



Supreme Court of New Zealand

24 August 2010

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

**Peter Morrison PETRYSZICK v The Queen
(SC103/2009) [2010] NZSC 105**

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court’s judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

In November 2007 Mr Petryszick was convicted of assault using a vehicle as a weapon. He appealed to the Court of Appeal against the conviction, raising a number of grounds of appeal. A fixture for the hearing of his appeal was made for August 2008. For reasons relating to Mr Petryszick’s inability to prepare for his appeal, the Court adjourned the hearing four times. On the final occasion, in June 2009, the Court warned Mr Petryszick that it was his “last chance” to comply with the Court’s procedural requirements (such as the filing of written submissions) to allow the appeal to proceed.

The appeal was finally heard in October 2009, at which point Mr Petryszick remained in breach of several of the Court’s procedural rules. The Court refused to grant a further adjournment. In its judgment of 27 October, the Court of Appeal dismissed the appeal because of Mr Petryszick’s procedural failures. In doing so, it addressed two only of the grounds of appeal.

In a unanimous judgment the Supreme Court has held that an appeal cannot be dismissed for an appellant's procedural default. The Court of Appeal did not discharge its responsibility under section 385(1) of the Crimes Act 1961 to determine the appeal on the basis of the grounds of appeal Mr Petryszick raised. Mr Petryszick was therefore denied his right to appeal his conviction in accordance with section 383 of the Crimes Act, as required by section 25(h) of the New Zealand Bill of Rights Act 1990. The Court has remitted the appeal to the Court of Appeal for determination pursuant to section 385(1) of the Crimes Act.

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