

**13 Hakihea | December 2022**

**Pānui Pāpāho | Media Release**

### **CCRC refers its first criminal case after “young person” jailed for assault**

The Criminal Cases Review Commission | Te Kāhui Tātari Ture has referred its first miscarriage of justice case to an appeal court today after establishing that a young person, Mr. G, was sentenced to a term of imprisonment, which he served at an adult prison, at the age of 15, contrary to sentencing laws at the time.

Mr. G was sentenced in 2001 to 11 months in jail as a young person aged 15 for a number of offences including male assaults female, driving with excess breath alcohol, and unlawfully getting into a motor vehicle. The documentation filed in the District Court recorded an incorrect date of birth for Mr. G, indicating he was then 17 years of age.

Mr. G appealed his sentence on the basis that the sentencing Judge failed to give sufficient recognition to Mr. G’s personal mitigating features, including his age. However, the High Court hearing proceeded on the basis that the young man was 17 years old. The appeal was dismissed.

Although Mr. G unsuccessfully appealed against his conviction in 2001, CCRC Chief Commissioner Colin Carruthers KC said the present case is a good illustration of why the Commission was established.

“It came to us when it was realised that Mr. G was only 15 years old when he was sentenced to imprisonment, contrary to the law which prohibits the imprisonment of those under 16 years of age.

A mistake had been made and went undetected. It was this mistake which led the Commission to the decision that it was in the interests of justice to refer the case to an appeal court so that the issue could be considered and, if appropriate, the convictions quashed,” he said.

#### **Background to the referral**

Mr. G entered New Zealand under the Refugee Quota Programme in 1993 when he was 7 years of age. Mr. G completed some schooling in New Zealand but struggled and left school during third form (Year 9) without the ability to read or write in English.

Mr. G applied to the commission on 25 September 2020, requesting a review of his convictions and sentence. Mr. G stated that he was incorrectly sent to prison while only 15 years of age.

The commission has gathered evidence from government agencies that recognised Mr. G was 15 years of age at the time of his conviction and sentence in 2001.

As the commission’s referral of this case illustrates, CCRC Chief Commissioner Colin Carruthers KC said the potential for a miscarriage of justice can arise across the whole range of criminal offences.

“The cases which tend to attract the most public attention are those involving high-profile and serious crimes, such as murder with long periods of imprisonment.



As a result, miscarriages of justice involving lesser crimes often get little or no attention. However, the consequences are similar: the stigma of a conviction, separation from family, the difficulty of reintegration into society, and sometimes the brutal treatment in prison,” he said.

Section 8 of the Criminal Justice Act 1985 prohibited anyone under 16 years of age from being sentenced to imprisonment except for a purely indictable offence. None of the charges Mr. G faced were ‘purely indictable’ offences.

On the basis that Mr. G was under the age of 16 at the time of his conviction and sentencing, the Commission is satisfied that a miscarriage of justice has occurred.

**ENDS**