IN THE COURT OF APPEAL OF NEW ZEALAND

CA17/2015
[2015] NZCA 2

BETWEEN	KYUNG YUP KIM Appellant
AND	THE PRISON MANAGER, MT EDEN CORRECTIONS FACILITY Respondent

Hearing:	9 February 2015
Court:	Ellen France P, Randerson and White JJ
Counsel:	T Ellis, G K Edgeler and S Park for Appellant A M Powell and A F Todd for Respondent
Judgment:	25 February 2015 at 2.30 pm

JUDGMENT OF THE COURT

The appeal is dismissed.

REASONS OF THE COURT

(Given by Ellen France P)

Introduction

[1] Mr Kim appeals against the decision of Brewer J declining to issue the writ of habeas corpus.[1] Mr Kim is in custody pending determination by the Minister of Justice of a request from the People's Republic of China that he be extradited to China to face a charge of intentional homicide. The appeal raises issues about the inter-relationship between ss 26 and 70 of the Extradition Act 1999 (the Act) dealing with detention pending determination of an extradition request.

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1 *Kim v The Prison Manager, Mt Eden Corrections Facility* [2014] NZHC 3152.

Background

[2] After the People's Republic of China invoked New Zealand's extradition process, Mr Kim was arrested in early June 2011. He has been in custody since then.[2]

[3] For present purposes, the next relevant event occurred on 29 November 2013 when, after a hearing, Judge Gibson found that Mr Kim was eligible for surrender. Mr Kim immediately said he intended to appeal that decision. Judge Gibson issued a warrant under s 70 of the Act for his detention pending the determination of his appeal. Mr Kim filed an appeal on 11 December 2013. On 12 September 2014 he filed a notice of abandonment of appeal. On 19 September 2014, Mr Kim discontinued judicial review proceedings. There is some question about the date by which all matters were abandoned but there is no dispute that by 29 September 2014 there were no longer any outstanding appeals.

[4] On 26 November 2014, Mr Kim filed an application in the High Court for the surrender order to be discharged along with an application for habeas corpus. The application for habeas corpus proceeded to a hearing before Brewer J.

[5] On 3 December 2014, Brewer J concluded the respondent had failed to establish that Mr Kim's detention under s 70 of the Act was lawful. The Judge said, "at best, [the warrant] had expired."[3] The Judge said he would have granted habeas corpus.[4] However, that day Brewer J had been shown a fresh warrant issued by Judge Gibson under s 26(1) of the Act. That subsection provides that if the Court determines under s 24 that a person is eligible for surrender, it "must" issue a warrant for the detention of the person pending surrender or discharge. Accordingly, Brewer J said his decision, except as to costs, was moot.[5]

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2 The appendix to this judgment, taken from the submissions for the respondent, summarises the chronology of events since arrest. Brewer J said the delays since that time reflected the fact that Mr Kim "does not want to be extradited to China and has challenged every step of the extradition process": *Kim v The Prison Manager, Mt Eden Corrections Facility* [2014] NZHC 3051 at [1].

3 *Kim v The Prison Manager*, *Mt Eden Corrections Facility* above n 2, at [24].

4 At [25].

5 At [23].

[6] A further application for habeas corpus was filed on 3 December 2014. Brewer J heard that application the following day. His Honour issued a judgment on 10 December 2014 declining to issue the writ. The Judge considered that in issuing a fresh warrant under s 26(1), the District Court Judge did no more than correct an error. The warrant by which Mr Kim was currently detained was issued lawfully and was valid. The Judge also said there was nothing in the circumstances by which the warrant came to be issued that would make the otherwise lawful detention unlawful.[6] This is the decision from which Mr Kim appeals.

Issues on appeal

[7] The appeal can be determined by considering, first, whether the High Court Judge was right to treat the issue of the warrant under s 26(1) as the correction of an error. Secondly, by considering whether the detention was arbitrary and therefore unlawful. This question in turn raises the following issues: first, whether there was a failure to meet the requirements of natural justice; second, whether the District Court Judge should have considered bail; and, finally, whether the District Court Judge should have considered detention other than in a prison.

