



Supreme Court of New Zealand

27 October 2011

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

**TAITO PHILLIP HANS FIELD v THE QUEEN
(SC 3/2011)
[2011] NZSC 129**

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 full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

In 2009 Taito Phillip Field, a Member of Parliament from 1993–2008, was convicted and sentenced on charges which included corruptly accepting benefits in connection with acts carried out by him in his role as a Member of Parliament. He was charged under s 103 of the Crimes Act 1961, which relevantly makes an MP liable to imprisonment who “corruptly accepts” any bribe for himself in respect of any act done or omitted, or to be done or omitted, by him in his capacity as a Member of Parliament. Mr Field had provided immigration assistance to various Thai nationals and received from them plastering, painting and tiling services of substantial value (the Crown contended in excess of \$50,000) in respect of houses he had interests in. At trial the primary defence was that, at least in Mr Field’s mind, the services provided by the Thais were unconnected with the immigration assistance he provided, a defence which the jury rejected.

The trial Judge (Rodney Hansen J) told the jury that to establish that Mr Field had acted “corruptly” under s 103, the Crown had to prove only that he “must have known or believed that the work done on his property was done because he had provided or it was anticipated that he would provide immigration services”. There was accordingly no requirement for the benefit to be received either before immigration assistance was provided or pursuant to an

antecedent agreement or offer. Nor was there a requirement for anything else, such as impropriety in the assistance provided, that smacked of corruption.

Mr Field appealed to the Court of Appeal against conviction and sentence including arguments that the jury direction as to “corruptly” misconceived the nature of the offence under s 103. In dismissing the appeal, that Court indicated that under s 103 an MP would act “corruptly” if “knowingly outside the recognised bounds of his or her duties”. Leave to appeal to this Court was granted on the ground of whether the Court of Appeal correctly stated the test for corruptly accepting a bribe in terms of s 103 of the Crimes Act 1961.

The Supreme Court has unanimously dismissed Mr Field’s appeal.

The Court has concluded that while there may seem to be a difference in the approaches of the Court of Appeal and the trial Judge, the Court of Appeal’s observations were in substance by way of comment, and addressed to the problem of a strict approach to s 103 catching innocent transactions. This problem, on the Supreme Court’s approach, is dealt with by a de minimis defence in relation to gifts of token value which are just part of the usual courtesies of life. In the present circumstances, given the substantial nature of the benefits, no such defence was tenable.

A review of the statutory context and legislative history of s 103 and related provisions as well as case law going back to the 19th century supports the conclusion that s 103 captures rewards accepted after the event and without antecedent agreement or offer, or dishonest or otherwise obviously improper conduct. It follows that the Judge in his summing up accurately captured what had to be established, in the context of Mr Field’s case, to show that he had acted “corruptly”. There are also overlapping policy justifications for this result: the offer and acceptance of substantial benefits in relation to official acts has the tendency to promote corruption; and there is a fundamental inconsistency between the performance of official functions and the acceptance of private rewards for doing so.

For those reasons the appeal has been dismissed.

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