

EDITORIAL NOTE: CHANGES MADE TO THIS JUDGMENT APPEAR IN [SQUARE BRACKETS].

**PUBLICATION OF NAME OR IDENTIFYING PARTICULARS OF
COMPLAINANT PROHIBITED BY SECTION 139A OF
THE CRIMINAL JUSTICE ACT 1985.**

**IN THE DISTRICT COURT
AT AUCKLAND**

**CRI-2016-090-000945
[2017] NZDC 26251**

THE QUEEN

v

[GYOUSEI AKIMOTO]

Appearances: N Copeland for the Crown
P Syddall for the Defendant

Date of Decision: 21 November 2017

**DECISION OF JUDGE E M THOMAS:
[ACCESS TO FILE]**

- A. The application is granted in part. The registrar is to provide Ms [Oohira] with a copy of the sentence indication dated 27 February 2017 and sentencing notes dated 6 April 2017.**
 - B. The balance of the application is refused.**
 - C. Publication of name or identifying particulars of complainant prohibited by section 139A of the Criminal Justice Act 1985.**
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Introduction

[1] Ms [Oohira] seeks access to the court file. Specifically she seeks a copy of the defendant's criminal record and the sentencing notes. Her stated grounds are:

I need to take [sic] to the court and police and also immigration in [overseas location deleted]. Require family court at AKL district court

[2] Following my minute of 30 October 2017, the Crown and defendant have now provided their positions on the application. The Crown does not oppose. Defence counsel, who has not been able to contact the defendant to obtain instructions, properly opposes to protect his position. The defendant argues:

- The documents sought have not been clearly enough particularised
- The grounds for access do not warrant granting the application
- The applicant should be required to file a formal originating application and the matter set down for an oral hearing

Discussion

[3] Ms [Oohira] is not represented by counsel. It is clear her English is limited. She does contradict herself in terms of exactly what she is seeking. Were the proceedings not subject to a suppression order in respect of the complainant, Ms [Oohira] would be entitled to the sentencing notes as of right. That would also include the sentence indication notes as they are incorporated by reference. Rule 6.9 is engaged because of the publication restriction.

[4] It is clear enough that Ms [Oohira] wishes to use the sentencing notes in relation to family proceedings and related issues. It is not the role of this Court to rule on the position she takes on those matters. Given their context, the publication restrictions would not be a principled basis upon which to withhold access to the sentencing notes.¹ There is nothing in the defendant's submissions that would require a further application or oral hearing in this respect.

¹ *ASG v Hayne* [2017] NZSC 59.

[5] However, given that Ms [Oohira] would have access to the sentencing and indication notes, her application does not contain a valid stated basis for any other material.

Result

[6] The application is granted in part. The registrar is to provide Ms [Oohira] with a copy of the sentence indication dated 27 February 2017 and the sentencing notes dated 6 April 2017.

[7] The balance of the application is refused.

[8] If Ms [Oohira] seeks further access she must file a fresh application stating her grounds.

E M Thomas
District Court Judge