

**ORDER PROHIBITING PUBLICATION OF THE APPLICANT’S NAME,  
ADDRESS, OCCUPATION AND IDENTIFYING PARTICULARS AND OF THE  
INFORMATION TO WHICH THE APPLICATION UNDER S 205(2)(c) OF THE  
CRIMINAL PROCEDURE ACT 2011 RELATES UNTIL FINAL RESOLUTION  
OF THE APPEAL TO THIS COURT.**

**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI O AOTEAROA**

**SC 90/2023  
[2023] NZSC 143**

BETWEEN                      F (SC 90/2023)  
   Applicant  
  
AND                              THE KING  
   Respondent

Court:                          Glazebrook, O’Regan and Ellen France JJ  
  
Counsel:                      F E Guy Kidd KC and K T Dalziel for Applicant  
   P D Marshall for Respondent  
   E D Nilsson for Stuff Ltd as Intervener  
  
Judgment:                      30 October 2023

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**JUDGMENT OF THE COURT**

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- A      Leave is granted in part (*Dallison v R* [2023] NZCA 282).**
- B      The approved question is whether the Court of Appeal erred in declining to make the order sought by the applicant under s 205(2)(c) of the Criminal Procedure Act 2011.**
- C      The application for leave to appeal is otherwise dismissed.**
- D      We make an order prohibiting publication of the applicant’s name, address, occupation and identifying particulars and of the information to which the application under s 205(2)(c) of the Criminal Procedure Act 2011 relates until final resolution of the appeal to this Court.**
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## REASONS

[1] The applicant questions whether leave to bring an appeal is required. Counsel for the applicant, Ms Guy Kidd KC, highlights a potential conflict between applicable legislative provisions. However, we do not think there is, in fact, such a conflict.

[2] The proposed appeal to this Court is pursuant to s 283 of the Criminal Procedure Act 2011 (the Act), which is headed “Right of appeal against a decision on suppression order”. Section 283(1) says the relevant person “may appeal” to the first appeal court. Under s 284, this Court is the first appeal court in the present case. This could be interpreted as providing for a right of appeal without the need to obtain leave. But s 285(1)(b) makes it clear that, when this Court is the first appeal court, the appeal must be commenced by filing a notice of application for leave to appeal. That is consistent with s 73(1) of the Senior Courts Act 2016, which provides that appeals to this Court may be heard only with leave. And s 213(1) of the Act expressly states that “rights of appeal” to this Court under the Act are subject to Part 4 of the Senior Courts Act, which includes s 73.

[3] For these reasons, the applicant must obtain leave to appeal in order to prosecute an appeal to this Court against the Court of Appeal decision.

[4] The Court is satisfied the leave criteria are met in relation to the Court of Appeal’s refusal to make an order under s 205(2)(c) of the Act.

[5] The Court is not satisfied the leave criteria are met in relation to the Court of Appeal’s refusal to make the order sought by the applicant under s 202 of the Act. The matters the applicant wishes to raise on appeal, if leave is granted, in relation to the s 202 application are essentially factual in nature. No matter of general or public importance arises.<sup>1</sup> And we see no appearance of a miscarriage of justice in the manner in which the Court of Appeal addressed the application under s 202.<sup>2</sup> Leave to appeal on that issue is therefore declined.

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<sup>1</sup> Senior Courts Act 2016, s 74(2)(a).

<sup>2</sup> Section 74(2)(b).

[6] Suppression orders made in the Court of Appeal apply, but could be partially discharged as a result of our declining leave in relation to the s 202 application. For clarity, we discharge and replace the orders made in the Court of Appeal. We make an order prohibiting publication of the applicant's name, address, occupation and identifying particulars and of the information to which the application under s 205(2)(c) of the Act relates until final resolution of the appeal to this Court.

Solicitors:

Papprills Lawyers, Christchurch for Applicant

Crown Law Office | Te Tari Ture o te Karauna, Wellington for Respondent

LeeSalmonLong, Auckland for Stuff Ltd as Intervener