

**IN THE HIGH COURT OF NEW ZEALAND  
HAMILTON REGISTRY**

**CIV 2009-419-000367**

**PHILIP RICHARD CONNELL**  
Applicant

v

**PATSY-LEE PARAHA**  
Respondent

Hearing: 27 March 2009

Appearances: M Sturm for the Applicant  
P Paraha in person

Judgment: 27 March 2009 at 4:30pm

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**JUDGMENT OF WYLIE J**

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This judgment was delivered by Justice Wylie  
on 27 March 2009 at 4:30pm  
pursuant to r 11.5 of the High Court Rules

Registrar/Deputy Registrar  
Date:

Solicitors:  
Crown Solicitor, P O Box 19 173, Hamilton

Copy to:  
P Paraha, 15 Ross Crescent, Fairfield, Hamilton 3214

[1] This is an application to set aside a witness summons.

## **Background**

[2] The respondent faces charges under the Summary Offences Act 1981. It is alleged that she assaulted a Police Officer – Constable Melanie Evans – acting in the execution of her duty, and that she intentionally obstructed another Police officer – Constable Grant – also acting in the execution of his duty.

[3] The alleged assaults took place during the course of a District Court sitting in Hamilton on 29 August 2008. The Judge presiding was His Honour Judge P R Connell, the applicant in this case.

[4] Ms Paraha has served a witness summons on Judge Connell. It is dated 24 February 2009.

[5] Judge Connell has applied to set aside the witness summons. It is asserted that the summons is an abuse of process.

[6] The application came before me today. Ms Paraha appeared in Court. I granted leave for a Mr Williams to appear with her as a McKenzie Friend.

## **The Court's jurisdiction**

[7] It is clear that this Court has jurisdiction to set aside a witness summons – see *Re Golightly* [1974] 2 NZLR 297 and *Rota v Tukiri* [2001] 1 NZLR 715. The Court has jurisdiction to set aside a witness summons where it is clear that no admissible evidence in support of the summons can possibly be given by the prospective witness, or if the summons is oppressive, or an abuse of process. A witness summons is likely to be set aside when it is intended to try and elicit evidence from a Judge about steps he or she took in proceedings, or where it is proposed that the Judge should give evidence in relation to steps he or she took in the performance of his or her judicial function.

## Analysis

[8] Ms Paraha explained to me that she wishes to elicit from Judge Connell evidence of what he did or did not see of the events the subject of the charges. She asserts that the Judge was present throughout and that he was watching all that went on.

[9] It seems clear that Ms Paraha wishes to call the Judge as a witness of fact.

[10] The evidence Ms Paraha wishes to obtain from the Judge is *prima facie* both relevant and admissible evidence in relation to the charges brought against her. There is nothing to suggest that Ms Paraha wishes to question the Judge about the proceedings that were before him or the performance of his judicial functions. If she endeavours to do so, then the presiding Judge will be able to rule on the admissibility of any questions put in that regard.

[11] In the circumstances, I do not consider that I have jurisdiction to set aside the witness summons, or if I do have jurisdiction, that I should do so.

[12] Mr Sturm for Judge Connell did suggest a compromise. He suggested that the Police would call the Court Registrar to give evidence, and that she would produce the transcript of the proceedings taken in the District Court when the alleged events occurred. Ms Paraha was not prepared to accept that compromise, and I cannot compel her to do so. Moreover it may be that Judge Connell's observations differ from those of the Registrar.

[13] Accordingly, the application is dismissed. The witness summons against Judge Connell must stand.

[14] Given that the applicant was representing herself, there will be no order as to costs.

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Wylie J