

IN THE SUPREME COURT OF NEW ZEALAND

SC 37/2010
[2010] NZSC 68

BETWEEN K
 Appellant

AND B
 Respondent

Court: Elias CJ, Tipping and McGrath JJ

Counsel: C R Pidgeon QC for Appellant
 V A Crawshaw and P L Kannemeyer for Respondent

Judgment: 29 June 2010

JUDGMENT OF THE COURT

- A Leave to appeal is granted.**
- B The approved ground is whether in its reasons for judgment, and in particular paragraphs 51 and 52, the Court of Appeal adopted an erroneous approach to the effect of ss 4 and 5 of the Care of Children Act 2004.**
- C If the appellant demonstrates that the Court of Appeal was in error, this Court's present view is that the matter should be remitted to the appropriate lower court for reconsideration on the correct legal basis, and on an up-to-date factual basis. It seems inappropriate for this Court to undertake that exercise. Hence the approved ground is limited to the question of the correct legal principle and is not to be construed as extending to the application of that principle to the facts, if the appellant succeeds.**

Solicitors:
Otene & Ellis, Onehunga for Appellant
Draffin and Snow Law, Auckland for Respondent