

JOHN KENNETH SLAVICH

v

THE QUEEN

Court: Blanchard, Tipping and McGrath JJ

Counsel: Applicant in Person
M D Downs for Crown

Judgment: 2 November 2011

**JUDGMENT OF THE COURT
(STAY APPLICATION)**

The application for a stay is dismissed.

REASONS

[1] On 16 September 2011 the Court of Appeal¹ dismissed an appeal by the applicant, Mr Slavich, against an order made by the High Court² for his imprisonment for a term of four and a half months. The sentence was imposed on the applicant as a consequence of his failure to pay reparation of \$60,000 as part of a sentence imposed by the High Court following his conviction for offences involving dishonesty. The applicant applied to this Court for leave to appeal against the Court of Appeal judgment on 14 October 2011.

[2] The Court of Appeal judgment suspended the warrant for imprisonment until 17 October 2011 and directed that, if the reparation remained unpaid at that date, the

¹ *Slavich v R* [2011] NZCA 457.

² *R v Slavich* HC Hamilton CRI-2006-419-89, 10 September 2010.

applicant was to surrender to the Hamilton Police Station on 18 October. He did not do so. Instead, on 25 October, he applied for a stay of the Court of Appeal's orders pending determination by this Court of his application for leave to appeal.

[3] Having failed to surrender to the police, Mr Slavich is in an analogous position to a person in custody under a conviction who is appealing against the conviction or sentence. The general policy of the law in those circumstances is that the court must not grant bail unless satisfied it would be in the interests of justice to do so.³

[4] We have considered the grounds of his application for leave to appeal, which assert that there are errors of law in the Court of Appeal judgment. There is no immediately apparent strength in them but that may change when his submissions on leave are received. We have also taken into account the length of the sentence, the length of time before the application for leave to appeal is likely to be determined, and the interests of those who wish to receive reparation. We have also considered the interests of his family and the public at large.

[5] Our conclusion is that neither these matters, nor the possibility that Mr Slavich might be successful in his leave application and in an ultimate appeal provide good reason, in terms of the interests of justice, for a further suspension of the operation of the sentence of imprisonment imposed by the High Court and upheld by the Court of Appeal. Nor does the inconvenience of Mr Slavich having to prepare leave submissions while in prison justify a stay. The application for a stay is dismissed and the warrant for imprisonment issued by the High Court should now be executed.

[6] As soon as Mr Slavich files submissions in support of his leave application, the Crown must respond to them within three working days.

Solicitors:
Crown Law Office, Wellington

³ Bail Act 2000, s 14.