



Supreme Court of New Zealand | Te Kōti Mana Nui o Aotearoa

23 JULY 2024

MEDIA RELEASE

H (SC 1/2024) v THE KING

Hearing of the Supreme Court in the Auckland High Court Monday 19 August 2024

CASE HISTORY SYNOPSIS

This synopsis is provided to assist in understanding the history of the case and the issues to be heard by the Court. It does not represent the views of the panel that will hear the appeal in the Supreme Court.

INTERIM ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS, OCCUPATION AND IDENTIFYING PARTICULARS OF THE APPELLANT UNTIL FURTHER ORDER OF THIS COURT

Background

This appeal concerns the application of youth justice principles to young offenders where charges have been transferred from the Youth Court to the District or High Court. The appellant, Mr H, was involved in a fight that resulted in the fatal stabbing of the victim by another participant. When the victim fell to the ground, Mr H kicked him once in the torso. Mr H was initially charged with injuring with intent to cause grievous bodily harm. As Mr H was 17 years old at the time of the offending, the charge was lodged in the Youth Court. Several months later he was also charged as a party to the victim's murder, and the charges were transferred to the High Court. At trial, Mr H pleaded guilty to an amended charge of injuring with intent to injure. He was acquitted on the charge of murder.

By the time of sentencing, Mr H was 19 years old. He sought permanent name suppression and to be discharged without conviction. The High Court accepted that the principles of youth justice, which apply in proceedings in the Youth Court, were relevant to Mr H. However, the High Court was not satisfied that the case was made out for permanent name suppression or discharge without conviction. Mr H was convicted and discharged on 24 March 2023.

Mr H appealed to the Court of Appeal on both sentence and name suppression. His key argument on appeal was that, had his proceeding remained in the Youth Court, he would have had the benefit of automatic name suppression and it was very likely he would have been discharged under s 282 of the Oranga Tamariki Act 1989. Mr H argued it was significant that the proceeding had only been transferred out of the Youth Court because he had also been charged with the offence of murder, of which he was later acquitted. On 11 December 2023, the Court of Appeal unanimously dismissed the appeal against the refusal of name suppression. By majority, the Court of Appeal also dismissed the appeal against sentence.

This appeal

Mr H applied for leave to appeal against the decision of the Court of Appeal. On 15 April 2024, the Supreme Court granted leave to appeal. The approved question is whether the Court of Appeal was correct to dismiss both appeals.

Viewing of hearing

This hearing of the appeal will be livestreamed. Details about access to the livestream and the conditions of access will be posted on the [Courts of New Zealand website](#) shortly before the hearing. No recording is permitted.

The panel

The Hon Justice Kós	The Hon Justice Ellen France	The Hon Justice Glazebrook	The Hon Justice Williams	The Hon Justice Miller
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Judges as seen from the public gallery

Counsel

- H (SC 1/2024) (Appellant): *R M Mansfield KC and J E L Carruthers*
- The King (Respondent): *Z R Johnston and H G Clark*

Sitting hours

Court will begin at 10:00am and conclude at 4:00pm with adjournments taken from 11:30am to 11:45am and from 1:00pm to 2:15pm. There is no afternoon adjournment.

Enquiries

Any enquiries about the hearing should be directed via email to supremecourt@justice.govt.nz.

Contact person:

Sue Leaupepe, Supreme Court Registrar (04) 914 3613

Supreme Court leave decision: [\[2024\] NZSC 31](#) (15 April 2024)

