

ORDER PROHIBITING PUBLICATION OF THE JUDGMENT AND ANY PART OF THE PROCEEDINGS (INCLUDING THE RESULT) IN NEWS MEDIA OR ON THE INTERNET OR OTHER PUBLICLY AVAILABLE DATABASE UNTIL FINAL DISPOSITION OF TRIAL. PUBLICATION IN LAW REPORT OR LAW DIGEST PERMITTED.

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

**SC 89/2020
[2020] NZSC 121**

BETWEEN DANIEL PAUL VAN HOUTEN
Applicant

AND THE QUEEN
Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: Applicant in person
E J Hoskin for Respondent

Judgment: 10 November 2020

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B We make an order prohibiting publication of the judgment and any part of the proceedings (including the result) in news media or on the internet or other publicly available database until final disposition of trial. Publication in a law report or digest is permitted.**
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REASONS

Background

[1] Mr van Houten is charged with seven firearms-related charges. The charges were laid after a search warrant had been executed at his house, recovering a number of firearms, ammunition and a pipe bomb.

[2] Mr van Houten’s challenge to the search warrant was dismissed by the District Court.¹ His appeal against that decision was dismissed by the Court of Appeal.²

[3] He now applies for leave to appeal to this Court.

Decision of the Court of Appeal

[4] The Court of Appeal was satisfied that the District Court was correct to hold that the officer issuing the search warrant had reasonable grounds to suspect an offence was being committed. It said this was clear even from the redacted copy of the warrant application, which showed that:³

- (a) Mr van Houten did not have a firearms licence;
- (b) Facebook posts uploaded to Mr van Houten’s profile in April 2019 and in May 2018 suggested that he had been hunting with firearms;
- (c) another Facebook profile with the name “Dano Gunz”, which uses the same email address as Mr van Houten uses on his Trade Me account, contained various posts depicting Mr van Houten with guns between 2013 and 2018;
- (d) a review of Mr van Houten’s Trade Me account showed that he had purchased a number of firearm accessories; and
- (e) Mr van Houten has a history of obtaining firearms without a licence and has convictions for so doing in 2010 and in 2016.

[5] The Court also considered that the District Court was correct to hold that there were reasonable grounds to believe that evidence relevant to the suspected offending would be found at Mr van Houten’s address. The application disclosed

¹ *R v Van Houten* [2020] NZDC 11663 (Judge Harvey).

² *Van Houten v R* [2020] NZCA 461 (Kós P, Wyle and Muir JJ) [CA judgment].

³ At [20]. The Court said there was additional material in the unredacted version also providing a “compelling narrative” of firearms-related offending.

Mr van Houten’s address and that the police had previously found firearms paraphernalia at properties occupied by Mr van Houten.⁴

[6] The Court thus concluded the application was “soundly based” and that the information provided was “more than sufficient” for the officer to issue the warrant pursuant to s 6 of the Search and Surveillance Act 2012.⁵

This application

[7] Mr van Houten says that leave should be granted because his firearms licence had not been validly revoked, there are flawed and misleading statements in the application for a search warrant such that it is invalid, and he has been targeted by the police because he sent a letter to Members of Parliament about firearms control.

Our assessment

[8] This application relates to the particular factual circumstances of this case. It does not meet the threshold for a pre-trial appeal. It is not necessary in the interests of justice for the proposed appeal to be heard before trial.⁶

Result

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

[10] We make an order prohibiting publication of the judgment and any part of the proceedings (including the result) in news media or on the internet or other publicly available database until final disposition of trial. Publication in a law report or digest is permitted.

Solicitors:
Crown Law Office, Wellington for Respondent

⁴ Additional information contained in the unredacted copy of the application provided an objective and credible basis for thinking that a search would lead to the discovery of firearms. The information went well beyond mere suspicion. CA judgment, above n 2, at [22].

⁵ At [23].

⁶ Senior Courts Act 2016, s 74(4).