICULARS OF
APPELLANT(S)/RESPONDENT(S)/ACCUSED/DEFENDANT(S) PURSUANT
TO S 200 CRIMINAL PROCEDURE ACT 2011.**

**IN THE DISTRICT COURT
AT NELSON**

**CRI-2016-042-000161
[2016] NZDC 3299**

NEW ZEALAND POLICE
Prosecutor

v

RILEY NICHOLSON
Defendant

Date of Ruling: 1 March 2016

Appearances: Sergeant C Stringer for the Prosecutor
S M Barclay for the Defendant

Judgment: 1 March 2016

**NOTES OF JUDGE P A H HOBBS ON NAME SUPPRESSION
APPLICATION**

[1] Riley Nicholson appears before me today charged with sexual conduct with a young person and supplying alcohol to a minor. He has today pleaded not guilty to the charge and has elected trial by jury on that charge which carries the right of trial by jury. He seeks an order suppressing his name and any details that might identify him. I note from the outset that the police do not oppose the application.

[2] The application was originally founded on the grounds that publication would likely cause extreme hardship to the defendant and persons connected with him,

namely, his children. There was also some suggestion that it might cause some hardship to parents and in-laws.

[3] The ground of extreme hardship to the defendant was the potential loss of his employment, I am told that the employer has become aware of the offending and has now terminated the defendant's employment and therefore that ground is no longer relevant to the application. It leaves the suggestion that extreme hardship would be caused to the defendant's two young children who live in this small community.

[4] Whether or not to grant name suppression involves a two-step process. First, I must be satisfied that one of the hardships advanced is likely to occur or indeed one of the grounds set out in s 200(2) is likely to occur, if I am satisfied that it is likely to occur I must then balance the defendant's interests against those of the public and the media's right to publish what happens in our Courts. That is a discretionary balancing exercise.

[5] I have no doubt that publication of the defendant's name while causing discomfort and hardship to the defendant would be the kind of hardship that customarily follows from allegations of this kind.

[6] I am also not satisfied that extreme hardship would be caused to the defendant's parents or in-laws through the publication of his name. That is an inevitable consequence of allegations such as this and I would not regard that as extreme hardship.

[7] However, my primary concern in relation to this application is the defendant's very young children who attend school in this local community and in particular the complainant who also lives in that community. It is apparent due to the size of this community and the inter-connections that exist, that there is a real risk that the complainant would be identified if the defendant's name were published at this stage and she is entitled to immediate protection as of right under the Criminal Procedure Act 2011.

[8] The defendant's young children or at least one of them who bears the same name would also be identified in this small community.

[9] I am therefore satisfied that it is likely that there would be undue hardship to the complainant and potentially extreme hardship to the defendant's young children at this stage.

[10] The original application sought permanent name suppression, I would certainly not be prepared to grant permanent name suppression at this stage, however, the presumption of innocence does need to be factored into my assessment. The defendant has pleaded not guilty and is entitled to the presumption of innocence even if he were to be found not guilty, the stain of such an allegation is often difficult to remove and can be permanent.

[11] I am therefore prepared to grant interim name suppression pending further order of the Court. There will be an interim order for the suppression of the defendant's name, any details that might identify him including the geographic location of this alleged offending as that is a significant potential issue for alleged offending of this kind in such a small community.

[12] Accordingly there will be an interim order for the suppression of the defendant's name and any details that might identify him together with suppression of the geographical location of this alleged offending.

[13] That order is interim as I have said, until further order of the Court.

PAH Hobbs
District Court Judge