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# **Lava Lamps Drug Dealer Claims Innocence and Attacks Fairness of Convictions and Alleges Human Rights Breaches at United Nations**

## **CONVICTED PRISONER LODGED COMPLAINT AGAINST NEW ZEALAND GOVERNMENT FOR BREACHES OF HIS HUMAN RIGHTS IN THE UNITED NATIONS HUMAN RIGHTS COUNCIL IN GENEVA, SWITZERLAND THE SAME WEEK THAT JUSTICE MINISTER SIMON POWER WAS AT THE UN IN NEW YORK DEFENDING NEW ZEALAND'S HUMAN RIGHTS RECORD**

IN MARCH 2009, MR ALEX KWONG WONG was convicted by a High Court jury of very serious drug offending and received a sentence of 14 years and 6 months, with a mandatory minimum of 7 years and 6 months that have to be served before he is eligible for parole. HE APPEALED TO the Court of Appeal primarily on the basis that he was denied a fair trial because his jury raised the issue of bullying happening in the jury room during deliberations. On 28 September 2009, the Court of Appeal dismissed his appeal, holding that there was no evidence that bullying had actually happened, but rather that the possibility of bullying happening in the future was raised by the jury foreperson's notes and the trial judge's direction was able to prevent bullying from happening. On 2 March 2010, the Supreme Court dismissed an application for leave to appeal. The prosecution of Mr Wong began in 2004 when drugs were found in lava lamps by Customs officials and Mr Wong had previously had convictions overturned by the Supreme Court in 2008 because he had suffered a "substantial miscarriage of justice" in his first, 2006, trial. MR WONG'S COUNSEL – Dr Frank Deliu of Amicus Lawyers – on 19 March 2010 filed a formal complaint on behalf of his client to the United Nations Human Rights Council in Geneva, Switzerland on the basis that his client was denied a fair trial. Deliu says "I acted for Mr Wong in a 2007 application which he made to try and interview the jury in his first trial, but this was denied by the High Court. What that ruling, and others, means is that it would be unethical for me to approach a juror to try and gather evidence of bullying and, in fact, it would be contempt of court for anyone to do so. However, his appeals have been denied for a lack of evidence of bullying." DELIU CONTINUES, "SO, what the High Court has said is that he cannot get evidence of bullying and then the appellate courts dismiss his appeal on the basis that he has no evidence of bullying. It really is a classic Catch-22 situation and as a consequence my client languishes in prison." However, the loophole in the law provides that if a juror voluntarily comes forward and gives evidence of bullying that actually occurred, then the courts will consider that "new" evidence, provided it is extrinsic to deliberations. Wong is hoping for just such an occurrence. He says "I am sure there was bullying which means I was denied a fair trial, but unfortunately my last real hope is for one of my jurors to read this and have their conscience make them come forward with irrefutable proof." DELIU SAYS "IN November 2009 a marketing firm conducted a focus group in the form of a 12-person mock jury that looked at what happened in my client's case and in the end they unanimously voted that my client had suffered a miscarriage of justice and was deserving of a new trial. Bullying is not permitted in schools, the workplace or even prison, so I think we must not allow even the appearance of it in our sacrosanct justice system." HE GOES ON to say "many people are under the misapprehension that with the loss of the Privy Council there no longer is an independent entity that can review our courts' decisions, but that is not true. Because New Zealand is a party to the International Covenant on Civil and Political Rights, there is still a multinational body that will review New Zealand courts' decisions and my client has exhausted his domestic or local remedies and is taking his case to the UN, coincidentally the same week that Justice Minister Simon Power had to answer serious questions from that body. New Zealand takes its image as a leader in human rights very seriously and the government will have to explain the conundrum that is the Wong saga." Wong has already spent circa 3 years incarcerated and if no new evidence comes forward, then he will have to serve at least another 4.5 years before even being eligible for parole. ANOTHER FACET OF the complaint is that the government destroyed the drugs evidence before the trial. Says Wong "the jury never saw

any evidence of the actual drugs and the Police have never been able to explain why they destroyed the key evidence against me before the trial.” SAYS DELIU “THE Police had no court order to destroy the drugs. My client discovered evidence that the packages contained no drugs, but without an ability to independently test them, then the jury saw and heard only one side of the story. This is a man who our highest Court previously held was denied a fair trial the first time and then in his second – drugs – trial, there are literally no more drugs available as evidence. It really raises disturbing questions as to possible Police misconduct which may need international intervention because the Independent Police Complaints Authority initially refused to take action on a complaint and has since delayed a reply for months. It begs the question – why would the Police destroy drug evidence before a drug trial and then not timely answer a complaint about that – there are serious issues in my view that have not been adequately addressed.” CONCLUDES WONG, “I just want a fair trial to prove my innocence. I am sure that I would not have been convicted had there not been bullying. I just want justice because there was no evidence and no witness against me.” Deliu closes by saying “the jury forewoman was openly in distress during the reading of the verdicts and I feel that shows something was seriously wrong in the process. My client’s last hope is for either someone on the jury to come forward or for the UN to intervene. I firmly believe justice will be done.” FOR INQUIRIES PLEASE CONTACT FRANK DELIU ON DDI (09) 262 – 3719 OR MOBILE (021) 178 – 3993.

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## **Yderligere information**

### **Amicus Lawyers**

Frank Deliu

Tlf: 09 969 1493

Fax: 09 969 1492

[fdeliu@amicuslawyers.co.nz](mailto:fdeliu@amicuslawyers.co.nz)

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