

NZLC IP50 Submission 11 –Stephen Hudson (transcribed from handwritten letter)

SUBMISSION OF STEPHEN THOMAS HUDSON TO THE LAW COMMISSION CONCERNING
THE THIRD REVIEW OF THE EVIDENCE ACT 2006.

I am the Hudson, in *Hudson v R* [2011] NZSC 51, [2011] 3 NZLR 289, referred to in chapter 8 of the THIRD REVIEW OF THE EVIDENCE ACT 2006, ISSUES PAPER 50, titled Prison Informants and incentivised witnesses.

In 2010 I was convicted of murdering Nick Pike. I was convicted despite the fact that there was no body, no crime scene, no forensic evidence and no eyewitnesses. The evidence used to convict me was circumstantial. Incentivised witnesses played a large role. All the witnesses who gave any so called, substantive evidence, were incentivised and [REDACTED]. Some minor and some very serious. [REDACTED].

[REDACTED] All of their stories were different and uncorroborated. Also used was propensity evidence, even though I had never been convicted of or even charged with murder before.

The crown's case was that I was smart enough to kill Nick without leaving a single trace of forensic evidence, but stupid enough to confess to multiple individuals different stories but then never to two people at the same time, (except apparently in the case of [REDACTED] who needed two officers to open my door but then could not remember who the other officer I confessed to was, nor was any police effort made to locate this other officer, or at least no disclosed effort) and never on a phone. But then clever enough to ensure a body was never located despite an extensive search at places an incentivised witness indicated.

Not a single witness came forward connecting me to the disappearance of Nick until my name was connected to Nick's in the media as a suspect, or the police provided hundreds of prisoners with access to a reward notice and a Woman's weekly article about Nick, then returned after a couple of weeks to see if anybody had a story for them. They interviewed over 300 prisoners.

The police checks into the veracity of these witnesses statements [REDACTED]. In fact one of them was thrown out only after depositions, and only due to the fact that I told my lawyer that the prison this prisoner was describing the confession taking place in, I had never been incarcerated in. I did not kill Nick Pike!

- Q1 – Q3 I have no opinion.
- Q4 – Q12 I think that hearsay evidence is inherently unreliable and that any weakening of safeguards against the use of hearsay evidence can only lead to an undermining of Justice.
- Q13 I believe © should apply in this matter. Lies by witnesses is one of the leading causes of miscarriages of Justice. Witnesses lying in court strikes at the very heart of the Justice system.
- Q14 Yes for the above reason

Q15 – 36 Unfairly obtained evidence should automatically be excluded. At the moment such evidence is allowed if it is in relation to a serious offence and not in minor offences. This effectively incentivises unlawful actions by police in serious matters. For example, police investigating murder can unlawfully place listening devices. If those devices obtain evidence for the prosecution then that evidence is produced and allowed by the courts. But if police hear evidence that disproves the prosecution case then that evidence is not disclosed and because there is no paper trail the defence is never aware of the evidence's existence.

The police should only be able to obtain evidence lawfully and laws that encourage unlawful actions should be removed or changed to disincentivise such behaviour.

Q37 No

Q38 A, B and C

Q39 No

Q40 A and B

Q41 A set of requirements that such witnesses should have to meet in order to be able to give evidence. They should include the following.

1. A time limit, such a witness must come forward within a matter of months of the alleged conversation.
2. There must be some sort of corroboration which has not been reported in the media.
3. There are prisoners and non prisoners who are doing this as a scam, repeatedly receiving incentives from the police for thier lies. There needs to be a register to identify prisoners who are repeatedly alledging other prisoners confessed to them.
4. In my experience the prisoners who excel at this behaviour are fraudsters. For such prisoners this is just another type of fraud with a different pay out. These individuals are practiced at presenting a beleivable lie.

Q42 Yes, any incentivised witness with criminal convictions especially fraud and dishonesty convictions.

Q43 – 47 Again, lying by witnesses strikes at the very heart of the justice system and any legislation which can stop or reduce lies being presented in court as the truth can only be good for justice.

Q48 – 51 Propensity evidence in my case was I beleive the key factor in my conviction. If I recall correctly the propensity evidence in my case was the second and third pieces of evidence offered by the prosecution. One I believe was a statement or transcript read and the other a video link. From the time the Jury heard the information that I had stabbed one man and ambushed and used a hammer on another the onus had changed from the crown having to prove my guilt, to me having to prove my innocence. s43 of the Evidence ACT 2006 effectively removes the presumption of innocence guarenteed to a defendent by the NZBORA.

Any suggestion, that a judge giving directions to a jury at the end of a trial of 6 weeks, as mine was, or a trial of any length, that they may only use such evidence in a certain way is just fake. Even should a person be capable of such an unbiased assessment after hearing such prejudicial evidence against a person 6 weeks prior, which I suggest would be a very special individual indeed, such information would still be being used on a subconscious level.

The legislation allowing propensity evidence was enacted by the national party as a knee jerk reaction to the accital of three police officers of rape. This legislation is creating many miscarriages of Justice and should be removed in its entirety.

The maxim should be, its better that 100 guilty men go free than one innocent man be imprisoned. In New Zealand the opposite seems to be the rule. It would be interesting to know what the conviction rate is in cases in which propensity evidence is used. I wonder if it is getting close to the Chinese court systems conviction rate of 99%. It maybe that the Law Commission could use those statistics in their assessment.

Q52 – 66 I have no opinion.

Stephen Hudson

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