



Supreme Court of New Zealand

29 May 2014

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

NICHOLAS PAUL ALFRED REEKIE v ATTORNEY-GENERAL AND DISTRICT COURT AT WAITAKERE (SC 47/2013)

NICHOLAS PAUL ALFRED REEKIE v DEPARTMENT OF CORRECTIONS AND VISITING JUSTICE TO SPRING HILL CORRECTIONAL FACILITY (SC 102/2013)

[2014] NZSC 63

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.

The appellant, Nicholas Reekie, was sentenced to preventive detention in 2003 for a number of serious offences which included sexual offending in relation to four female complainants. The appellant was held in custody from his arrest in February 2002 until sentencing. He alleges that during this time, he was unlawfully detained for a period in September 2002 and that his treatment in prison and the conditions in which he was held were in breach of the New Zealand Bill of Rights Act 1990 and regulatory requirements. These allegations formed the basis of two sets of proceedings that resulted in High Court judgments which he now wishes to challenge in the Court of Appeal.

The appellant appealed the two decisions to the Court of Appeal and sought waiver of security for costs in relation to each appeal. The applications for dispensation of security were declined by the Registrar of the Court of Appeal. The appellant then filed applications for review of the Registrar’s decisions

under r 7(2) of the Court of Appeal (Civil) Rules 2005 and these challenges were dismissed in judgments issued by single judges of the Court of Appeal.

The Supreme Court granted leave to appeal against one of these judgments and directed that the application for leave to appeal against the other be dealt with at the same time as the appeal.

The key issue on appeal concerned the basis upon which the discretion to dispense with security on grounds of impecuniosity should be exercised. The Court also considered the role of the Registrar and the nature and extent of rights of review.

The Supreme Court has concluded that it would not be just to require the respondents to defend the judgments without security for costs and has unanimously dismissed the appeal and the application for leave to appeal.

The Supreme Court has held that the discretion to dispense with security should be exercised so as to preserve access to the Court of Appeal by an impecunious appellant in the case of an appeal which a solvent appellant would reasonably wish to prosecute, and to prevent the use of impecuniosity to secure the advantage of being able to prosecute an appeal which would not sensibly be pursued by a solvent litigant. The Court considered that while impecuniosity was established, a reasonable and solvent litigant would not appeal in the manner that the appellant has proposed in the Court of Appeal. To allow the appellant to proceed without security for costs would be to allow him to use his impecuniosity to obtain advantage.

The Supreme Court has also held that decisions by a single judge of the Court of Appeal reviewing the decision of the Registrar as to security for costs on appeal are not subject to review by a panel of three judges in the Court of Appeal.

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