

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 80/2009  
[2010] NZSC 3**

**RICHARD DONALD COLLINS**

v

**THE QUEEN**

Court: Blanchard, McGrath and Wilson JJ

Counsel: M Ryan for Applicant  
G Allan for Crown

Judgment: 9 February 2010

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**JUDGMENT OF THE COURT**

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

**REASONS**

[1] The proposed appeal involves two challenges to police searches. In each case a methamphetamine drug laboratory was found.

[2] On the first occasion (West Coast Road) the police did not have reasonable grounds to believe that a weapon or drugs might be on the premises but s 61 of the Arms Act 1983 provided for a lower standard, that of reasonable suspicion, concerning the presence of a firearm. It has been found that the police did reasonably suspect that there would be a firearm on the premises based on their

previous experience of Mr Collins. That being so, it was not a circumstance where a warrant could have been obtained and a warrantless search using the Summary Proceedings Act power may arguably have been unlawful. The police had no ability to obtain a warrant and were empowered, in circumstances where they had reasonable suspicion, to resort to the Arms Act.

[3] The second search (Ridge Road) did involve invocation of the power of warrantless search (under s 18(2) of the Misuse of Drugs Act 1975). That was done only after Mr Collins had admitted that there was a drug lab on the property. Once he made that admission it was, as the Court of Appeal<sup>1</sup> said, inevitable that the drugs would be discovered either by use of s 18 or after the obtaining of a warrant. Therefore exclusion of the evidence under s 30 of the Evidence Act 2006 would be disproportionate. And, as the admissions were not produced as a result of any awareness on the part of the applicant that the police had already discovered the lab (there being, in any event, no finding that had already occurred), exclusion of the evidence would still have been disproportionate even in such a circumstance.

Solicitors:  
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<sup>1</sup> *R v Collins* [2009] NZCA 388 (Baragwanath, Venning and Winkelmann JJ).