

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 27/2026
[2026] NZSC 18

BETWEEN DAVID STEWART BOYD
 Applicant

AND CHIEF EXECUTIVE OF THE
 DEPARTMENT OF CORRECTIONS
 Respondent

Court: Ellen France, Williams and Kós JJ

Counsel: Applicant in person
 A P Lawson for Respondent

Judgment: 20 March 2026

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

Introduction

[1] David Boyd, the applicant, seeks leave to appeal the decision of the Court of Appeal dismissing his appeal.¹ Mr Boyd had appealed against the decision of the High Court declining Mr Boyd's application for a writ of habeas corpus under the Habeas Corpus Act 2001.² The application for habeas corpus challenged release conditions imposed on him by the District Court in sentencing him.³

¹ *Boyd v Chief Executive of the Department of Corrections* [2026] NZCA 37 (Whata, Dunningham and Andrew JJ) [CA judgment].

² *Boyd v Chief Executive of Department of Corrections* [2026] NZHC 3 (Johnstone J).

³ *R v Boyd* [2025] NZDC 20779 (Judge D C Clark) [Sentencing notes].

Background

[2] The background is set out in the decision of the Court of Appeal.⁴ The key points to note are as follows:

- (a) On 26 August 2025 Mr Boyd was sentenced, having pleaded guilty to a range of charges, to a term of 16 months' imprisonment. The offences included harassment, driving while disqualified, intentional damage and unlawfully intimidating or threatening. He was released the same day because of time served on remand.
- (b) The sentencing notes included a discussion of release conditions. The District Court made the point that: "Release conditions are going to be in place for six months after your imprisonment sentence ends and you are released."⁵ Further, the Judge said that the release conditions "will be in place for six months" and that they would start "as soon as" Mr Boyd was "in the community".⁶

[3] The warrant of commitment however referred to the imposition of the standard release conditions in s 14 of the Parole Act 2002 which expired "six months after the date the sentence expires". The special conditions referred to a restriction on possessing, consuming or using any alcohol or drugs not prescribed to the applicant. Further, the release licence recorded that Mr Boyd's release was subject to standard release conditions applying "from the date of ... release and [ceasing] to apply on 7 October 2026".

[4] In the Court of Appeal Mr Boyd argued that his release conditions were unduly restrictive and unlawfully deprived him of his liberty, amongst other matters. The Court of Appeal accepted, as did the respondents, that bail, parole, release or sentencing conditions might be so restrictive as to in fact amount to detention. But the Court did not consider that was the case here. That was because "[t]he essential

⁴ CA judgment, above n 1, at [5]–[10].

⁵ Sentencing notes, above n 3, at [7].

⁶ At [15].

element of close custody or some equivalent level of restriction beyond intermittent or limited constraint upon rights of movement” was absent.⁷

[5] The Court also considered there was no merit in Mr Boyd’s claim that, in dealing with the matter on the papers in the High Court, there had been a breach of the right to natural justice.⁸ In any event, Mr Boyd had now had a full hearing before the Court of Appeal involving all of the issues.

[6] The Court of Appeal then dealt with the release conditions. The Court noted there was a discrepancy between the terms of the release conditions recorded in the sentencing notes and those recorded in the warrant of commitment, release licence and instruction to report that had been issued to Mr Boyd. The Court of Appeal was of the view that the sentencing notes made it clear that the release conditions expired on 25 February 2026, six months after the date of release. They did not remain in place, as the warrant of commitment said, six months after the sentence expiry date, being 7 October 2026. Similarly the warrant of commitment was wrong to record a restriction on the ability to possess, consume or use any alcohol.

[7] The Court said that the errors in the warrant of commitment needed to be remedied promptly and that the release conditions ceased, as the District Court Judge had provided, on 25 February 2026. The Court said it was not in a position to remedy the matters in the appeal before it but steps were being taken by the respondent to have the warrant corrected.

[8] The respondent has advised us that the warrant of commitment has been amended to reflect the release conditions in the sentencing notes and we have sighted the amended warrant.⁹ The release conditions ceased on 25 February 2026.

[9] We add that we understand Mr Boyd has appealed to the Court of Appeal against the underlying convictions and sentence.

⁷ CA judgment, above n 1, at [25].

⁸ The High Court had found that s 14(1A)(b) of the Habeas Corpus Act applied as the application for a writ was not the appropriate procedure for the challenge to the lawfulness of a conviction, or the conditions under which an applicant sentenced to imprisonment is detained.

⁹ The respondent also advised that a copy of the amended warrant was provided to Mr Boyd on 3 March 2026.

The proposed appeal

[10] Mr Boyd wishes to raise various matters in support of his proposed appeal. In essence he maintains that his liberties have been unlawfully restrained and the respondent has not met the burden on it to establish the lawfulness of his detention. He also submits there have been procedural failings. For example, he says that the Court of Appeal judgment does not reflect the discussion at the hearing. Finally, Mr Boyd wishes to raise issues about bail conditions and as to compensation for unlawful restraints and detention.

[11] We are not satisfied that the proposed appeal raises any question of general or public importance.¹⁰ As we have noted, the Court of Appeal accepted the possibility that release conditions could comprise detention in terms of the Habeas Corpus Act. But the Court did not consider, on the facts of this case, that the specific conditions in issue did so. Rather, the Court considered that the conditions, such as the standard release conditions of reporting to a probation officer within 72 hours of release and subsequently as required by a probation officer, along with the requirement to attend an assessment for programmes and counselling as required by a probation officer, “[fell] well short of the threshold of detention”.¹¹ We add that the Court of Appeal’s judgment is the record of its decision.

[12] Nor, in these circumstances, do we see any appearance of a miscarriage of justice arising from the assessment of the Court of Appeal.¹² In addition, as the respondent submits, the release conditions have expired so that, whatever the threshold test, there is now no detention. Finally, as the respondent also says, the present proceeding is not the appropriate procedure to deal with the matters Mr Boyd wishes to raise about earlier bail decisions or arguments about compensation for unlawful restraints and detention.

¹⁰ Senior Courts Act 2016, s 74(2)(a).

¹¹ CA judgment, above n 1, at [25].

¹² Senior Courts Act, s 74(2)(b).

Result

[13] For these reasons, the application for leave to appeal is dismissed.

Solicitors:

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