



**Supreme Court of New Zealand  
Te Kōti Mana Nui**

**27 OCTOBER 2017**

**MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

**GLENN RODERICK HOLLAND V THE CHIEF EXECUTIVE OF THE  
DEPARTMENT OF CORRECTIONS**

**(SC 136/2016) [2017] NZSC 161**

**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 Judicial Decisions of Public Interest [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz)**

The publication of the names, addresses, occupations or identifying particulars of the complainants is prohibited by s 203 of the Criminal Procedure Act 2011. The publication of the names, addresses, occupations or identifying particulars of any complainants or persons under the age of 18 years who appeared as a witness is prohibited by s 204 of the Criminal Procedure Act 2011.

Mr Holland has a history of sexual offending and possession of child pornography (in the form of photographs) both in New Zealand and overseas. Mr Holland was visible in, or involved in the taking of, the pornographic photographs. In March 2012 Mr Holland was sentenced to three years imprisonment for doing an indecent act on a child under 12 outside New Zealand and 12 months imprisonment (to be served concurrently) for knowingly possessing objectionable material in terms of the Films, Videos and Publications Classification Act 1993 (the Classification Act offences). These offences meant he was eligible for an extended supervision order (ESO) under part 1A of the Parole Act 2002.

An ESO can be imposed if an “eligible offender” has been convicted of a “relevant offence”. A relevant offence is defined in s 107B(1) of the Parole Act and includes under s 107B(3) offending under the Classification Act if it is punishable by imprisonment and if the publication is objectionable because it involves the sexual exploitation of children.

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An ESO can be imposed on an eligible offender under s 107I(2) if, relevantly, the court is satisfied that the offender has, or has had, a pervasive pattern of serious sexual offending and that there is a high risk that the offender will commit a relevant sexual offence in the future. A relevant sexual offence is a defined term in s 107B(2) of the Parole Act.

In February 2016 Judge Fraser in the District Court imposed an ESO for a period of 10 years on Mr Holland. Mr Holland's appeal against the imposition of that order was dismissed by the Court of Appeal on 17 October 2016. The Supreme Court granted leave on 8 June 2017.

The issue for determination by this Court was whether Classification Act offences are relevant only to eligibility for an ESO and if so whether the ESO should have been made.

Mr Holland did not dispute that he was an eligible offender. However, in his submission the Classification Act offending should not have been taken into account for the purpose of assessing whether there is a pervasive pattern of serious sexual offending under s 107I(2) because they are not relevant sexual offences as defined in s 107B(2). Nor do they come within the plain meaning of the phrase sexual offending. Given the infringement by the ESO regime on the rights guaranteed by the New Zealand Bill of Rights 1990 he submitted that the phrase must be construed strictly.

The Supreme Court has unanimously dismissed the appeal. The ordinary meaning of the term sexual offending in s 107I(2)(a) would encompass the type of offending against the Classification Act committed by Mr Holland, in particular given his active participation in those offences. The scheme of the legislation reinforces the view that the phrase, sexual offending, should be given its ordinary meaning. It must be construed in light of the ESO regime as a whole. A narrowed meaning to ensure consistency with the Bill of Rights is not possible. Taking the Classification Act offences into question demonstrates a pervasive pattern of serious sexual offending.

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