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

21 September 2026

MEDIA RELEASE

RUSSELL THOMAS HOBAN v ATTORNEY-GENERAL

(SC 8/2026)

Hearing in the Supreme Court Wednesday 7 October – Thursday 8 October 2026

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.

Background

Section 61 of the Human Rights Act 1993 (HRA) provides that it is unlawful for any person to publish, distribute, broadcast or use in public words or matter "likely to excite hostility against or bring into contempt any group of persons" on one of three grounds: colour, race, or ethnic or national origins. By contrast, section 19 of the New Zealand Bill of Rights Act 1990 (Bill of Rights) provides that everyone has the right to freedom from discrimination on the 13 grounds in section 21 of the HRA—including, relevantly, sexual orientation.

This case concerns whether the omission of sexual orientation from the prohibited grounds in section 61 of the HRA is inconsistent with the right to freedom from discrimination in section 19 of the Bill of Rights and, if so, whether this limitation is "demonstrably justified in a free and democratic society" under section 5 of the Bill of Rights.

The appellant, Mr Hoban, is homosexual. In 2017, he read a newspaper report of a sermon given by a West Auckland pastor, in which the pastor called for homosexual people to be shot. Mr Hoban said that the lack of legal recourse available left him feeling threatened and unsafe. He commenced proceedings in the Human Rights Review Tribunal, seeking a declaration that section 61 of the HRA is inconsistent with section 19 of the Bill of Rights. He argued that section 61 is discriminatory because the actions made unlawful in respect of the grounds of colour, race, and ethnic or national origins are not also made unlawful in respect of sexual orientation.

On 23 March 2022, the Tribunal dismissed Mr Hoban's claim. Appeals to the High Court and Court of Appeal were dismissed on 5 December 2022 and 8 December 2025, respectively.

On 5 May 2026, the Supreme Court granted the appellant leave to appeal.

This appeal

The approved question is whether the Court of Appeal was correct to dismiss the appeal. While leave was granted in general terms, counsel were asked to address the applicability of both sections 5 and 19(2) of the Bill of Rights.

On 27 May 2026, Te Kāhui Tika Tangata | the Human Rights Commission was granted leave to intervene in the appeal.

Viewing of hearing

The courtroom is open to the public.

This hearing of the appeal will also be live-streamed. Details about access to the live-stream 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 Campbell	The Hon Justice Ellen France	The Rt Hon Chief Justice Winkelmann	The Hon Justice Williams	The Hon Justice Ellis

Judges as seen from the public gallery

Counsel

- Russell Thomas Hoban (Appellant): *R A Kirkness, M D N Harris and M P Handford*
- Attorney-General (Respondent): *D J Perkins and O Kiel*
- Te Kāhui Tika Tangata | Human Rights Commission (Intervener): *T W M Pilkington and H Z Yáng*

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. While attending the hearing, enquiries can also be directed to the Court Registry, which is located outside the main courtroom in the Supreme Court foyer.

Contact person:
Sue Leaupepe, Supreme Court Registrar (04) 914 3613

High Court decision: [2022] NZHC 3235 (5 December 2022)
Court of Appeal decision: [2025] NZCA 644 (8 December 2025)
Supreme Court leave decision: [2026] NZSC 48 (5 May 2026)