

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 19/2007  
[2007] NZSC 48**

BETWEEN	SAMUEL TAHATU MARSH Applicant
AND	NEW ZEALAND POLICE Respondent

Court: Blanchard, Tipping and Anderson JJ

Counsel: Applicant appears in person  
D La Hood for Respondent

Judgment: 25 June 2007

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**JUDGMENT OF THE COURT**

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

**REASONS**

[1] This is an application for leave to appeal from a decision of the High Court dismissing an appeal against the applicant's conviction on summary trial by the District Court in respect of an offence under s 48 of the Firearms Act 1983. In the course of an incident when cattle being driven on a roadway by a neighbour wandered onto the applicant's land the applicant discharged an airgun. He was convicted of discharging it near a dwelling house so as to endanger the neighbour. He was sentenced to pay reparation, witness expenses and costs, as well as being required to enter into a \$500 bond for two years to keep the peace with all of the residents of the road on which he lives.

[2] The High Court decided that the District Court Judge had correctly identified the ingredients of the charge and declined to intervene in the factual and credibility findings made in the District Court.

[3] The applicant unsuccessfully sought leave of the High Court to appeal to the Court of Appeal. He has not applied to the Court of Appeal for leave as he could do under s 144(3) of the Summary Proceedings Act 1957. This application is therefore an attempt to by-pass the Court of Appeal en route to this Court.

[4] By virtue of s 14 of the Supreme Court Act 2003 such by-pass appeals can be entertained by this Court only in extraordinary circumstances. There are no extraordinary circumstances in this case justifying a direct appeal. The legal and factual issues in respect of the conviction do not, in any event, seem to satisfy the criteria for leave stipulated in s 13 of the Supreme Court Act. Although the respondent acknowledges that there are possible issues about the extent of the order to enter into a bond to keep the peace and the procedure adopted in the District Court in relation to it, the applicant has not satisfied this Court why such issues should not be raised in an application to the Court of Appeal for leave before any consideration is given to them by this Court.

[5] The application is dismissed.