



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

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MEDIA RELEASE

QUENTIN DYLAN WOODS v NEW ZEALAND POLICE

(SC 115/2019) [2020] NZSC 141

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at Judicial Decisions of Public Interest: www.courtsofnz.govt.nz.

This appeal concerns the conditions that may lawfully be imposed under s 93 of the Sentencing Act 2002 on the release of an offender sentenced to a short term of imprisonment. In 2018, the appellant was sentenced in the District Court on various charges to eight months' imprisonment with standard and special release conditions to apply six months after sentence expiry date. The appellant's pronouns are they/them.

While the appellant was serving the sentence, they experienced psychotic episodes and required hospitalisation. As a result, the Department of Corrections considered the existing release conditions were insufficient to manage the appellant's risk to themselves and the public. The Department applied for variation of the conditions so the appellant could be released to Toruatanga, supported accommodation. The District Court granted the application, imposing on the appellant additional conditions requiring them to reside at the specified address, engage in a reintegration programme from 8 am to 8 pm each day, stay at the address between 8 pm and 8 am each day, and to comply with electronic monitoring. The appellant offended again, and these conditions were re-imposed by the District Court.

The appellant appealed to the High Court twice, arguing the combination of conditions as varied and re-imposed amounted to intensive monitoring and residential restrictions, both of which were not permitted by the Sentencing Act. The High Court dismissed both appeals. The Court of Appeal, by majority, also dismissed the appellant's appeal to that Court.

The Supreme Court granted leave to the appellant, the approved question being whether the Court of Appeal was correct to dismiss the appellant's appeal to that Court.

In this Court, the appellant argued s 93 of the Sentencing Act did not permit the sentencing courts to impose the combination of conditions in this case. This because s 93(2B) provides that special conditions include, without limitation, conditions of a kind described in s 15(3) of the Parole Act 2002, “*other than a residential restriction condition*”. The appellant argued that to give effect to those words, the court could not impose conditions which, in substance, amounted to a residential restriction condition. The appellant also argued the supervision and monitoring they were subjected to through the conditions imposed amounted in substance to an intensive monitoring condition, which could not be imposed unless they were subject to an extended supervision order.

The Crown argued the combination of conditions imposed were lawfully imposed. It argued that not all elements of the provision for residential restrictions were met. The Crown also argued the conditions did not amount to intensive monitoring. Finally, it said the real issue was with the way the conditions were administered, and so the proper challenge should have been by way of a judicial review rather than sentence appeal.

The Supreme Court has unanimously allowed the appeal.

The Court held the combination of conditions which required the appellant to reside at a particular place, observe a curfew, submit to electronic monitoring and be under the general supervision of a probation officer meant the appellant was in substance subject to residential restrictions, which the Court did not have power to impose under the Sentencing Act. This is because the exclusion in s 93(2B) of that Act prohibits the imposition of such conditions. The combination of conditions was therefore imposed unlawfully.

The Court did not, however, consider the combination of conditions amounted to intensive monitoring.

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