IN THE SUPREME COURT OF NEW ZEALAND

SC 21/2005 [2005] NZSC 22

BETWEEN PETER NEIL CAMPBELL

Appellant

AND THE SUPERINTENDENT,

WELLINGTON PRISON

Respondent

Court: Elias CJ and Blanchard J

Counsel: Appellant in Person

V Sim and J Foster for Respondent

Judgment: 5 May 2005

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Mr Campbell is serving a sentence of imprisonment of eight years three months for sexual offences, including rape, involving a child. On 11 April 2005 he filed in this Court an application for leave to appeal against the dismissal by the Court of Appeal on 14 February of his appeal against the High Court's dismissal of his application for habeas corpus. His application challenged a decision of the Parole Board on 10 December 2004 on an application by the chief executive of the Department of Corrections under s 107 of the Parole Act 2002 that Mr Campbell not be released before his final release date. The Parole Board made its decision after rehearing the s 107 application apparently as a result of receiving legal advice that an earlier decision may not have been validly made.

[2] In order that the matter could be dealt with urgently we directed that there

should be shortened periods for the filing of written submissions. Having now

received those submissions, we are satisfied that an oral hearing of the leave

application is unnecessary as the proposed appeal does not meet the criteria in s 13

of the Supreme Court Act 2003.

[3] Section 107(8) preserves the Parole Board's order unless that order is set

aside for invalidity or is revoked by the Board or expires. The question for the

courts below was whether certain irregularities in the Parole Board's processes were

such that the order should be set aside. On the basis of the limited material before

them the courts below were agreed that the order should not be treated as invalid

because of the irregularities. That conclusion was reached having regard to the

particular and unusual circumstances in which the Board came to make its decision

at the rehearing and it raises no question of general or public importance. Nor are

we persuaded that there may have been any substantial miscarriage of justice.

Solicitors:

Crown Law Office, Wellington