

NEW ZEALAND | Crime

## Motorcycle crash tragedy: Simon Greenwood found not guilty of careless driving causing Nikki Gapes' death

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Simon Greenwood and his partner Nikki Gapes were in a crash and Greenwood faced trial three years after he was charged.

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Auckland businessman Simon Greenwood has been found not guilty of careless driving causing the death of his former partner, Nicola (Nikki) Gapes, after a romantic long weekend in Northland took a fateful turn.

Judge Michael Crosbie's reserved decision following Greenwood's June trial has been released to media today.

Mother-of-three Gapes, 43, died in a crash on the Kaipara Coast Highway in January 2018. The couple were returning home from spending Auckland Anniversary weekend in Russell on Greenwood's Kawasaki ZX motorbike.

Witnesses said the pair were weaving in and out of holiday traffic before Greenwood, Gapes in pillion, attempted to overtake a line of southbound traffic in the northbound lane.

A grey Mazda was turning right into Mangakura Boat Club and the two vehicles collided. Gapes died at the scene. Another motorcyclist Jeremy Winks and Greenwood were seriously injured.

"It cannot be ruled out that the Mazda crossed the centreline into the paths of the two motorcyclists at a much earlier point than estimated by police," Judge Crosbie said in his decision released today.

Greenwood was charged months later with careless driving causing death and entered a not guilty plea on July 26 that year.

At his Auckland District Court judge-alone trial in June, Greenwood said he was a careful, experienced motorcyclist who had ridden the state highway at least eight to 10 times.

He said all the car driver had to do was look properly.

Greenwood was travelling 90 to 100km/h when overtaking and he didn't notice the cars in front of him start to brake, or the turning car indicate, he said.

"He may have indicated as I was overtaking," Greenwood told the trial. "An indicator is not a force field, it doesn't mean you can turn it on and pull out into oncoming traffic."

Judge Crosbie said a key issue is whether the driver of the car, whose name cannot be published, indicated before turning right into the boat club.

"It cannot be ruled out that the two motorcycles commenced their passing manoeuvres prior to [the driver] signalling any intent to change lanes.

"The inference I draw from all of the available evidence, including that the motorcyclists were there to be seen, is that [the driver] cannot have appropriately checked.

"If I am wrong and [the driver] did indicate his intention to turn prior to the motorcycles commencing their passing manoeuvre, that of itself is not conclusory of a lack of carelessness on his part, or an attribution of carelessness on the part of the motorcyclists."

Judge Crosbie said therefore the charge of careless driving causing death brought against Greenwood cannot be proved beyond reasonable doubt.

He also determined that he cannot find the driver was the cause of Gapes' death, "as that was not the issue for the court to determine".

Judge Crosbie was critical of the police investigation into the crash and their evidence at trial.

"Cross examination of [senior constable Karl] Bevin suggested that he had a relatively closed mind to some suggestions.

"SC Bevin therefore accepted that: there was an ability to overtake, there was no traffic in the northbound lane, the vehicles were travelling well below the speed limit, and the motorcycles were entitled to move into the northbound lane and overtake cars legitimately and legally," Crosbie said.

"Both motorcyclists were riding at or below the speed limit, displaying headlights, and were there to be seen."