

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 39/2008  
[2008] NZSC 50**

BETWEEN                      QIWEN HUANG  
   Applicant

AND                              THE MANAGER OF CUSTODIAL  
   SERVICES, AUCKLAND CENTRAL  
   REMAND PRISON  
   Respondent

Court:                      Elias CJ, Blanchard and Wilson JJ

Counsel:                  F C Deliu for Applicant  
   C Inglis and V Casey for Respondent

Judgment:                10 July 2008

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**JUDGMENT OF THE COURT**

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

**REASONS**

[1]     The applicant has made an urgent application for leave to appeal against a judgment of the Court of Appeal,<sup>1</sup> delivered yesterday, dismissing his appeal against the refusal of the High Court to issue a writ of habeas corpus.<sup>2</sup>

[2]     That appeal arose out of an allegation of bias against a District Court Judge who granted an application under s 60 of the Immigration Act 1960 for a warrant of commitment of the applicant.

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<sup>1</sup> [2008] NZCA 225.

<sup>2</sup> *Huang v The Manager of Custodial Services, Auckland Central Remand Prison* (High Court, Auckland, CIV 2008-404-004140, 7 July 2008, Venning J).

[3] Any issue which might possibly have arisen for consideration by this Court was overtaken when an application for an extension of that warrant was heard by a different District Court Judge yesterday. Section 60(4) imports into an application for extension the provisions of s 60(2) and (3), which govern an application for a warrant. The application for extension was therefore effectively a rehearing of the original application.

[4] If the applicant wishes to pursue a claim for interim or final relief, he should do so in his judicial review proceedings in the High Court.<sup>3</sup>

[5] The application for leave to appeal to this Court is dismissed.

Solicitors:  
Equity Law, Auckland for Applicant  
Crown Law, Wellington for Respondent

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<sup>3</sup> CIV 2008-404-4139