



Supreme Court of New Zealand | Te Kōti Mana Nui o Aotearoa

02 October 2023

MEDIA RELEASE

RAE v COMMISSIONER OF POLICE

(SC 33/2023)

Hearing in the Supreme Court Thursday 12 October 2023

CASE HISTORY SYNOPSIS

This synopsis is provided to assist in understanding the history of the case and the issues to be heard by the Court. It does not represent the views of the panel on the hearing in Supreme Court. The synopsis does not comprise part of the reasons for the judgment of the Court of Appeal. A direct link to the judgment is included at the end of this synopsis.

NOTE: HIGH COURT ORDER PROHIBITING PUBLICATION OF ANY IDENTIFYING PARTICULARS OF R LTD AND S LTD REMAINS IN FORCE.

Background

The Commissioner of Police failed to disclose relevant information and misrepresented other information in a without notice application to restrain Mr Rae's property. The issue is what the effect of that non-disclosure and misrepresentation ought to be on restraining orders successfully sought by the Commissioner under the Criminal Proceeds (Recovery) Act 2009 in the High Court.

The Court of Appeal held that the High Court was correct not to rescind the restraining order. The applicant, Mr Rae unsuccessfully applied for recall of the Court of Appeal judgment and has now sought leave to appeal to the Supreme Court.

Application for leave

By minute dated 10 July 2023, the Supreme Court set down the application for a hearing. It indicated that the parties should address:

- (a) whether the Court has jurisdiction to hear an appeal from the Court of Appeal's decision to decline to recall a judgment in a civil proceeding;
- (b) the possibility that, in the alternative, the Court should treat Mr Rae's application as an application (with leave to appeal out of time) for leave to appeal from the Court of Appeal's initial judgment;
- (c) whether the leave criteria are met; and
- (d) the substantive merits of the appeal (on the assumption leave to appeal is ultimately granted).

Viewing of hearing

The courtroom is open to the public.

This hearing of the appeal will be live-streamed. Details about access to the live-stream and the conditions of access will be posted on the [Courts of New Zealand website](#) shortly before the hearing. No recording is permitted.

The panel

The Hon Justice Williams	The Hon Justice Glazebrook	The Rt Hon Chief Justice Winkelmann	The Hon Justice O'Regan	The Hon Justice Kós
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Judges as seen from the public gallery

Counsel

- David Charles Rae (applicant): *In person*
- Commissioner of Police (respondent): *D Jones and S B McCusker*
Counsel to assist: *Y Y Mortimer-Wang and J J Kim*

Sitting hours

Court will begin at 10:00am and conclude at 4:00pm with adjournments taken from 11:30am to 11:45am and from 1:00pm to 2:15pm. There is no afternoon adjournment.

Enquiries

Any enquiries about the hearing should be directed via email to supremecourt@justice.govt.nz. While attending the hearing, enquiries can also be directed to the Court Registry, which is located outside the main courtroom in the Supreme Court foyer.

Contact person:

Sue Leaupepe, Supreme Court Registrar (04) 914 3613

Court of Appeal decision: [\[2023\] NZCA 4](#) (3 February 2023)

Court of Appeal recall decision: [\[2023\] NZCA 38](#) (6 March 2023)