IN THE SUPREME COURT OF NEW ZEALAND

SC 37/2012 [2012] NZSC 57

BETWEEN VINCENT ROSS SIEMER

Appellant

AND THE SOLICITOR-GENERAL

Respondent

Court: Elias CJ, Tipping and Chambers JJ

Counsel: T Ellis for Appellant

M F Laracy and G J Robins for Respondent

Judgment: 19 July 2012

JUDGMENT OF THE COURT

A Leave to appeal is granted.

B The approved ground is whether New Zealand courts have inherent power or jurisdiction to suppress judgments in criminal cases.

REASONS

- [1] We decline leave on the remaining issues advanced in the application for leave to appeal because we consider them to be unarguable.
- [2] If there is power for a court of criminal jurisdiction to suppress judgments, then it is clear any such order must be obeyed.¹ If someone thinks an order too broad, the correct procedure would be to have the order reviewed, not to breach it and then to argue whether it should have been in the terms in which it was propounded. The Solicitor-General does not have to establish risk of a fair trial right

Siemer v Solicitor-General [2010] NZSC 54, [2010] 3 NZLR 767 at [26].

before the breach could constitute a contempt. The Solicitor-General does not have

to prove harm in contempt proceedings brought on the basis of breach of a Court

order. A lack of harm would be relevant, if at all, only to remedy.

[3] It is also unarguable that the absence of prosecutorial guidelines renders

contempt proceedings unlawful. Inherent in this submission is the idea that

contempt proceedings are akin to a criminal prosecution. They are not, even though

some of the safeguards of criminal proceedings are incorporated into the process.

[4] The sentence does not involve a matter of general or public importance.

Assuming the courts have jurisdiction to make suppression orders, then we do not

consider the sentence imposed is a miscarriage of justice, still less "a substantial

miscarriage of justice".

Solicitors:

N Dunning, Wellington for Appellant

Crown Law Office, Wellington for Respondent