

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

**CIV-2009-404-002345**

UNDER the Habeas Corpus Act 2001  
IN THE MATTER OF an application for writ of Habeas Corpus  
BETWEEN BRENDON DOUGLAS FORREST  
Applicant  
AND THE CHIEF EXECUTIVE OF THE  
DEPARTMENT OF CORRECTIONS  
Respondent

Hearing: 29 April 2009

Appearances: Appellant in Person  
P Singh for Respondent

Judgment: 29 April 2009

---

**ORAL JUDGMENT OF VENNING J**

---

Solicitors: Crown Solicitor, Auckland  
Copy to: Brendon Forrest, Auckland Prison, Private Bag 50124, Albany, Auckland

[1] Mr Forrest brings an application for habeas corpus before the Court. In short there are two grounds to it.

- First, that the warrants directing that he be held in prison were directed to the Manager at the Christchurch Prison and did not stipulate that he serve his sentence at any other prison.
- Second, he has submitted that he was moved to Auckland Prison to be held as a maximum security prisoner and that he is unlawfully held there now, given that he says he has a low security rating.

[2] Mr Forrest has referred the Court to general principles in relation to habeas corpus, s 23 of the Bill of Rights and the Canadian authority of *R v Miller* [1985] 2 SCR 613.

[3] There are, however, short answers to Mr Forrest's application for habeas corpus. In relation to the first point that the warrant of imprisonment was directed to the Superintendent at Christchurch Prison, s 37(2) of the Corrections Act 2004 provides:

Any committal order issued, whether before or after the commencement of this Act, for the detention of any person in any specified prison is sufficient authority for the reception and detention of that person in any other prison to which he or she might have been committed

[4] That is a complete answer to the first ground raised.

[5] In relation to the second ground an affidavit has been filed by Ms Lamb, the Manager Litigation, Legal Services, the Office of the Chief Executive at the Department of Corrections. In that affidavit she confirms that Mr Forrest's security classification is currently category BB, (previously known as high medium). His classification was reduced from category CB, (previously known as maximum) on 16 March this year. Category BB is the second highest security classification used

for persons classified as having both a high internal and external risk. Auckland Prison holds prisoners with a range of security classifications, including those in category CB and category BB.

[6] On that factual basis there is justification for holding Mr Forrest in the Auckland Prison. That is an answer to his second point.

[7] The application for a writ of habeas corpus is therefore dismissed.

---

Venning J

### **Addendum**

[8] Mr Forrest asked that if the Court was going to dismiss the application for habeas corpus that it treat the matter as an application for judicial review. I am not prepared to do so. If Mr Forrest has issues arising out of his security classification and where he is currently held, they are matters that properly should be raised by way of judicial review in fresh proceedings directed specifically at those matters if he wishes to pursue them. The application will require affidavit evidence. The issues are essentially fact dependent as is evident from the affidavit evidence of Ms Lamb.

---

Venning J