

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 13/2020
[2020] NZSC 87

BETWEEN DAVID SIMON BARTON
 Applicant

AND THE QUEEN
 Respondent

Court: Glazebrook, Ellen France and Williams JJ

Counsel: Applicant in person

Judgment: 31 August 2020

JUDGMENT OF THE COURT

The application for recall of this Court’s judgment of 21 August 2020 (*Barton v R* [2020] NZSC 84) is dismissed.

REASONS

[1] On 21 August 2020 this Court dismissed Mr Barton’s application for leave to appeal.¹ He applies for a recall of that judgment.²

[2] The general rule is that a judgment, once delivered, must stand for better or worse.³ There are, however, three categories of cases where a judgment may be recalled: a legislative amendment or a new development in case law of “high authority”; a failure by counsel to draw attention to a relevant statutory provision or

¹ *Barton v R* [2020] NZSC 84 (Glazebrook, Ellen France and Williams JJ).

² The recall application has been dealt with by the panel who sat on the leave application and so it has not been placed before Winkelmann CJ as requested.

³ *Horowhenua County v Nash (No 2)* [1968] NZLR 632 (SC) at 633; see as cited in *Craig v Williams* [2019] NZSC 60 at [10].

caselaw; or “where for some other very special reason justice requires that the judgment be recalled”.⁴

[3] Most of the matters Mr Barton seeks to raise have already been considered and rejected by the Court. To the extent that is not the case, they are matters that could have been raised earlier. None of the grounds for recall are made out.

[4] The application for recall of our judgment of 21 August 2020 is therefore dismissed.

⁴ *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd (No 2)* [2009] NZSC 122, [2010] 1 NZLR 76 at [2]; *Green Growth No 2 Ltd v Queen Elizabeth the Second National Trust* [2018] NZSC 115 at [20]; and *Craig v Williams*, above n 3, at [10].