



Supreme Court of New Zealand

17 May 2010

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

Vincent Ross Siemer v Solicitor-General
(SC 48/2009 [2010] NZSC 54)

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.

Mr Siemer was held by the High Court to have committed contempt by failing to remove certain material from internet websites. He was sentenced to imprisonment for six months. The sentence was suspended in order to allow him a final opportunity to remove the offending material from the websites and provide an undertaking that there would not be a repetition. He did not take up that opportunity. The Court of Appeal allowed his appeal against the sentence and replaced it with a term of imprisonment for a maximum of six months subject to the proviso that the imprisonment would come to an immediate end if Mr Siemer complied with the Court’s order, thus giving him “the keys to the prison in his pocket”.

The Supreme Court has now found, by majority, that s 24(e) of the New Zealand Bill of Rights Act 1990, which guarantees to everyone who is “charged with an offence” the right to the benefit of trial by jury when the penalty for the offence is or includes imprisonment for more than three months, applies when someone is charged with contempt. The majority of the Court holds that it is not possible to have a trial on indictment (jury trial) in this country for contempt. It therefore follows that, as a necessary consequence of the enactment of s 24(e), the power of a New Zealand court to impose a sentence of imprisonment for contempt has been limited to imprisonment for no more than three months (and/or a fine). The Court has confirmed that Mr Siemer has committed a contempt as found by the High Court but it has, by majority, allowed his appeal and substituted a maximum sentence of three months’ imprisonment for the sentence imposed by the Court of Appeal.

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