



Supreme Court of New Zealand

15 February 2008

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

Nicola Bronwyn HAYES v The Queen
SC 16/2007
[2008] NZSC 3

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

The Supreme Court has allowed this appeal by Ms Hayes against convictions for dishonestly using documents to gain ACC payments. Ms Hayes certified she was not able to work when she was in fact working. Her defence included the proposition that she was not dishonest because she thought she was entitled to weekly compensation payments because she was unable to work in her pre-accident occupation as a school teacher and was not making any money from the self employment in which she was actually engaged. The trial judge directed the jury that if Ms Hayes believed she was entitled to ACC payments that belief had to be reasonable in order to be a defence. The appellant challenged this direction in the Supreme Court, although she had not raised the point in the Court of Appeal.

The Supreme Court has unanimously held that the direction was wrong. If Ms Hayes did actually believe she was in the circumstances entitled to ACC, she was not guilty of the offences charged, even if her belief was unreasonable. Hence the appeal has been allowed and a new trial directed, albeit the Solicitor-General has indicated he was unlikely to proceed with it in view of Ms Hayes having already served her sentence. In its judgment the Court has also clarified what the phrase “pecuniary advantage” means in the sections under which Ms Hayes was charged. It means simply any enhancement of a person’s financial position irrespective of whether the person may or may not be entitled in law to that enhancement.

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