

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 84/2022
[2022] NZSC 140

BETWEEN BEAUXDINE PETER DELAMARE
 Applicant

AND ATTORNEY-GENERAL
 Respondent

Court: Ellen France, Williams and Kós JJ

Counsel: Applicant in person
 J B Watson and T Li for Respondent

Judgment: 7 December 2022

JUDGMENT OF THE COURT

- A The application for an extension of time to apply for leave to appeal is granted.**
- B The application for leave to appeal is dismissed.**
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REASONS

Introduction

[1] Mr Delamare was sentenced in the District Court to three years and five months' imprisonment on 9 August 2021.¹ In early April 2022, he applied to the High Court for a writ of habeas corpus. That application was dismissed by the High Court.² Mr Delamare appealed unsuccessfully from that decision to the Court of Appeal.³ He has now made an application for leave to appeal to this Court.

¹ *R v Delamare* [2021] NZDC 16098.

² *Delamare v Attorney-General* [2022] NZHC 699 (Gendall J).

³ *Delamare v Attorney-General* [2022] NZCA 272 (Gilbert, Mander and Fitzgerald JJ).

The decision of the Court of Appeal

[2] In dismissing the appeal, the Court of Appeal noted that in the High Court the Attorney-General had produced the relevant warrant under which Mr Delamare is currently detained. The Court agreed with the High Court that the warrant demonstrated a lawful basis for his detention. The Court also observed there was no direct challenge to the lawfulness of the warrant. The Court of Appeal accepted “the Judge’s conclusion that none of the matters raised by Mr Delamare means that the warrant is unlawful”.⁴

[3] Finally, the Court noted that to the extent the application was a challenge to the sovereignty of Parliament, that argument had been rejected by the courts including this Court.⁵ As Mr Delamare was detained in custody under a lawful warrant to detain, the application for a writ of habeas corpus was correctly dismissed.

The proposed appeal

[4] Essentially, Mr Delamare wishes to argue that New Zealand laws have no authority over him and he is therefore entitled to habeas corpus. Among other matters, he emphasises the importance to tangata whenua of sustainability aspects of customary rights and usages. In addition, he relies on the fact that he appeared by audio-visual link at the hearings related to his application for habeas corpus.

[5] The proposed appeal would largely have this Court reconsider arguments considered and rejected by the Court of Appeal. Nothing raised by the applicant in the present application calls into question the correctness of that Court’s decision. The criteria for leave to appeal are accordingly not met.⁶

⁴ At [9].

⁵ Citing by way of example *Warren v The Chief Executive of the Department of Corrections* [2017] NZSC 20 at [7].

⁶ Senior Courts Act 2016, s 74(2).

Result

[6] The application for leave to appeal was filed out of time but the delay is explained. There is no objection to our granting an extension of time. Accordingly, the application for an extension of time to apply for leave to appeal is granted.

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

Solicitors:
Crown Law Office, Wellington for Respondent