

IN THE SUPREME COURT OF NEW ZEALAND  
I TE KŌTI MANA NUI O AOTEAROA

SC 88/2025

**BETWEEN**            **Maxwell Richard Allen Parore**  
Appellant

**A N D**                **Attorney-General**  
Respondent

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**Outline of Oral Argument for Appellant**

Dated: 18 March 2026

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Counsel certify that these submissions comply with the Supreme Court  
Submission Practice Note 2023

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**HOLLAND BECKETT**

45 The Strand  
DX HP40014  
Private Bag 12011  
Tauranga 3143  
Telephone: (07) 578 2199

Solicitor: Tim Conder  
Counsel: David Weaver

Email: [tim.conder@hobec.co.nz](mailto:tim.conder@hobec.co.nz)  
Email: [david@tgachambers.co.nz](mailto:david@tgachambers.co.nz)

## **Outline of Oral Argument for the Appellant**

1. **Summary of the Facts [Mr Weaver]**
2. **How the Criminal Law Interfaces with Civil Tax Disputes [Mr Weaver]**
3. **Respondent Understates the Seriousness of the Breach [Mr Weaver]**
  - 3.1 The Commissioner has not changed his policy, as alleged by the Crown. Rather, it is the longstanding practice of the Commissioner (violated in this case) that criminal proceedings ought to proceed prior to civil proceedings.
  - 3.2 This Policy is a necessary consequence of the statutory scheme, and one which has been recognised by this Court in the decision in *Skinner v R*.
  - 3.3 Proceeding, as the Commissioner did here, to pursue a prosecution after issuing default assessments was necessarily reckless. The Commissioner was aware of the risk. He chose to run that risk. It was not 'ill-advised' and the Commissioner cannot rely on advice that has not been disclosed to suggest his conduct was other than reckless.
  - 3.4 The subsequent approach adopted by the prosecutor compounded this issue, which reinforces the degree of vindication required here. It is no answer to suggest that the prosecution was otherwise sound – and the Court should not deprive Mr Parore of the benefit of the presumption of innocence by accepting the submission that it would otherwise have been successful.
  - 3.5 The reality is that this is serious misconduct, and excuses from the Commissioner.
4. **Bill of Rights Damages Should Compensate [Mr Conder]**
  - 4.1 The Appellant's agrees that public law damages are a discretionary remedy, but it is wrong to treat that as synonymous with them being solely vindicatory. Rather, awards can be made where necessary for

vindication, compensation and potentially deterrence, but may be refused when policy or other grounds overwhelm those objectives.

- 4.2 In cases involving pecuniary loss, this requires the Court to consider whether a remedy is effective if a person is not made whole. In the absence of pecuniary loss, vindication becomes the controlling element.
- 4.3 This view is consistent with *Taunoa*, which was only concerned with intangible harm and which supports compensation as a separate principle in cases of pecuniary loss. Even if *Taunoa* were read to exclude this, it does not decide the point and can be set aside if necessary to meet New Zealand's international obligations.
- 4.4 This view: (1) provides an effective remedy; (2) reflects the priority of the Bill of Rights over private law obligations; (3) is assumed by early decisions; (4) is only departed from in cases of intangible harm or personal injury; (5) aligns with the approach under the Human Rights Act 1993; (6) meets New Zealand's international obligations; and (7) is followed in some other comparable jurisdictions. It is also aligns with the approach taken in equity and the law of voluntary obligations, which is a near analogue to the Bill of Rights. We adopt the submissions of the intervenors on points (5) and (6).
- 4.5 The Attorney's objections to this approach elide the difference between discretionary and vindicatory and should be rejected.
- 4.6 Similarly, the Attorney's position on fair trial rights: (1) overlooks the right to silence, which is also engaged; (2) conflates miscarriages of justice with criminal proceedings wrongly brought; (3) seeks to protect prosecution decisions, even where plainly wrong; and (4) wrongly presumes repairing misconduct would undermine the integrity of the justice system.

4.7 To the extent that such a barrier exists, it should be limited either by: (1) New Zealand's reservation to the International Covenant on Civil and Political Rights; or (2) those errors which are able to be fully corrected by appeal, where a separate statutory remedy is thereby provided. Indeed, contrary to the Attorney's submission at [20], while *Baigent's Case* did not involve fair trial rights, most of the case related to immunities granted in criminal cases, making it much more analogous.

4.8 Costs, where incurred as a result of a breach, are an appropriate form of damages. They are not barred by the two regimes that allow for costs in criminal cases, and may be awarded as damages. Such an approach is justified as the costs flow directly from the breach, addressing the issues of causation raised by the Human Rights Commission.

#### 5. **The Stay and Declaration are Insufficient Remedies [Mr Conder]**

5.1 This was a serious breach that: (1) occurred after judicial warning; (2) arose repeatedly; (3) was persistently pursued; (4) touched on a foundational right; (5) caused real harm; and (6) has never received an apology. Accordingly, even on vindication grounds, a further award is appropriate.

#### 6. **Increased or Indemnity Costs Should Follow [Mr Conder]**

6.1 Mr Parore faced significant cost in defending criminal charges, he has then faced significant cost in obtaining a declaration and seeking financial redress. He attempted to avoid the proceedings at the outset. Scale costs would not achieve justice.

6.2 Some award above scale is necessary to avoid modest Bill of Rights claims being impossible to pursue. Effect of the cost scale will reinforce systemic disadvantage and undermine availability of justice in a constitutionally significant area. We adopt the submissions of the Law Society on the impact this would have on the rule of law.