

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 45/2016  
[2016] NZSC 63**

BETWEEN                      JESSE WAIARIKI TEMANAVA  
   BUTLER  
   Applicant

AND                              NORTH SHORE POLICE  
   Respondent

Court:                          William Young, Glazebrook and O'Regan JJ

Counsel:                      Applicant in person  
   K Laurenson for Respondent

Judgment:                      13 June 2016

---

**JUDGMENT OF THE COURT**

---

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

---

**REASONS**

[1]     At around midnight on 17 February 2014 the applicant was arrested by two police officers on a charge of assault. He was initially taken to the Takapuna Police Station and subsequently to the Henderson Police Station from which he was released on police bail at 4.18 am. He was later found guilty of assault.

[2]     He subsequently issued proceedings in which he claimed that the police officers involved in his arrest and subsequent detention had breached his rights under the New Zealand Bill of Rights Act 1990 in various respects, including what he alleged to be torture and cruel treatment, and he alleged the police were guilty of misfeasance in public office. Following a trial at which the applicant and the police

officers who had dealt with him gave evidence, Asher J dismissed the applicant's claims.<sup>1</sup>

[3] The applicant's notice of appeal to the Court of Appeal was filed out of time.<sup>2</sup> The reason for the delay was that he had, initially, mistakenly attempted to file an appeal in the High Court at Auckland. The respondent did not suggest that the resulting delay had caused it any prejudice. While recognising these considerations, the Court of Appeal refused to extend time for the appeal as it considered that the appeal was not arguable.<sup>3</sup>

[4] Many of the arguments advanced by the applicant in his submissions in support of his leave application are at best only tangentially related to the events in issue and, to the limited extent to which he did focus on those events, he advanced nothing which would suggest that the Court of Appeal's appreciation of the merits of his proposed appeal was erroneous. We see no question of public or general importance in the appeal and no appearance of a miscarriage of justice.

Solicitors:  
Crown Law Office, Wellington for Respondent

---

<sup>1</sup> *Butler v Massey University Albany* [2015] NZHC 2287.

<sup>2</sup> *Butler v North Shore Police* [2016] NZCA 150 (Harrison, Wild and Kós JJ).

<sup>3</sup> At [10]–[11].