

NZR

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

21/6

A.P. No.66/91

1032

NOT
RECOMMENDED

BETWEEN PETER MARK HINDMAN

Applicant

A N D POLICE

Respondent

Hearing: 28 May 1991

Counsel: C. Morris for Applicant
Respondent in person

Judgment: 28 May 1991

JUDGMENT OF TIPPING, J.

Peter Mark Hindman has been arrested on a warrant issued by this Court and brought before me this morning. The warrant issued by this Court arose in these circumstances. Mr Hindman was sentenced in the District Court to six months periodic detention, coincidentally for breach of periodic detention. He appealed that sentence but did not appear in support of the appeal. His appeal was dismissed but no date for the commencement of the periodic detention sentence which thus revived was fixed.

In addition the learned Judge then sitting in this Court issued a warrant for his arrest. The basis upon which that warrant was issued is not entirely clear to me and Mr Morris, who has appeared for the Crown this afternoon, has

candidly accepted that its jurisdictional foundation was perhaps dubious. It was for that reason that when Mr Hindman came in front of me this morning I immediately discharged the High Court warrant, being of the view that its foundation, as I have said, was dubious.

Because there had been no earlier order as to when the periodic detention sentence should revive I directed that it should commence on 31 May 1991 by first report to the Birkenhead Centre at 6.00 p.m. that day, but I noted that the Applicant Mr Hindman appeared to be in custody on other matters and thus he might not be able to attend on that date.

Mr Hindman asked me to consider bail because he said this very morning the District Court had refused him bail on a minor cannabis charge because the District Court Judge was made aware of the fact he was due to appear in this Court on the High Court warrant. As the warrant had gone it seemed to me that the District Court Judge's decision to refuse bail might be a little harsh. However I directed the Crown to make further enquiries and from Mr Morris this afternoon, Mr Bonnar having appeared this morning, it now appears that the position is far more complicated than I thought it to be.

There is in fact a further warrant for breach of periodic detention on top of the one issued by Thomas, J. There is also a warrant for failing to appear in the District Court at Auckland for a pre-trial conference on 21 November 1990 in respect of uttering a forged document and there is also an outstanding charge of failing to appear in the North Shore District Court said to be in respect of a breach of periodic detention. The police also wish to interview the

Applicant, Mr Hindman, in respect of other dishonesty matters. For these and other reasons the Crown opposes bail.

The matter is therefore far from the position I thought it might be, i.e. a refusal of bail on a minor cannabis charge because of the complexity introduced by the High Court warrant. I am not prepared to grant bail in this Court in effect on appeal from the District Court. The position will be this. Mr Hindman is in custody at the moment. He will appear in the District Court on the date of next remand. He may well be advised to seek legal aid to try and unravel what appears to be a considerable tangle.

As far as the High Court is concerned everything is over. The High Court warrant has been discharged and pursuant to the dismissal of the appeal the first report on the sentence, against which the appeal was brought, is to be as earlier indicated 31 May. However I repeat that Mr Hindman will not be able to do so because he is in custody. The position is extremely tangled but it is now out of this Court's hands. All current matters, so it seems to me, are before the District Court and will have to be dealt with and resolved in that Court. Stand down.

A handwritten signature in black ink, appearing to read 'Alicia Z...' followed by a flourish and a small superscripted 'J'.