

IN THE SUPREME COURT OF NEW ZEALAND

SC 64/2012
[2012] NZSC 96

PHILIP DEAN TAUEKI

v

THE QUEEN

Court: McGrath, William Young and Glazebrook JJ

Counsel: Applicant in person
J E Mildenhall for Respondent

Judgment: 14 November 2012

JUDGMENT OF THE COURT

- A** Leave to appeal is granted with regard to the first charge of assault.
- B** The approved ground is whether Mr Taueki had a defence under s 56 of the Crimes Act 1961 to that first charge.
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REASONS

[1] Mr Taueki was convicted in the District Court of two charges of assault. The allegation in the first charge was that Mr Taueki had taken the complainant by the shoulders. The second relates to an allegation of punching the complainant.

[2] We decline leave with regard to the second charge of assault. The judgment in the Court of Appeal saw no basis for disturbing the factual findings of the District Court Judge, which were based on his assessment of the evidence and in particular the credibility of the relevant witnesses. Applying the law to those facts as found,

the Court of Appeal held that the District Court Judge was justified in convicting Mr Taueki. The Court of Appeal also held that the subsequent events relied on by Mr Taueki were irrelevant to the charge and that s 58 of the Crimes Act did not provide a defence.

[3] The Courts below applied standard legal principles to the facts as found. The evidence was capable of supporting the factual findings. The defence under s 58 was inapplicable to the circumstances of this case. There is no matter of general or public importance involved with regard to the second of the charges and no risk of a substantial miscarriage of justice.

Solicitors:
Crown Law Office, Wellington for Respondent