

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 29/2010  
[2010] NZSC 45**

**JAMES PATRICK GOLLAN**

v

**THE QUEEN**

Court: Elias CJ, Blanchard and Wilson JJ

Counsel: Applicant in person  
J C Pike for Crown

Judgment: 22 April 2010

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed.**

**REASONS**

[1] The applicant seeks leave to appeal against a ruling of the Court of Appeal that the issue of the admissibility of certain documents alleged to be subject to legal professional privilege be remitted to the District Court for determination in accordance with directions from the Court of Appeal.<sup>1</sup> It is common ground that the search warrant pursuant to which the documents were seized was unlawful; what is in issue is whether, as a consequence, the evidence should be excluded under s 30(2) of the Evidence Act 2006.

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<sup>1</sup> *R v Gollan* [2010] NZCA 86.

[2] Section 13(4) of the Supreme Court Act 2003 requires this Court not to give leave to appeal against an order made by the Court of Appeal on an interlocutory application unless “necessary in the interests of justice”. It is not necessary in the interests of justice to hear an appeal by the applicant at a time when the admissibility of the evidence has not even been finally determined by the District Court. Once it has, and if the evidence is admitted, the applicant will have the right to seek leave to appeal again pre-trial to the Court of Appeal against its admissibility or, if he is convicted, to appeal post-trial. The present application is therefore refused as being plainly premature.

Solicitors:  
Crown Law, Wellington