

IN THE SUPREME COURT OF NEW ZEALAND

SC 53/2015
[2015] NZSC 88

BETWEEN

RICHARD LYALL GENGE
Applicant

AND

CHIEF EXECUTIVE OF THE
DEPARTMENT OF CORRECTIONS
Respondent

Court: William Young, Glazebrook and Arnold JJ

Counsel: Applicant in person
P J Gunn and S J Humphrey for Respondent

Judgment: 22 June 2015

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant is currently serving a life sentence for murder imposed in October 1995 and is detained pursuant to a warrant of commitment issued under s 143 of the Criminal Justice Act 1985. He contends that as a result of the repeal of that Act by the Sentencing Act 2002, the warrant of commitment is of no effect and he seeks release accordingly.

[2] His application for habeas corpus was dismissed by Mander J¹ and his subsequent appeal from that judgment was dismissed by the Court of Appeal.² He now seeks leave to appeal from the latter decision.

¹ *Genge v Superintendent of Christchurch Men's Prison* [2014] NZHC 705 [*Genge* (HC)].

² *Genge v Chief Executive of the Department of Corrections* [2015] NZCA 157 [*Genge* (CA)].

[3] In his application and other material provided by the applicant, he complained about the hearing he was accorded in the Court of Appeal. He also has indicated that he has some concerns as to parole. In a letter of 31 May however, he advised that he had obtained legal advice to the effect that in the context of the present application, this Court is the “wrong forum” for the ventilation of his parole concerns. He asked that the proceedings “be changed from habeas corpus to a judicial review, to be heard in a lower court”. However, the applicant subsequently wrote a further letter (of 10 June) indicating a desire to pursue his application.

[4] As the applicant was advised, the present proceedings do not provide an appropriate context for consideration of parole issues.

[5] The judgments of the High Court and Court of Appeal adequately explain why the applicant’s detention is still authorised by the 1995 warrant notwithstanding the repeal of the Criminal Justice Act.³ If the applicant’s submissions in the Court of Appeal were curtailed as he claims, that is unsurprising given the obvious validity of his detention. The proposed appeal raises no question of law of public or general importance and there is no appearance of a miscarriage of justice.

Solicitors:
Crown Law Office, Wellington for Respondent

³ *Genge* (HC) at [14]–[16] and *Genge* (CA) at [8]–[23].