

IN THE SUPREME COURT OF NEW ZEALAND

SC 36/2017
[2017] NZSC 121

BETWEEN MATTHEW RICHARD BROWN
Applicant

AND NEW ZEALAND POLICE
Respondent

Court: Elias CJ, Glazebrook and Ellen France JJ

Counsel: Applicant in person
M H Cooke for Respondent

Judgment: 18 August 2017

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant challenges a judgment of the Court of Appeal¹ refusing him leave to appeal against two High Court judgments² both of which dismissed appeals following conviction on two separate counts of trespass.³

[2] The first trespass incident took place in the executive wing of the parliamentary complex in Wellington. Following a previous protest action there, the applicant had been issued with a trespass notice effective for two years. Four months after the notice was issued, the applicant returned and advised security that he was there in breach of the trespass notice. He was arrested after he refused to leave.

¹ *Brown v New Zealand Police* [2017] NZCA 71 (Kós P, Brown and Williams JJ) [*Brown* (CA)].

² *Brown v New Zealand Police* [2016] NZHC 2359 (Clark J); and *Brown v New Zealand Police* [2016] NZHC 2884 (Mander J).

³ The appeal heard by Clark J related to conviction. The other appeal was against conviction and sentence.

[3] The second incident related to trespass at a Dunedin supermarket. Mr Brown deliberately breached the notice. He then went to the police station, told them of the breach and asked to be arrested, which he was.

[4] In the Court of Appeal, the applicant's main argument was that the original trespass notice in the Dunedin incident was invalid because no unlawful act preceded it. This aspect had been addressed by Mander J and the Court of Appeal saw no error in the approach taken or any matter of public or general importance in the circumstances requiring a second appeal.⁴ In this Court, the focus of Mr Brown's written submissions is on concerns he has about the way in which his complaints have been dealt with in other cases.⁵

[5] Under s 213(3) of the Criminal Procedure Act 2011, the judgment of the Court of Appeal dismissing the application for leave to appeal is "final", which precludes an appeal to this Court from that decision.⁶ Nor would we be prepared to grant leave for a leap-frog appeal (that is, direct from the High Court judgments) given that there are no exceptional circumstances in this case that would justify such an appeal, as is required. In these circumstances there is no need to have an oral hearing of this application as Mr Brown sought.

[6] The application for leave to appeal is dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent

⁴ *Brown* (CA), above n 1, at [5].

⁵ In reliance on doctor's certificates, Mr Brown sought and was given opportunities to file submissions in reply to those of the respondent. Those submissions also refer to the way in which his complaints have been addressed.

⁶ *Gorgus v R* [2016] NZSC 161 at [3]. See also *Silby v Police* [2017] NZSC 46 at [3]; and *Pese v R* [2017] NZSC 77 at [4].