

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 81/2024  
[2024] NZSC 129

BETWEEN JESSIE CLARK  
Applicant

AND NEW ZEALAND POLICE  
First Respondent

ATTORNEY-GENERAL  
Second Respondent

Court: Ellen France, Williams and Kós JJ

Counsel: Applicant in person  
W S Taffs for Respondents

Judgment: 2 October 2024

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**JUDGMENT OF THE COURT**

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**The application for recall of this Court’s judgment of 28 August 2024  
(*Clark v New Zealand Police* [2024] NZSC 106) is dismissed.**

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**REASONS**

[1] Mr Clark seeks recall of this Court’s judgment of 28 August 2024 declining leave to appeal directly from a decision of the High Court.<sup>1</sup> The High Court declined an application for a writ of habeas corpus. The habeas corpus application was made on the basis that, as he is subject to electronically monitored bail (EM bail), he is unlawfully detained.

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<sup>1</sup> *Clark v New Zealand Police* [2024] NZSC 106. See also *Clark v New Zealand Police* [2024] NZHC 2078 (Dunningham J).

[2] The recall application is advanced on the basis the Court may have misinterpreted the nature and issue underlying the application for habeas corpus. The recall application also canvasses a range of associated matters, for example, seeking disqualification of a District Court Judge of any further matters involving the applicant.

[3] We accept the submission for the respondents that the recall application is in essence an attempt to relitigate the Court's reasoning for declining leave. That is apparent from the fact that, primarily, what the applicant seeks on recall is release from detention "with ongoing, unlawful bail constraints". The leave application dealt with the challenge to the High Court's refusal to grant a writ of habeas corpus in relation to detention on bail. Relitigation in this manner does not provide a basis for recall.

[4] To the extent new issues are raised, it is relevant that matters have since moved on. A further application for habeas corpus based similarly on "unlawful detention" resulting from the conditions of EM bail was declined by the High Court on 12 September 2024.<sup>2</sup> In the judgment declining that application the High Court noted the applicant was no longer subject to EM bail but was in custody, bail having been declined.

[5] In all the circumstances we see no basis for recalling our earlier judgment.<sup>3</sup>

[6] The application for recall of this Court's judgment of 28 August 2024 (*Clark v New Zealand Police* [2024] NZSC 106) is dismissed.

Solicitors:  
Raymond Donnelly & Co, Christchurch for Respondents

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<sup>2</sup> *Clark v New Zealand Police* [2024] NZHC 2644 (Dunningham J).

<sup>3</sup> See *Horowhenua County v Nash (No 2)* [1968] NZLR 632 (SC) at 633; *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd* [2008] NZSC 94, (2008) 19 PRNZ 132 at [1]–[2]; and *Uhrle v R* [2020] NZSC 62, [2020] 1 NZLR 286 at [20].