[8] We deal with each of these questions in turn.

The District Court Judge's decision to issue a warrant under s 26(1)

[9] In order to determine the accuracy of Brewer J's characterisation of the decision to issue a new warrant under s 26(1) as the correction of an error, we need to examine the statutory scheme.

The Extradition Act 1999

[10] The broad scheme of the Act is, as counsel for the respondent submits, that after an extradition request has been received and the Court has decided to issue a warrant to arrest a person, the person will either be detained in custody, released on bail until surrendered to the extradition country, or discharged from the extradition. As Mr Powell for the respondent further submits, this is a common feature of

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6 *Kim v The Prison Manager*, *Mt Eden Corrections Facility* above n 1, at [42].

extradition statutes in other commonwealth countries and reflects the obvious flight risk.[7] The Act does, however, provide numerous mechanisms to enable the Court to intervene if the detention is unduly prolonged or is otherwise objectionable, either by granting bail or discharging a person from extradition.

[11] McGrath J, delivering the judgment of Elias CJ, himself and Glazebrook J in *Kim v Prison Manager, Mt Eden Corrections Facility*, identified "four distinct stages of decision-making" in proceedings under the Act.[8] The first relates to arrest on a warrant. Second, the arrested person "must be brought before a court as soon as possible and may seek bail".[9] If bail is not sought or is refused, the person is detained pending determination of the extradition proceedings. The third stage involves determination by the District Court of eligibility for surrender. Fourth, the Minister must decide whether the person is to be surrendered, and make any consequential surrender orders. As McGrath J said, "[t]he substantive decisions on eligibility and surrender are made at the third and fourth stages."[10]

[12] We do not need to go into detail about the early stages of the process as envisaged by the Act. It suffices to say in this case a provisional arrest warrant was sought and granted.[11] The provisional warrant authorised detention for the purpose of bringing Mr Kim before the District Court.[12] We interpolate here that the Minister of Justice may, under s 21 of the Act, discontinue the proceedings and may also cancel any warrant issued by the District Court and order that the subject of the request be discharged.[13] If the Minister takes this course, the District Court must be notified in order to ensure the proceeding is formally discontinued.[14]

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7 The trend towards more uniform extradition legislation in the Commonwealth is discussed in the Extradition Bill 1998 (146-1) (explanatory note) at i and ii. See also Extradition Bill 1998 (146-2) (commentary) at i.

8 *Kim v Prison Manager, Mt Eden Corrections Facility* [2012] NZSC 121, [2013] 2 NZLR 589 at [18].

9 At [18].

10 At [18]. The object of the Act is set out in s 12.

11 Extradition Act 1999, s 20. This decision was the subject of challenge: *Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990; *Kim v Prison Manager, Mt Eden Corrections Facility* [2012] NZCA 471, [2012] 3 NZLR 845; *Kim v Prison Manager, Mt Eden Corrections Facility,* above n 8.

12 Extradition Act 1999, s 23(1).

13 Sections 21(3) and 21(4).

14 Section 21(5).

[13] Section 22 of the Act provides that, with necessary modifications, the committal procedure from the Summary Proceedings Act 1957 applies. The effect of s 23(1) and (2) is that from the first appearance in court until the determination of eligibility for surrender, the person who is the subject of the request must be remanded in custody or released on bail.

