



## Supreme Court of New Zealand

20 February 2007

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

**PAUL RODNEY HANSEN v THE QUEEN  
(SC 58/2005) [2007] NZSC 74**

### **PRESS SUMMARY**

**This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

The Supreme Court has unanimously dismissed an appeal against Mr Hansen's conviction for possession of cannabis for the purpose of supply.

Mr Hansen had argued that the trial judge was wrong to instruct the jury that an accused must prove that he did not intend to supply cannabis to others when found in possession of more than 28 grams of cannabis plant. At that level, s6(6) of the Misuse of Drugs Act sets up a presumption that the possession is for the purpose of supply "until the contrary is proved". Mr Hansen argued that s6(6) should be interpreted as requiring him to point to evidence of another purpose, leaving the onus of proof of intent on the prosecution. He relied on s6 of the New Zealand Bill of Rights Act which requires an interpretation consistent with the rights in the New Zealand Bill of Rights Act to be preferred to any other.

The Court unanimously held that s6(6) of the Misuse of Drugs Act was not capable of being interpreted to refer to a burden to produce evidence. It held that it clearly transferred to Mr Hansen the burden of persuading the jury that he did not intend to supply the cannabis to others. The trial Judge's direction was therefore correct. All members of the Court accepted that the presumption contained in s6(6) was inconsistent with the right to be presumed innocent under s25(c) of the New Zealand Bill of Rights Act. But it was not capable of an interpretation consistent with s25(c).

Three members of the Court (Justices Tipping, McGrath and Anderson) considered that s6(6) could not be justified under s5 of the New Zealand Bill of Rights Act. The Chief Justice did not find it necessary to decide the matter, while doubting that any limitation of the right to be presumed innocent was possible. Justice Blanchard was of the view that s6(6) was a justified limitation on the right to be presumed innocent.

The Supreme Court also has given guidance as to the proper approach to interpreting legislation consistently with the New Zealand Bill of Rights Act. By a majority (Justices Blanchard, Tipping, and McGrath) the Court has taken the view that legislation is interpreted consistently with s6 of the New Zealand Bill of Rights Act if it imposes limits on a right justifiable in a free and democratic society under s5. The Chief Justice, and to some extent Justice Anderson, disagreed with this approach.

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