IN THE SUPREME COURT OF NEW ZEALAND

SC 19/2006
[2006] NZSC 28

TIMOTHY JOHN HOLDEN TIPPLE

v

THE QUEEN

Court: Elias CJ, Blanchard and Anderson JJ

Counsel: Applicant in person
A Markham for Crown

Judgment: 11 April 2006

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant was convicted on his trial before a District Court Judge and jury on a count of careless use of a firearm laid pursuant to s 53(3) of the Arms Act 1983. He appealed unsuccessfully to the Court of Appeal and now applies to this Court for leave to appeal. This Court has considered the written submissions in support of and in opposition to this application and has determined that it is unnecessary to have oral submissions.

[2] The charge arose from a shooting incident at the applicant's farm. It was possible from the shooting point to see vehicular traffic using a public road about 600 metres away. The applicant allowed some guests to use his rifle. It had a range of three kilometres. The guests did not hold firearms licences and were unused to weapons. One of the novices fired a round in a way that resulted in the bullet passing close to two people standing on the road. The bullet then damaged a car.

[3] An issue in the Court of Appeal and on this application is whether the applicant's conduct with respect to the rifle came within the scope of "deals with a firearm" in terms of s 53(3). The Court of Appeal was plainly right in holding that the term covered what he had done. The interpretation of that term raises no question of general or public importance.

[4] The applicant says that when the Police came to the farm to investigate the shooting incident he was not given his rights under s 23 of the New Zealand Bill of Rights Act 1990. But s 23 was not engaged because the applicant was not detained.

[5] The applicant complains also that the charge was amended in the course of trial without his being given the opportunity to re-elect and re-plead. However, the amendment was done pursuant to s 335 of the Crimes Act 1961 so that an opportunity to re-plead or re-elect was not required.

[6] The applicant submits that a miscarriage of justice has been occasioned by a shift in the Crown case from an allegation that he fired the damaging shot to an acceptance that one of the guests may have. There is nothing to indicate that the applicant was prejudiced by the shift in the Crown case, particularly since the applicant's own firearms expert had reservations about the shooting activity in the particular circumstances.

[7] The applicant submitted that he should have been committed for trial in the High Court, not the District Court. There is no merit in the point. His committal was in accordance with the relevant provisions of the Summary Proceedings Act 1957 and the District Courts Act 1947.

[8] There is nothing in any of the matters raised by the applicant which discloses a question of general or public importance or the possibility of a miscarriage of justice. The application must be dismissed.

Solicitors:
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