

IN THE SUPREME COURT OF NEW ZEALAND

SC 35/2016
[2016] NZSC 52

BETWEEN MICHAEL MARINO
Applicant

AND THE CHIEF EXECUTIVE OF THE
DEPARTMENT OF CORRECTIONS
Respondent

Court: Elias CJ, William Young and O'Regan JJ

Counsel: D A Ewen and G K Edgeler for Applicant
D J Perkins and T P Westaway for Respondent

Judgment: 6 May 2016

JUDGMENT OF THE COURT

A Leave to appeal is granted (*Marino v The Chief Executive of the Department of Corrections* [2016] NZCA 133).

B The approved question is:

Did the Court of Appeal err in its interpretation of ss 90 and 91 of the Parole Act 2002 or in the application of those sections to the position of the applicant?

REASONS

[1] The Court has granted leave to appeal in another case which touches on the issue raised in the present application, although that case raises the issue as to how a sentence should be structured to deal with the impact of ss 90 and 91 of the Parole Act 2002.¹

¹ *Booth v R* [2016] NZSC 43.

[2] That appeal is set down for hearing on 5 July 2016. The Registrar should set down the present appeal on the following day or another day in the same week, so that the Court can address the issues at the same time.

[3] The applicant will have completed his prison term by the time of that hearing, which raises the issue of mootness. Counsel should address that issue in their submissions.

Solicitors:
Kerry Burroughs, Hamilton for Applicant
Crown Law Office, Wellington for Respondent