

NOTE: HIGH COURT ORDER PROHIBITING PUBLICATION OF ANY IDENTIFYING PARTICULARS OF R LTD AND S LTD REMAINS IN FORCE IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

**CA750/2020
[2023] NZCA 38**

BETWEEN DAVID CHARLES RAE
Appellant

AND COMMISSIONER OF POLICE
Respondent

Court: Katz, Mander and Downs JJ

Counsel: Appellant in person
A W M Britton and S B McCusker for Respondent

Judgment: 6 March 2023 at 11:00 am
(On the papers)

JUDGMENT OF THE COURT

A The application for recall is declined.

B There is no order as to costs.

REASONS OF THE COURT

(Given by Downs J)

[1] David Rae invites us to recall our judgment of 3 February 2023¹ by which we dismissed his appeal concerning the operation of a restraining order. That judgment refers to R Ltd having one bank account when, as Mr Rae observes, it has three. Mr Rae seeks correction of [3], [7] and [50] of the judgment. More importantly,

¹ *Rae v Commissioner of Police* [2023] NZCA 4.

Mr Rae invites us to recall the dismissal of his appeal and now allow it, in part, by excluding two of the bank accounts of R Ltd from the operation of the restraining order. Mr Rae contends the respondent should agree to this course, “to reflect the overall rationale and spirit of the Judgment”.

[2] We decline to recall the result and allow the appeal in part. The number of bank accounts held by R Ltd was not important to our reasoning. But, even if it were, there is no basis to recall the judgment according to the principles articulated in *Horowhenua County v Nash (No 2)*.²

[3] For completeness, we also decline to amend [3], [7] and [50] of the judgment. We consider the better course is for our original judgment to be read with this one, especially as there is no agreement between the parties as to how the paragraphs should read.

Result

[4] The application for recall is declined.

[5] There is no order as to costs.

Solicitors:
Crown Solicitor, Wellington for Respondent.

² *Horowhenua County v Nash (No 2)* [1968] NZLR 632 (SC).