

**ORDER CONTINUING SUPPRESSION OF THE APPLICANT'S NAME,
ADDRESS, OCCUPATION AND ANY IDENTIFYING PARTICULARS UNTIL
2 PM ON 14 AUGUST 2026. SUPPRESSION WILL LAPSE AT THAT TIME.**

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

**SC 48/2026
[2026] NZSC 106**

BETWEEN	JOHN BUTTERFIELD Applicant
AND	THE KING Respondent

Court:	Ellen France, Williams and Cooke JJ
Counsel:	P J Shamy KC for Applicant R K Thomson for Respondent
Judgment:	13 August 2026

JUDGMENT OF THE COURT

- A** **The application for leave to appeal is dismissed.**
- B** **We make an order continuing suppression of the applicant's name, address, occupation and any identifying particulars on the terms set out at [11] until 2 pm on 14 August 2026. Suppression will lapse at that time.**
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REASONS

[1] In the evening of Christmas Day, 2021, the applicant, Mr Butterfield, was observed performing a U-turn prior to a police alcohol checkpoint. The officer on duty followed him in a police vehicle, requiring him to stop. After he was apprehended, he declined to give evidential breath or blood samples. After an unsuccessful challenge to the admissibility of evidence,¹ he pleaded guilty to refusing

¹ *R v Butterfield* [2024] NZDC 27399 (Judge Elkin) [DC pre-trial ruling].

to give a blood sample.² Judge Zohrab in the District Court sentenced him to six months' disqualification and refused his application for permanent name suppression.³ He unsuccessfully appealed against his conviction and sentence, as well as the refusal to grant permanent name suppression, to the Court of Appeal.⁴ He now seeks leave to appeal to this Court.

The circumstances

[2] The relevant circumstances for the purposes of the proposed appeal concern Mr Butterfield's apprehension by police. Mr Butterfield was seen performing a U-turn prior to the police checkpoint. He was then followed by a police vehicle and required to stop. A breath screening test was then administered, returning a non-evidential reading of 762 micrograms. The legal limit is 250 micrograms. Mr Butterfield was then required to accompany the officer back to the checkpoint for the purpose of an evidential breath test or blood test, or both. The police evidence was that he then became agitated, and that he tried to drink from a drink bottle located in his vehicle. The officer pulled the bottle from his hand and threw it away, following which Mr Butterfield was pushed up against the car and handcuffed. He was driven back to the checkpoint where the handcuffs were removed. His forearms were cut and bruised. Mr Butterfield then declined to submit to evidential breath or blood testing. He was legally advised before doing so.

[3] Judge Elkin in the District Court found that there was a power to arrest Mr Butterfield to bring him back to the checkpoint but that the officer had not actually exercised that power. Mr Butterfield had accordingly been arbitrarily detained under s 22 of the New Zealand Bill of Rights Act 1990 (NZBORA).⁵ The Judge also found that the act of removing the bottle from Mr Butterfield's hands was a "very minor and somewhat inconsequential" assault.⁶ But the Judge declined to exclude the evidence of the refusal to provide the evidential test as there was no causal link between these breaches and his refusal to submit to the testing.⁷ The Judge also rejected

² *New Zealand Police v Butterfield* [2025] NZDC 22627 (Judge Zohrab) at [1].

³ At [52].

⁴ *Butterfield v R* [2026] NZCA 95 (Courtney, van Bohemen and Andrew JJ) [CA judgment].

⁵ DC pre-trial ruling, above n 1, at [41], [50] and [55].

⁶ At [26].

⁷ At [84]–[85].

Mr Butterfield’s arguments that the police had breached his rights under s 23(1)(b) and (5) of NZBORA.⁸

[4] On appeal, the Court of Appeal found that the Judge was correct to hold that there had been no breach of s 23(5) of NZBORA either arising from the detention, or from the act of grabbing the drink bottle from Mr Butterfield’s hand, or from the circumstances generally.⁹ The Court also upheld the District Court’s finding that there was no causal link between the refusal to provide a blood sample and the breach of s 22,¹⁰ and that there was no breach of s 23(1)(b).¹¹ As to sentence, the Court held that Judge Zohrab had not erred refusing to substitute the disqualification with a community-based sentence.¹² The Court likewise agreed with Judge Zohrab’s refusal to grant permanent name suppression, explaining that Mr Butterfield had not proven that the publication of his name would amount to “extreme hardship”.¹³

[5] Mr Butterfield seeks to challenge the conclusions on s 23(5) and causation in his proposed appeal. He also seeks to appeal his sentence on the basis that it amounts to a miscarriage of justice. He finally seeks to challenge the Court’s decision as to name suppression.

Assessment

[6] We do not accept that the applicant has satisfied the criteria for the grant of leave to appeal.

[7] The District Court Judge made findings of fact relating to Mr Butterfield’s conduct in performing a U-turn when approaching the checkpoint, and in relation to the events after Mr Butterfield was stopped following pursuit. Those factual findings were confirmed by the Court of Appeal. We see no basis to reconsider the factual findings, nor the events generally.

⁸ At [35], [60] and [70].

⁹ CA judgment, above n 4, at [32]–[40].

¹⁰ At [54].

¹¹ At [42].

¹² At [62]–[65].

¹³ At [66]–[69].

[8] Neither do we see any basis to doubt the findings of the District Court and Court of Appeal relating to the breaches of Mr Butterfield's rights under NZBORA. The Courts were agreed that there was, technically, a breach of s 22, although no other rights were breached. Both these conclusions, and the consequential determinations on the question of admissibility, cannot realistically be criticised, given the factual findings made.

[9] We do not consider that there is any arguable miscarriage of justice involved, nor that the proposed appeal raises questions of general or public importance.¹⁴ Neither do we see a potential miscarriage arising from the imposition of a sentence of disqualification instead of a community-based sentence, nor from the decisions of the Courts below as to name suppression. However, as the applicant has until now had interim name suppression, we consider it is appropriate to extend that suppression for a short period following the delivery of this decision to enable the applicant to prepare for publication.

Result

[10] The application for leave to appeal is dismissed.

[11] We make an order continuing suppression of the applicant's name, address, occupation and identifying particulars until 2 pm on 14 August 2026. Suppression will lapse at that time. After that time there will be no impediment to reporting of the applicant's name and identifying particulars.

Solicitors:

White Fox & Jones, Christchurch for Applicant

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

¹⁴ Senior Courts Act 2016, s 74(1) and (2)(a)–(b).