

**NOTE: PUBLICATION OF NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS OF COMPLAINANT PROHIBITED BY S 203 OF THE CRIMINAL PROCEDURE ACT 2011. SEE**

**<http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360350.html>**

**NOTE: ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS OF APPLICANT PURSUANT TO S 200 CRIMINAL PROCEDURE ACT 2011 REMAINS IN FORCE**

**ORDER PROHIBITING PUBLICATION OF THE JUDGMENT AND ANY PART OF THE PROCEEDINGS (INCLUDING THE RESULT) IN NEWS MEDIA OR ON THE INTERNET OR OTHER PUBLICLY AVAILABLE DATABASE UNTIL FINAL DISPOSITION OF TRIAL. PUBLICATION IN LAW REPORT OR LAW DIGEST PERMITTED.**

**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI O AOTEAROA**

**SC 76/2023  
[2023] NZSC 85**

|         |   |
|---------|---|
| BETWEEN | E (SC 76/2023)<br>Applicant                 |
| AND     | NZME PUBLISHING LIMITED<br>First Respondent |
|         | THE KING<br>Second Respondent               |

|           |  |
|-----------|--|
| Court:    | Glazebrook, O'Regan and Ellen France JJ  |
| Counsel:  | L C Ord, S S Pohiva and E T Blincoe for Applicant<br>K M Wilson and T C Goatley for First Respondent<br>M J Lillico and P D Marshall for Second Respondent |
| Judgment: | 11 July 2023   |
| Reissued: | 13 July 2023   |

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## JUDGMENT OF THE COURT

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- A** We make an order partially suspending the operation of the Court of Appeal’s order quashing the takedown order until the applicant’s application for leave to appeal can be dealt with. The High Court takedown order will remain in force to the extent set out at [4] of this judgment.
- B** We also make an order prohibiting publication of the judgment and any part of the proceedings in news media or on the internet or other publicly available database until final disposition of trial. Publication in a law report or law digest is permitted.
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## REASONS

[1] Mr E has filed an application for leave to appeal against a Court of Appeal judgment.<sup>1</sup> This allowed NZME’s appeal and quashed a takedown order made by the High Court in the terms set out at [32] of the Court of Appeal judgment.

[2] Mr E’s trial is scheduled to begin on 17 July 2023. It is not possible to deal with the leave application before the start of the trial.

[3] We consider it in the interests of justice to make an order partially suspending the operation of the Court of Appeal’s order quashing the takedown order until the leave application can be dealt with.

[4] NZME has referred to the difficulties it would face if the takedown order in the terms made by the High Court remains in force. We thus limit the suspension order so that the takedown order will remain in force only as it relates to the URLs specified in the list attached to the application for that order. Mr E, through his counsel, has confirmed that this is an acceptable limit for the purposes of the Court’s interim order.<sup>2</sup>

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<sup>1</sup> *NZME Publishing Ltd v E* [2023] NZCA 258 (French, Hinton and Gendall JJ) [CA judgment].

<sup>2</sup> In this regard we also refer to [37] the CA judgment, above n 1.

## **Result**

[5] An order is made partially suspending the operation of the Court of Appeal's order quashing the takedown order until the applicant's application for leave to appeal can be dealt with. The High Court takedown order will remain in force to the extent set out at [4].

[6] We also make an order prohibiting publication of the judgment and any part of the proceedings in news media or on the internet or other publicly available database until final disposition of trial. Publication in a law report or law digest is permitted.

[7] For the avoidance of doubt, this order does not prevent the High Court dealing with applications for takedown orders with regard to other specific URLs.

Solicitors:  
Bell Gully, Auckland for First Respondent  
Crown Law Office, Wellington for Second Respondent