

DAVID GEORGE SAGGERS

v

THE QUEEN

Court: Blanchard, McGrath and Wilson JJ

Counsel: D P H Jones QC for Applicant  
K A L Bicknell for Crown

Judgment: 30 July 2009

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JUDGMENT OF THE COURT

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

**REASONS**

[1] The applicant seeks leave to appeal from a judgment of the Court of Appeal dismissing his appeal against conviction for possession of equipment capable of being used to manufacture methamphetamine with the intention of so using it. The same judgment allowed his appeal against conviction on a separate charge of manufacture of methamphetamine. Since the Court of Appeal judgment he has been retried and acquitted on the manufacturing charge.

[2] The first proposed ground of application is that the appeal on the possession of equipment charge was so linked with that of manufacturing methamphetamine that the Court of Appeal should have also allowed the appeal against conviction in relation to that count. We are, however, satisfied that the circumstances forming the basis for each charge were distinct from and independent of each other. The applicant was overseas at the only time concerning which there was evidence of

manufacture. In respect of the possession of equipment charge, however, the applicant's fingerprints had been found on equipment forming part of a clandestine methamphetamine laboratory at premises the applicant had frequently visited. It is not arguable that the flaw in the Crown's case on the manufacturing charge at the first trial had any impact on the verdict on the possession of equipment charge.

[3] The second ground is that conviction on the possession of equipment charge at the first trial is inconsistent with the acquittal at the second trial on the manufacturing charge. Putting aside the difficulty for the applicant that these two outcomes were reached at separate trials, the different elements of the two charges make it plain that the two verdicts were not inconsistent.

[4] The third ground takes issue with the brevity of the reasons for dismissal of the appeal insofar as it related to possession of equipment. The Court of Appeal simply said:<sup>1</sup>

The error with respect to the manufacturing charge does not cause any concern, however, with respect to the conviction on the possession of drug equipment charge. That conviction must stand.

[5] The applicant has not, however, put forward any reason why it was insufficient for the Court of Appeal simply to say that the defect in the Crown's case on the manufacturing count at the first trial had no relationship with the conviction of the applicant on the other count. In the absence of any tenable submission that the Court failed to address other grounds for appeal, we do not consider it is arguable that a miscarriage of justice has occurred.

[6] The applications for leave to appeal and extension of time are dismissed.

Solicitors:  
Ellis Law, Auckland for Applicant  
Crown Law Office, Wellington

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<sup>1</sup> *R v Sagers* [2008] NZCA 364 at para [42].