

NAME OF WITNESS AND CHILD
SUPPRESSED
NOT TO BE PUBLISHED
UNTIL TRIAL COMPLETED

IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

T.9/93

R E G I N A

v.

PETER HUGH McGREGOR ELLIS

Hearing: 26th-30th April, 3rd-7th, 10th-14th, 17th, 24th-28th,
and 31st May 1993

Counsel: B.M. Stanaway and C. Lange for Crown
R.A. Harrison and Ms Siobhan McNulty for Accused

Oral Judgment: 31st May 1993

ORAL JUDGMENT (NO. 16) OF WILLIAMSON J.

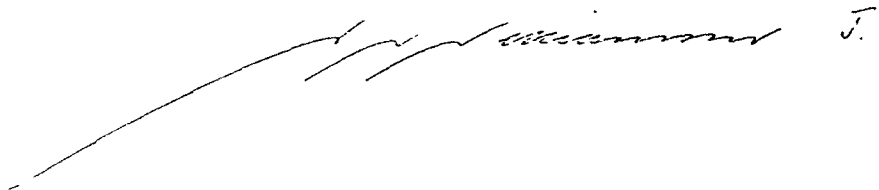
Counsel for the Accused wishes to call a witness who is the mother of a creche child. This child was named by others as being present on some occasions when sexual abuse had taken place. Originally at the depositions she was a complainant child but is not a complainant in relation to any of the charges now before this Court. No brief of the witness's evidence has been presented. Counsel has handed to the Court a lengthy statement taken from the witness. This statement contains in the main statements of a hearsay nature as to what a variety of other persons, including her child, have told her. It is clearly not admissible since it is not the best evidence available in relation to such matters.

2.

On one particular issue, namely a telephone call made by the mother of Child S, Counsel desired to lead evidence not only as to the fact that a call or calls were made but also as to the content of those calls. Towards the conclusion of the Crown case the defence made application for the mother of Child S to be recalled. I granted that so that she could be asked about these matters. The mother of Child S said that while she knew that she had phoned the other child's mother because she was worried about her daughter, she could not remember when or the details of any conversation that passed between them.

The evidence which it is now proposed to call in relation to the contact between the mothers is of a hearsay nature. It is not relevant to any issue in this trial and does not come within any of the exceptions to the collateral evidence rule which I have already, although briefly, endeavoured to outline in previous rulings. Because of the hearsay nature and the absence of any reason why the evidence comes within the exception, I rule against its admissibility.

Counsel has indicated that he would still wish to call this witness in relation to the procedures and contact made during the course of the inquiries which involved her daughter. I have agreed that this evidence might be called within the rules.

A handwritten signature in black ink, appearing to be 'J. Harrison', written in a cursive style.

Solicitors:

Crown Solicitor, Christchurch, for Crown
R.A. Harrison, Christchurch, for Accused