

**IN THE DISTRICT COURT
AT BLENHEIM**

**CRI-2014-006-000997
[2016] NZDC 4003**

THE QUEEN

v

DAWSON RODERICK

Date of Ruling: 10 March 2016

Appearances: M A O'Donoghue for the Crown
A J McKenzie and M Starling for the Defendant

Judgment: 10 March 2016

RULING 5 OF JUDGE A A ZOHRAB

[1] The defence have raised a number of matters subsequent to my having granted the Crown application to amend the charge list. I have a jury waiting, so I do not have time to give my full reasons. They are going to have to follow in due course. What I propose to do is simply deal with each of the various issues briefly. I am not going to go through the submissions made by either counsel in detail, nor am I going to give my detailed reasons. They will follow in due course.

[2] With respect to the first issue of Ms Carl's evidence, whilst this has been raised previously and Mr O'Donoghue objected to it, I found it useful at this stage of the proceedings to reflect upon submissions. My view is that it is a matter for the jury that there is an arguably credible narrative, and I use that in the loosest sense in that there is a narrative that the Crown could responsibly put before the jury. Whether or not they find it credible or not is a completely different issue.

[3] I then move on to the issue with respect to Ms Iti's evidence and the issue with respect to when she said it commenced and what age she must have been. The clearly direction will be as far as any alleged offending involving Ms Iti is concerned, that he can only be found guilty of offending from the age of 17 onwards. The other offending, though, would fall within the realm of any propensity direction, if there was to be a propensity direction.

[4] The third issue then was a general issue of offending over a wide period of time and how a defendant can be expected to respond to that, given the amorphous nature of the dates and also venue and matters of that sort. That is really a jury issue. Also, it is an issue which impacts on the burden and standard of proof because that is on the Crown. The defence do not have to prove anything, and the defence are entitled to make a submission about the amorphous nature of matters but, as I say, generally speaking that is an issue for the jury, and it is not something that, in my view, I can use at this stage.

[5] As far as Ms Archer is concerned, I am not prepared that there has been any misconduct or bad faith or anything of that sort. I am not prepared to remove her evidence from the jury. The evidence will stay in the form of propensity evidence, and I will give a direction about that if a propensity direction is required.

[6] As far as Ms Rakena is concerned, I will give obviously some detailed reasons in relation to it. My firm view is that it is not a breach of the regulations, but the interview was not conducted in accordance with best practice, and there is no criticism of the police for that, it is just simply a civilian who is talking to the support person, and so the directions I will give will be in relation to that, and also really it is an issue for weight to be attached, bearing in mind that it seems that the contamination, if one takes it at its strongest form, occurred on two discrete aspects, the last three pages of the interview.

[7] With respect to propensity evidence and whether there is a direction, and whether I can revisit my propensity ruling, I am content to conclude that it is still appropriate for me to give a propensity ruling in relation to the evidence, and I will go into the details about it. I have given thought, because when I first dealt with the

matter about collusion, based on the material that I have heard so far, I could not conclude that collusion would be such that it would impact on the final decision, but obviously whether or not there has been collusion is something that would have to be, if there is evidence of that and discussion of collusion and matters of that sort, and contamination, then that is something that I would have to give as part of the direction dealing with propensity evidence, and as I say that is something that I would weigh into matters.

[8] As far as general disclosure is concerned, I am not prepared to give any direction about the impact of late disclosure based on what I have heard at this point, and the other matter is I am not prepared to stay any of the matters at this stage and, as I say, my reasons will follow.

A A Zohrab
District Court Judge