



## Supreme Court of New Zealand

25 July 2008

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

**Z v Dental Complaints Assessment Committee  
SC 22/2007 [2008] NZSC 55**

### **PRESS SUMMARY**

**This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

The Supreme Court has today delivered judgment in an appeal by a dentist against a Court of Appeal decision allowing disciplinary charges to be heard by the Dentists Disciplinary Tribunal. The dentist had argued that because the incidents giving rise to the charges had already been the subject of a criminal trial, the disciplinary proceedings were an abuse of the Tribunal's powers. The Court has, by a majority, dismissed the appeal in respect of two disciplinary charges but held that a third should not proceed.

The dentist, whose name has been suppressed, was acquitted of indecent assault against three patients in the District Court in 2002. A Dental Complaints Assessment Committee later investigated the dentist's conduct on those occasions as well as the conduct that was the subject of another complaint. The Committee brought charges of professional misconduct which covered the alleged indecent assaults as well as alleged administration of excessive dosages of sedatives on those occasions. The dentist submitted that the inclusion of particulars relating to indecent assaults which had been addressed at the trial was an abuse of process.

The majority of the Supreme Court (comprising Blanchard, Tipping, McGrath and Anderson JJ) has held that it is not an abuse of process for the charges in relation to two of the complainants to be heard by the Tribunal. The allegations of indecent conduct there form part only of a charge that addresses wider issues, in particular, over-use of sedatives by the dentist in practice.

The majority judges have also decided that the standard of proof to be applied by the Tribunal when hearing the disciplinary charges is the civil standard of balance of probabilities and not the criminal standard of beyond reasonable doubt.

The Chief Justice has dissented on both points, taking the view that none of the disciplinary charges should proceed in this case because disciplinary bodies should not consider a charge which alleges a crime without proper justification. The Chief Justice has also concluded that the criminal standard should apply to proof of all charges of serious misconduct being heard by the Dentists Disciplinary Tribunal.

Contact person: Gordon Thatcher, Supreme Court Registrar (04) 914 3545