



Supreme Court of New Zealand

9 August 2012

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

**RIGHT TO LIFE NEW ZEALAND INC v THE ABORTION SUPERVISORY
COMMITTEE SC 73/2011
[2012] NZSC 68**

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.

In this appeal Right to Life New Zealand Inc challenged a decision of the Court of Appeal which held that the Abortion Supervisory Committee had no power to examine the merits of decisions of certifying consultants permitting abortions in individual cases. In its decision, which was by a majority, the Court of Appeal held that the Committee was not empowered to examine the lawfulness or the clinical correctness of particular decisions made by certifying consultants. In coming to that conclusion, the Court of Appeal majority took a different view of the matter from that adopted in the High Court.

In the Supreme Court, a majority of the Court (comprising Elias CJ, Blanchard and Tipping JJ) has upheld the decision of the Court of Appeal. The minority Judges in the Supreme Court (McGrath and William Young JJ) would have allowed the appeal on the basis of their view that the Abortion Supervisory Committee is empowered to examine individual decisions of certifying consultants after any authorised termination has taken place to determine if they are consistent with the legislation. By contrast, the majority

following an earlier judgment of the Court of Appeal delivered in 1982 in a case called *Wall v Livingston*, were of the view that the legislation did not permit the Committee, whether before or after a termination, to make any enquiry or investigation into the decision-making in an individual case where that would tend to question a decision actually made in a particular case. The majority were of the view that the Committee could ask consultants how they were approaching their decision-making in general, that is, over the whole of their caseloads, but the Committee could not question them about how they came to a diagnosis or conclusion in a particular case, even a case selected at random and anonymised in the consultant's report.

As the majority in the Supreme Court were thereby essentially upholding the conclusion of the majority in the Court of Appeal, Right to Life's appeal has been dismissed.

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