



The Right Honourable Dame Helen Winkelmann

CHIEF JUSTICE OF NEW ZEALAND | TE TUMU WHAKAWĀ O AOTEAROA

11 April 2023

## MEDIA STATEMENT

# Chief Justice pays tribute to Simon France

The Chief Justice, the Rt Hon Dame Helen Winkelmann GNZM, today paid tribute on behalf of New Zealand's judiciary to the Honourable Simon France, recently-retired Judge of the Court of Appeal, who passed away on Saturday evening after a brief illness.



*The Honourable Simon Peter France (1958-2023)*

“On behalf of the New Zealand judiciary, I acknowledge Simon’s lifetime of service to the law and to his community –as a legal practitioner, a teacher, an academic and latterly as a judge.”

“Simon was respected and loved by his former students, by his colleagues from his years in practice, and by his judicial peers. He was a gifted lawyer and a skilled communicator with a style which was unmistakably his own. Throughout his career he was engaging and effective whether teaching law students, arguing cases as counsel, editing *Adams on Criminal Law*, summing up a case to the jury, or writing a judgment. As a judge he presided over some of New Zealand’s most difficult trials and earned widespread respect for the manner in which he conducted them. Simon combined a deep knowledge of the law with a sure-footed common-sense approach to judging.”

“His colleagues from the profession and the bench remember all of this, and they also remember a kind man and a good friend. His passing is a tremendous loss for his wife Ellen, his whānau, friends and colleagues, for the legal community and for New Zealand.”

Simon France was educated at Pompallier College in Whangārei, before studying law at the University of Auckland. He graduated with an LLB (Hons) and was admitted to the bar in 1979. After briefly working as a solicitor at Auckland firm Nicholson Gribbin, Simon studied at Queen’s University in Ontario, graduating with an LLM in 1983.

On his return to New Zealand in 1984, he joined the faculty of Victoria University of Wellington (VUW) where he lectured on criminal law, evidence and administrative law. He published extensively during his time at the university, including co-editing the VUW Law Review Monograph *“Essays on Criminal Law - towards reform?”*. Simon was later appointed Dean of Students and Deputy Dean of the Law School.

In 1995, Simon joined the Crown Law Office as a Crown Counsel where he specialised in criminal appellate work. He appeared as counsel for the Crown before the Court of Appeal in many of the most significant criminal appeals of the time. He was lead counsel in *R v Siloata* – the first criminal case to be heard by New Zealand’s Supreme Court following its establishment in 2004.<sup>1</sup>

Simon became Crown Law’s human rights team leader in 2002. While at Crown Law, he chaired an international working party established by the Commonwealth Secretariat to produce a model evidence law facilitating electronic commerce – as part of the Secretariat’s role of producing model legislation for adoption by small island states. He contributed further to the rule of law in the Pacific, representing Crown Law at meetings of Pacific Island Law Officers for a number of years and serving as an educator in PILON, a litigation skills programme for senior Pacific Island government law officers. He continued his involvement with PILON following his appointment to the bench.

Simon was appointed as a Judge of the High Court on 19 January 2005. His appointment made national headlines and New Zealand legal history as he became one-half of the first married couple to both sit as High Court judges. His wife, now-Supreme Court Justice Dame Ellen France, was appointed to the High Court in 2002.

Ellen and Simon met in their first year at Auckland University Law School in the late 1970s. Both completed their legal studies together in New Zealand and Canada and worked together at Crown Law. At his swearing-in ceremony, Simon remarked with characteristic humility “Wherever Ellen has gone, I have followed”.<sup>2</sup>

During his time on the High Court bench, Simon presided over many high-profile criminal trials– including the Jack Nicholas murder trial in 2008, the Scott Guy murder trial in 2012, the eight-week retrial of Mark Lundy in 2015, and the Lois Tolley murder trial in 2022.<sup>3</sup>

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<sup>1</sup> *R v Siloata* [2005] 2 NZLR 145 (SC).

<sup>2</sup> “Wedded to the Bench” *The Dominion Post* (Wellington, 5 February 2005) at A15.

<sup>3</sup> *R v Foreman* HC Napier CRI-2006-041-001363, 27 May 2008; *New Zealand Police v Ewen Kerry MacDonald* [2012] NZHC 2388; *R v Lundy* [2015] NZHC 542; *R v X* [2021] NZHC 2444.

From October 2014 until the end of 2015, Simon chaired the Criminal Rules Subcommittee of the [Rules Committee](#) – responsible for reviewing the operation of the Criminal Procedure Act 2011 and all criminal practice notes.

He was also an editor of *Cross on Evidence*, the General Editor of *Adams on Criminal Law*, a member of the High Court Commercial Panel from 2019, and from 2013 to 2019 he was a member (and for one period, the Chair) of the Council of Legal Education, the statutory body charged with overseeing legal education in New Zealand.

Simon sat as a criminal and civil divisional member of the Court of Appeal from 2008 until his permanent appointment to the Court of Appeal on 26 August 2022.



*The permanent bench of the Court of Appeal following Justice Simon France's appointment as a Judge of the Court of Appeal (1 August 2022)*

*L-R:(back row) Justice Sarah Katz, Justice David Collins,  
Justice Patricia Courtney, Justice David Goddard, Justice Simon France  
(front row) Justice Brendan Brown, Justice Christine French,  
Justice Mark Cooper (President), Justice Forrie Miller, Justice Murray Gilbert  
(Photo credit: Stephen A'Court)*

He retired from the Court of Appeal on 28 February 2023 due to ill-health.

Simon was 64 years old when he passed away. He is survived by his wife, Dame Ellen France, his four siblings, Mark, Julie, Jeremy and Cecilia, and by the extended France and Larkin whānau.