

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

**SC 65/2020
[2020] NZSC 105**

BETWEEN ROBERT FRANK TERRY
 Applicant

AND NEW ZEALAND POLICE
 Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: Applicant in person
 C Ure for Respondent

Judgment: 2 October 2020

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Mr Terry was convicted and sentenced by Justices of the Peace to a fine of \$1,500 for failing to stop when followed by a vehicle displaying flashing blue and red lights, under s 52A(1)(a)(ii) of the Land Transport Act 1998. His appeal against conviction to the District Court was dismissed but his appeal against sentence was allowed.¹ Mr Terry then unsuccessfully applied for leave to appeal to the High Court. Grice J determined that there was no general or public importance on the appeal and no risk of a miscarriage of justice.²

[2] Mr Terry then applied to the Court of Appeal for leave to appeal. The Deputy Registrar declined to accept his application for leave on the basis that Mr Terry had

¹ *Terry v New Zealand Police* [2019] NZDC 4742.

² *Terry v New Zealand Police* [2019] NZHC 1131.

exhausted his appeal rights under the Criminal Procedure Act 2011. Clifford J declined Mr Terry's application for review of the Deputy Registrar's decision.³

[3] Mr Terry now seeks leave to appeal against both the District Court decision and the decision of Clifford J. In his application for leave to this Court, Mr Terry makes a number of submissions, mainly about the facts of the offending. He also submits that the Court of Appeal (and presumably the Deputy Registrar) erred by determining the matter on the papers.

[4] Section 237 of the Criminal Procedure Act gives a convicted person the right of a second appeal against conviction, with leave of the second court. In this case, per s 230(1)(a), the District Court was the first appeal court. The High Court, per s 238(a), was the second appeal court. Under s 242, every determination of a second appeal under that subpart by the High Court is final. There is therefore no jurisdiction for this Court to consider an appeal against the District Court decision or Clifford J's decision.

[5] Accordingly, the application for leave to appeal is dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent

³ *Terry v New Zealand Police* [2020] NZCA 185.