

IN THE SUPREME COURT OF NEW ZEALAND

**SC 49/2010
[2010] NZSC 84**

BETWEEN ROBERT FRANK TERRY
 Applicant

AND DEPARTMENT OF CORRECTIONS
 Respondent

Court: Elias CJ, Blanchard and McGrath JJ

Counsel: Applicant in person
 S B Edwards for Respondent

Judgment: 16 July 2010

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Mr Terry's application for leave to appeal directly to this Court in relation to a sentence of 60 hours community work was filed at a time when he already had pending an application to the Court of Appeal for leave to appeal on the same matter to that Court. The appropriate course was for the application of the Court of Appeal to be considered first. That has now happened and the Court of Appeal has refused him leave.¹

[2] An application for leave to appeal to this Court will rarely be granted where leave has already been refused by the Court of Appeal as it would be a means of circumventing the jurisdictional bar on appealing against a refusal of leave by that Court.

¹ *Terry v The Queen* [2010] NZCA 295.

[3] This is certainly not a case deserving of the making of an exception, for nothing raised by Mr Terry meets the criteria for an appeal to this Court.

Solicitors:
Crown Law Office, Wellington