

CPD Questions - Scott Optican

1. Consider *S v Police* [2018] NZHC 1582 (police not allowing driver to use toilet, so he soils himself, and has a blood sample taken in his soiled state, and the police then offer no assistance to deal with his need to clean up): (i) identify the breaches of the NZBORA that have arguably occurred; (ii) identify the arguments relating to the admissibility of the evidence obtained from the blood sample in those circumstances.
2. *R v Kingi* [2017] NZCA 449 (murder trial – victim is brother in law – prosecution seek to admit into evidence that the defendant was convicted of murdering his wife in Australia 20 years previously). Draft the arguments from the prosecution perspective as to why the previous conviction meets the requirements for admissibility; and then draft the arguments from the defence perspective as to why the evidence is either not admissible or should be excluded.
3. In relation to hearsay evidence, consider section 22 of the Evidence Act (notice provisions in relation to hearsay evidence). What is the rationale of the requirement for notice of hearsay evidence? Set out some examples of circumstances in which you think hearsay evidence should not be permitted because of a failure to give notice; and some in which you think it appropriate for the notice requirement to be waived.