

**ANTON MARK LE PAGE**

v

**THE QUEEN**

Court: Keith J and Blanchard J  
Counsel: P S Neutze for Applicant  
F E Guy for Respondent  
Judgment: 14 July 2005

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**JUDGMENT OF THE COURT**

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

**REASONS**

[1] We are satisfied that this application can properly be determined on the basis of counsel's written submissions without the need for an oral hearing.

[2] Following a police search of his motor vehicle during which controlled drugs and other articles were found the applicant was charged with offences under the Misuse of Drugs Act 1975 and with possession of offensive weapons (s 202A(4) of the Crimes Act 1961).

[3] The admissibility of the evidence obtained by the search was challenged in a pre-trial application under s 344A of the Crimes Act. The High Court ruled that the

evidence was admissible. The applicant then pleaded guilty on an amended indictment. He apparently did so in the belief that he would be able to continue to pursue his argument that the disputed evidence was inadmissible. He then brought an appeal against his conviction.

[4] The Court of Appeal appears to have treated his appeal as if in the circumstances he required leave to appeal, which it refused. But it went on to consider the substance of the challenge to the admissibility of the evidence and concluded that there was no basis for disagreeing with the High Court Judge's determination, in the exercise of his discretion, that the evidence was admissible. The Court of Appeal's formal judgment included an order that the appeal was dismissed.

[5] Counsel for the Crown accepts that the applicant had a right of appeal to the Court of Appeal, without requiring leave, under s 383 of the Crimes Act notwithstanding his plea of guilty. This Court therefore has jurisdiction to hear the proposed appeal if the leave criteria in s 13 of the Supreme Court Act 2003 are satisfied.

[6] Plainly they are not. Despite the procedural confusion, the Court of Appeal has fully reviewed the High Court's exercise of discretion. The applicant has accordingly not suffered any substantive disadvantage. The matters raised before the High Court essentially required determinations of fact which the Court of Appeal found no reason to disturb. The applicant has not put forward any matter of general principle appropriate to a second appeal nor anything suggestive that there may have been a miscarriage of justice.

Solicitors:  
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