

IN THE SUPREME COURT OF NEW ZEALAND

**SC 33/2005
[2005] NZSC 51**

BETWEEN

DAVID JOHN YOUNG
Applicant

AND

**LAND TRANSPORT SAFETY
AUTHORITY**
Respondent

Court: Blanchard J and McGrath J

Counsel: Applicant in Person
F E Guy and A J Thompson for Respondent

Judgment: 27 July 2005

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] After a trial in the summary jurisdiction of the District Court at Christchurch the applicant was convicted on a charge that being a taxi driver he failed to conduct himself in an orderly manner contrary to a rule in the third schedule to the Transport Services Licensing Act 1989. His general appeal to the High Court against his conviction having been dismissed, the applicant was refused leave to appeal to the Court of Appeal both by the High Court and later by the Court of Appeal itself.

[2] Recognising that he cannot appeal to this Court against the Court of Appeal's refusal of leave, as that was not a decision "on an appeal" in terms of s 144A(1)(c) of the Summary Proceedings Act 1957, the applicant now seeks to appeal directly from the High Court's determination on the general appeal in reliance upon s 144A(1)(b). In accordance with s 14 of the Supreme Court Act 2003 and s 144A(2), however,

this Court may not permit a direct appeal unless satisfied that there are exceptional circumstances that justify such an appeal.

[3] We have considered the written submissions filed and do not find it necessary to direct an oral hearing. There are no grounds in terms of s 14 for an appeal to be brought directly from the High Court in this case. There are no exceptional circumstances. No significant points of law are involved. The case involves only questions of fact which have been fully reviewed below.

[4] Furthermore, in circumstances in which the Court of Appeal has refused leave for an appeal to that Court and there is a jurisdictional bar preventing the decision of the Court of Appeal declining leave from being further appealed, this Court will rarely allow that bar to be avoided by resort to a direct appeal. Other than in extraordinary circumstances, which do not exist in the present case, an attempt to bring a direct appeal in such circumstances will be regarded as an abuse. A similar point was made in this Court's judgment in *Burke v The Western Bay of Plenty District Council* [2005] NZSC 46.

[5] The respondent has sought costs but, as the jurisdictional question has not previously been the subject of a ruling from the Court, we do not make any order.

Solicitors:
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