

Secrets of the public confession

When, 13 years ago, Lawrence "Borrie" Lloyd confessed to killing Katherine Sheffield after a night of drinking and dope smoking at his ramshackle bach in the Far North, it seemed an open-and-shut case. Sure, he couldn't remember anything - but he'd woken up, seen the stab wounds to her neck and chest: he must have done it.

And so it seemed until, six years after his conviction, his nephew Noel Rogers wrote to his aunt (Lloyd's sister, Lydia) while in prison himself for an unrelated offence, confessing he'd done it. But Rogers' defence would successfully argue this confession was a fantasy.

Police reopened the case but decided Rogers' admissions were unreliable and they had got the right man.

But two years after Lloyd was released on parole, Rogers was charged with the murder and Lloyd's conviction was overturned.

Rogers' acquittal, in December 2005, left the police doubly embarrassed: two confessions, three investigations and no closer to finding out what really happened that night in August 1994.

Then came the long-running video sequel.

Last week, a Supreme Court ruling allowed TVNZ to screen, on its Sunday programme excerpts of a police video of a reconstruction in which Rogers shows how he says he killed Sheffield, and the chaotic events leading up to it.

It was billed as the confession that jurors were prevented from seeing, but it's worth remembering why.

The evidence was suppressed by the Court of Appeal because of grave breaches by the police of Rogers' rights - he was entitled under the Bill of Rights to have a lawyer present and to remain silent.

The tape was made while Rogers was in custody, charged with Sheffield's murder. His lawyer had asked the police to have no contact with Rogers at which he was not present. Yet the police arranged for Rogers to be taken from prison for three days for interview and the reconstruction.

Immediately after his acquittal, Rogers obtained an interim injunction (and a subsequent High Court ruling) preventing TVNZ from screening the video.

He claimed its broadcast would breach his right to privacy and his attempts to rebuild his life. He raised concerns about his safety, pointing to anger and threats coming from the community.

Its broadcast would also undermine the "remedy" for the police breach of his rights - the Appeal Court ruling suppressing the evidence.

Two years on, the Supreme Court decision was hailed by TVNZ as historic and an important endorsement of the public's right to know. It confirms that evidence suppressed because it was improperly gained may still be aired in public, even after the accused is acquitted. A majority of the five judges felt the public interest merits outweighed Rogers' privacy interests.

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