

IN THE SUPREME COURT OF NEW ZEALAND

SC 102/2017
[2017] NZSC 183

BETWEEN HINEMANU NGARONOA,
SANDRA WILDE, AND
ARTHUR WILLIAM TAYLOR
Applicants

AND ATTORNEY-GENERAL
First Respondent

AND CHIEF EXECUTIVE OF THE
DEPARTMENT OF CORRECTIONS
Second Respondent

AND ELECTORAL COMMISSION
Third Respondent

Court: William Young, Glazebrook and O'Regan JJ

Counsel: R K Francois for Applicants Ngaronoa and Wilde
A W Taylor in Person
P T Rishworth QC, D J Perkins and G M Taylor for
First Respondent

Judgment: 6 December 2017

JUDGMENT OF THE COURT

- A The application for leave to appeal is granted on the question of whether the Electoral (Disqualification of Sentenced Prisoners) Amendment Act 2010 purported to amend an entrenched provision of the Electoral Act 1993 and thus required a 75 per cent majority to be passed.**
- B The application is otherwise dismissed.**
- C There is no costs award.**
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REASONS

[1] The applicants seek leave also on the issue of whether the 2010 amendment discriminates on the prohibited ground of race because Māori are over-represented in the New Zealand prison population. The Court of Appeal concluded that there was no discrimination, either direct or indirect.¹

Our assessment

[2] The issues of discrimination and Māori over-representation in prison potentially raise matters of general or public importance. We do not, however, consider this is the right case to consider these issues and, in particular, the intersection between them.² We would be considering the issues in a very particular context. Further, a legislative provision is involved and all that is sought is a declaration.³

Result

[3] The application for leave to appeal is granted on the question of whether the Electoral (Disqualification of Sentenced Prisoners) Amendment Act 2010 purported to amend an entrenched provision of the Electoral Act 1993 and thus required a 75 per cent majority to be passed.

[4] The application is otherwise dismissed.

[5] There is no costs award.

Solicitors:

Amicus Law, Auckland for Applicants Ngaronoa and Wilde
Crown Law Office, Wellington for First Respondent

¹ *Ngaronoa v Attorney-General* [2017] NZCA 351, [2017] 3 NZLR 643 (Winkelmann, Asher and Brown JJ) at [137]–[140].

² See for example *LFDB v SM* [2014] NZSC 197, (2014) 22 PRNZ 262 at [21] where it was noted that this Court retains residual discretion to refuse leave to appeal when a case is not a suitable one to determine the legal issues.

³ For the avoidance of doubt, we are not to be taken as making any comment on the Court of Appeal decision in this case.