

ALISDAIR BRUCE AYLWIN

v

THE QUEEN

Court: Elias CJ, Blanchard and Wilson JJ

Counsel: F P Hogan for Applicant  
A M Powell for Crown

Judgment: 29 July 2008

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**JUDGMENT OF THE COURT**

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**A The application for leave to appeal against the decision of the Court of Appeal in *R v Aylwin* [2008] NZCA 154 is granted.**

**B The approved grounds of appeal are:**

- (1) In relation to a charge under s 59 of the Land Transport Act 1998 of refusing to accompany an enforcement officer without delay when required to do so, is it necessary for the prosecution to prove that the breath screening test was conducted in compliance with the Transport (Breath Tests) Notice (No 2) 1989?**

- (2) **In relation to a charge under s 56 of the Act of driving with excess breath alcohol, is it necessary for the prosecution to prove that both the breath screening test and the evidential breath test were carried out in compliance with the Notice?**

Solicitors:  
Crown Law, Wellington