

IN THE SUPREME COURT OF NEW ZEALAND

**SC 40/2006
[2006] NZSC 58**

GLEN DALLAS GOLDBERG

v

THE QUEEN

Court: Tipping, McGrath and Anderson JJ

Counsel: G King for Appellant
M D Downs for Crown

Judgment: 9 August 2006

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Mr Goldberg seeks leave to appeal from the dismissal by the Court of Appeal¹ of his appeal against a number of convictions entered against him following his trial in the High Court at Auckland. The convictions were for attempting to pervert the course of justice and breaches of a protection order. The Court of Appeal recorded² that there was only one issue on the appeal against conviction. It was an entirely factual issue concerning the nature of the instructions Mr Goldberg had given to his counsel. That issue was resolved against the appellant.

¹ CA10/05 4 May 2006.

² At para [7].

[2] Among the several grounds which Mr Goldberg now advances in support of his present application is the proposition that he wanted his appeal in the Court of Appeal to be substantially more wide ranging. He was present throughout the hearing of that appeal and there is no evidence that he protested or complained at the way the appeal was being presented on his behalf. Mr Goldberg also wishes to appeal against the Court of Appeal's dismissal of his appeal against sentence.

[3] We are satisfied that none of the grounds advanced by Mr Goldberg in his own submissions and none of those advanced by Mr King on his behalf qualifies for leave. None raises a point of general or public importance and neither singly nor cumulatively do they give any cause for concern that a substantial miscarriage of justice has occurred or may occur if leave is not given. This applies to both the conviction and the sentence aspects of the case.

[4] The privilege issue was effectively determined against Mr Goldberg by the Court of Appeal's factual finding. Nor does the absence of the further evidence give rise to any risk of a miscarriage of justice. A number of the points raised seek to re-argue factual determinations made by the Court of Appeal. The sentence points do not give rise to any matter of principle or general application. We are also satisfied that the points which the appellant now wishes to raise, and which were not addressed by the Court of Appeal because they were not advanced in that Court, are not such as might justify a direct appeal to this Court under s 14 of the Supreme Court Act 2003. Neither do they qualify on the more conventional basis under s 13 of the Act.

[5] In summary, we are not satisfied that it is necessary in the interests of justice to grant leave on any ground and for this reason the application must be dismissed.

Solicitors:
G King, Wellington for Appellant
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