

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 91/2021
[2021] NZSC 125

BETWEEN PHILIP DEAN TAUEKI
Applicant
AND NEW ZEALAND POLICE
Respondent

Court: William Young, Glazebrook and O'Regan JJ
Counsel: Applicant in person
F R J Sinclair for Respondent
Judgment: 23 September 2021

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant, Philip Taueki, is facing a charge of assault in the District Court. He unsuccessfully sought a discharge, apparently both at common law and under s 147 of the Criminal Procedure Act 2011¹ and now applies for leave to appeal directly to this Court against the dismissal of his application.

[2] In the judgment dismissing the application for a discharge, the District Court Judge expressed the view that it was possible for the applicant to “appeal the ruling on a question of law”.² Presumably relying on what the District Court Judge said, the applicant seeks to invoke s 296 of the Criminal Procedure Act in support of his application for leave to appeal.

¹ *New Zealand Police v Taueki* [2021] NZDC 14263 (Judge Edwards).

² At [16].

[3] Section 296 confers a right of appeal in relation to the dismissal of a charge under s 147; it does not extend a similar right in respect of the refusal of an application for dismissal.³ To the extent to which the applicant's challenge is to the refusal to discharge him at common law, he faces the same problem. Assuming for the moment that there is jurisdiction to grant such a discharge, the Act does not provide for a right of appeal against a refusal.

[4] There is a further jurisdictional issue. Under s 297(1)(b), the first appeal court in relation to the judgment under challenge is the High Court. For this reason too, this Court has no jurisdiction to hear the proposed appeal.

[5] The application for leave to appeal is accordingly dismissed for want of jurisdiction.

Solicitors:
Crown Law Office, Wellington

³ *[L] v R* [2019] NZCA 329 at [35]–[36]; and *[R] v Commissioner of Inland Revenue* [2016] NZCA 471 at [19]–[24]. See also *D (CA716/2015) v R* [2016] NZCA 190 at [20]–[23]; and *[C] v R* [2021] NZSC 110 at [63] per William Young and O'Regan JJ.