**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 45/2005**
**2005 NZSC 63**

**RICHARD SHANE KEENAN**

v

**THE QUEEN**

Court: Tipping J and McGrath J

Counsel: C P Comeskey for Applicant
J C Pike for Crown

Judgment: 7 September 2005

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed**

**REASONS**

[1] The applicant was convicted, following a jury trial in the High Court, on one charge of having a class A controlled drug, methamphetamine, in his possession for the purposes of supply. He was sentenced to five years imprisonment. The Court of Appeal dismissed his appeal against conviction and sentence on 23 June 2005. He applies for leave to appeal against the Court of Appeal's decision insofar as it relates to his sentence.

[2] We have considered written submissions made on behalf of the applicant and the Crown in relation to the application and are satisfied that an oral hearing is unnecessary.

[3] We have decided that the application for leave to appeal to this Court should be dismissed.

[4] The applicant wishes to argue in this Court a number of grounds of appeal which were put before the Court of Appeal. He takes issue with the conclusions reached by the Court of Appeal as being either unduly dismissive of the significance of the points made on his behalf or as being simply wrong. The criticisms are of such matters as the sentencing Judge's approach to establishing the factual basis for sentencing, his perception that the consequence of the legislative reclassification of methamphetamine in this case should lead to higher penalties than might previously have been imposed generally and in particular in this case, the manner in which the Judge accounted for aggravating features in relation to the starting point for the sentence, and of his taking into account previous sentencing decisions which had dealt with manufacture of controlled drugs rather than their possession for supply. Another complaint is that the Court of Appeal did not attach due significance to a factual error made by the High Court Judge in saying that at the time of offending the applicant was on parole, when he was rather subject to recall to prison to complete serving an earlier sentence.

[5] None of the matters raised gives rise to a point of general principle or of general importance in the administration of the criminal law by the Courts. Each is rather addressed to how well established principles were applied by the Court of Appeal in the circumstances of the present case. The application is an attempt to get this Court to review the merits of the Court of Appeal's view of the appropriateness of the applicant's sentence for the offending concerned. In *R v Trotter* [2005] NZSC 7 this Court indicated that, in the absence of any indication of a serious miscarriage of justice in the sentencing process which had not been corrected on appeal to the Court of Appeal, it was not necessary in the interests of justice for the Court to undertake a further appellate review of the appropriateness of the sentence imposed on an offender. That approach applies directly to the present case and in such

circumstances s 13 of the Supreme Court Act 2003 directs this Court not to give leave to appeal.

Solicitors:
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