



Supreme Court of New Zealand

16 July 2009

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

William Patrick Jeffries v The Attorney-General
(SC 84/2008) [2009] NZSC 75

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 dismissed an appeal from a Court of Appeal award of costs in respect of an abandoned interlocutory appeal. Mr Jeffries had appealed to the Court of Appeal against the refusal of the High Court to set a case in which he is the plaintiff down for hearing before a bench of two judges. The Court of Appeal set the appeal down for an urgent hearing because the case was about to start in the High Court before a Judge alone. Counsel considered he was not able to prepare for the urgent hearing and withdrew the appeal. The respondent to the appeal applied for costs for the time wasted in preparing for the appeal. The Court of Appeal awarded \$750 in costs against Mr Jeffries who was granted leave to appeal to the Supreme Court. His principal concern was with remarks made by the Court of Appeal when making the award of costs which he considered to be unfairly critical of him and made without his having the opportunity to respond to the criticism.

In dismissing the appeal, the Supreme Court expressed the view that the remarks made by the Court of Appeal were not as critical as the appellant

believed. The Court of Appeal had not adopted criticisms made by the respondent. To the extent that the Court of Appeal was critical of the course that the appeal took, the reasons given were an appropriate response to Mr Jeffries' submission that no award of costs should be made to the respondent and no question of breach of natural justice arose. The Supreme Court considered that the Court of Appeal was correct to make an award of costs, as is usual where an appeal is withdrawn after the respondent has been put to the cost of some preparation for it. The appellant should have anticipated before filing the appeal that the Court of Appeal could order an urgent fixture, in an attempt to avoid disrupting the scheduled hearing in the High Court should the appeal not be successful. If he was not in a position to accept an urgent fixture, the appeal was properly characterised as "misguided and without merit", as it was described by the Court of Appeal. Such a statement entailed no necessary adverse reflection upon the competence or motivation of counsel or the appellant.

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