



**Supreme Court of New Zealand  
Te Kōti Mana Nui**

**10 August 2016**

**MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

**BARRIE JAMES SKINNER AND DAVID INGRAM ROWLEY v THE  
QUEEN**

**(SC 79/2015) and (SC 126/2015) [2016] NZSC 101**

**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 Judicial Decisions of Public Interest [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz)**

The appellants were charged on 110 counts involving tax fraud. The charges included a number of allegations that the appellants knowingly provided false information to the Commissioner of Inland Revenue in their personal tax returns for the years 2006–2010, in breach of s 143B(1)(c) and (f) of the Tax Administration Act 1994 (TAA).

The appellants argued that s 109 of the TAA applied to the proceedings. Under s 109, certain decisions of the Commissioner of Inland Revenue are deemed correct in a court or in any proceedings, including an assessment of income tax. If s 109 applies to the proceedings, then the assessments of the appellants for the years in question would be deemed correct. If they were deemed correct, the Crown could not prove that the appellants had provided false information in their returns.

The High Court rejected this argument and the appellants were convicted of the counts of providing false information, as well as a large number of other counts. The appellants appealed unsuccessfully to the Court of Appeal.

The Supreme Court granted leave on the question whether s 109 of the TAA precluded conviction on the counts related to knowingly providing false information in the tax returns. Leave to appeal was also sought on a number of other grounds, but refused.

The Crown argued that s 109 applies to civil proceedings and not criminal proceedings. It argued that the purpose of s 109 is to channel proceedings contesting the accuracy or legality of an assessment or other disputable decision into the procedural framework of the challenge process provided for in the TAA. It said the section has no purpose in criminal proceedings. It also pointed out that if s 109 applied in criminal proceedings, in other cases the Commissioner could issue a reassessment of income tax prior to the criminal proceedings and present that as conclusive proof that the defendant had committed the actus reus of an offence. This would have significant consequences for the fair trial rights of defendants.

The appellants argued that the plain meaning of s 109 did not preclude its application in criminal proceedings, and that the Court should adopt that plain meaning.

The Supreme Court has unanimously dismissed the appeal and upheld the appellants' convictions. The Court held that s 109 does not apply in criminal proceedings. This interpretation fits with the purpose of the section and the wider statutory scheme and makes proper provision for the fair trial rights of defendants.

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