



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

30 June 2023

MEDIA RELEASE

VAN SILFHOUT v PATHIRANNEHELAGE
(SC 21/2023)

Hearing in the Supreme Court Tuesday 18 July 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 that will hear the appeal in the 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.

Background

Mr Pathirannehelage was a victim of Mr van Silfhout's offending in 2010. While serving his sentence of imprisonment, in January 2020 the Department of Corrections agreed to pay Mr van Silfhout \$12,000 compensation for an alleged breach of privacy. The Prisoners' and Victims' Claims Act 2005 (PVCA) enables victims to make claims against compensation awarded to offenders. So, in reliance on the PVCA, on 2 April 2020 Mr Pathirannehelage lodged with the Victims' Special Claims Tribunal a claim for \$10,000 compensation for emotional harm arising out of the offending.

Because this was some years after the offending, the court needed to consider whether Mr Pathirannehelage's claim against Mr van Silfhout was time-barred by limitation statutes. This required assessing the meaning of s 64(1) of the PVCA which states that the relevant limitation period "cease[s] to run while the offender is serving a sentence of imprisonment in a penal institution, prison, or service prison". As Mr van Silfhout had spent time remanded in custody prior to sentencing, the issue for the courts was whether a period of pre-sentence detention counted as "serving a sentence of imprisonment" such that the limitation period was suspended.

For broadly similar reasons, the High Court and Court of Appeal concluded that time spent in pre-sentence detention did count. This meant that Mr Pathirannehelage's claim was not time-barred and could proceed.

This appeal

On 4 May 2023, the Supreme Court granted Mr van Silfhout leave to appeal. The approved question was whether the Court of Appeal was correct in its interpretation of s 64(1) of the PVCA.

Viewing of hearing

The Courtroom is open to the public in accordance with the [COVID 19 Protection Framework Protocol](#).

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

Counsel

- Van Silfhout (Appellant): *DA Ewen and AL Hill*
- Counsel for the Secretary of Justice as counsel assisting the Court: *DJ Perkins, ZR Hamill and IMC McGlone*

Sitting hours

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

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 5](#) (8 February 2023)
Supreme Court leave decision: [\[2023\] NZSC 47](#) (4 May 2023)