

*HABAMBO*  
v  
*THE KING*  
[2024] HCASL 231  
S51/2024

- 1       The applicant requires an extension of time within which to seek special leave to appeal from a judgment of the Court of Criminal Appeal of New South Wales (Ward P, Rothman and Davies JJ), which dismissed appeals from conviction and sentence as imposed in the District Court of New South Wales.
- 2       The application has insufficient prospects of success to warrant a grant of special leave. In the assessment of whether evidence to which no objection was taken at trial should have been excluded under s 137 of the *Evidence Act 1995* (NSW), the Court of Criminal Appeal did not treat s 137 as always requiring exceptional circumstances nor did the Court of Appeal treat the assessment as discretionary. Accordingly, it would be futile to grant an extension of time.
- 3       Special leave to appeal is refused.

Gageler CJ  
Gordon J  
Edelman J  
Steward J  
Gleeson J  
Jagot J  
Beech-Jones J

5 September 2024