Dear Ms Machan

Adam Perre and Paul Duncan
Application for review of conviction

I am writing to you in relation to the above matter.

I advise that the Attorney General has, after further consideration of the material provided by you, declined to refer the convictions of Paul Duncan and Adam Perre back to the Court of Criminal Appeal.

I appreciate that this decision will cause you great disappointment. I note that, while it was generally accepted that Judge Dodd had been asleep during portions of the trial, the consequences of that sleeping were not established in your petition so as to give rise to the necessary doubt as to the guilt of Paul Duncan and Adam Perre.

While you have relied considerably on the matter of Cesan v R, which raised the same issue about Judge Dodd sleeping in a trial and where the convictions were quashed, the Attorney General accepted that there were significant differences between that case and your own petition. The High Court majority in Cesan was clearly of the view that evidence of the judge having been asleep (or presumed so on the basis of medical records) was not enough, and that it was necessary to demonstrate the consequences of the sleeping. Unlike in Cesan, where no transcript was available, the transcript of the trial of Paul Duncan and Adam Perre was available and yielded no specific references to the Judge being asleep or inattentive.

I regret that the outcome of this application could not have been more favourable.

Yours faithfully

for Director General