[14] The next stage under the Act is the hearing before the District Court as to eligibility for surrender.[15] Section 26(1) sets out a number of steps that the District Court must take if it determines under s 24 that the person is eligible for surrender. As we have foreshadowed, the first of these matters is to issue a warrant for detention. Section 26(1) provides in full as follows:

> (1) If the court determines under section 24 that the person is eligible for surrender, it must –
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> (a) issue a warrant for the detention of the person in a prison or other place authorised in accordance with section 27 of this Act or section 184T(3) of the Summary Proceedings Act 1957 pending the surrender of the person to the extradition country or the person's discharge according to law; and
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> (b) record in writing the extradition offence or extradition offences in relation to which the court has determined that the person is eligible for surrender; and
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> (c) send to the Minister a copy of the warrant of detention and the record made under paragraph (b), together with a copy of the application and any other evidence taken before the court in the case and any other information before it that has not already been sent to the Minister, and such report on the case as the court thinks fit; and
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> (d) inform the person that –
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> (i) subject to section 71, the person will not be surrendered until the expiration of 15 days after the date of the issue of the warrant of detention; and
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> (ii) during that time the person has the right to make an application for a writ of habeas corpus; and
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> (iii) the person has the right to lodge an appeal under Part 8.

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[15] Section 24.

[15] If a warrant is issued under s 26(1), the Court may grant bail.[16]

[16] If the District Court finds the person ineligible for surrender, the person must be discharged and released from custody, unless there is an intention to appeal from that determination immediately notified to the Court, and the Judge decides to order continued detention or issue a warrant under s 70.[17]

[17] If the person is eligible for surrender or consents to surrender then the Minister of Justice must determine whether or not he or she should be surrendered to the extradition country.[18]

[18] If there is a delay in the surrender process, an application may be made to the High Court for a discharge under s 36 of the Act.[19] Section 36(1) provides that a person can make an application for a discharge if not surrendered and conveyed out of New Zealand within two months of either, relevantly, "the date of the issue of the warrant for the detention, … if no appeal or application for review or habeas corpus … or any appeal from such an appeal or application is pending" or, "if an appeal or an application for review or habeas corpus … or any appeal from such an appeal or application, is pending, after the date that the proceedings are finally determined". If an application to be discharged is made the Judge may, "unless sufficient cause is shown against the discharge", discharge the surrender order.[20]

[19] If surrender is ordered by the Minister, the person is detained under the warrant issued under s 26 until given into the custody of agents of the extradition country for removal to the extradition country.

[20] The appeal procedure is set out in Part 8 of the Act. Section 68 provides for a right of appeal against the decision as to eligibility for surrender on a question of law. An appeal does not stay consideration by the Minister but, in terms of s 31(2), the Minister cannot make a surrender order while an appeal is pending.

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16 Section 26(2).
17 Section 26(4).
18 Sections 30(1) and 28.
19 The Minister of Justice explains in an affidavit filed in the proceeding that a process has been put in place to determine various matters such as whether and what assurances need be sought about the availability of the death penalty and procedures to ensure a fair trial.
20 Section 36(3).

[21] The High Court on an appeal also has power to direct the discharge of the subject, or to remit the case to the District Court for further consideration.[21]

[22] Section 70 deals with custody pending determination of appeal.[22] Section 70(1) provides for what is to occur if a District Court makes a determination of eligibility under s 24 and "immediately after the court makes the determination, either party informs the court that the party intends to appeal against the determination". The section states that:

> the court may order that the person who is the subject of the determination continue to be detained or, as the case may be, issue a warrant for the arrest and detention of the person, pending the determination of the appeal.

[23] Section 70(2) deals with the situation where the District Court makes the determination under s 24 and either party files the notice of appeal against that determination. Then, s 70(2) provides:

> any District Court or the High Court may order that the person who is the subject of the determination continue to be detained or, as the case may be, issue a warrant for the arrest and detention of the person, pending the determination of the appeal.

[24] Section 70(3) provides that if a person is detained under an order made under s 70 or arrested and detained under a warrant issued under this section then, for the present proceeding, ss 22, 23(1) to 23(3) (procedure following arrest), 26(2), 26(3) and 27 (detention in a place other than prison) apply to the detention of the person with any necessary modifications as if the appeal proceedings were proceedings under s 24 (to determine whether or not the person is eligible for surrender).

Discussion

[25] Subject to the various safeguards, such as the ability to seek bail or a discharge, the Act envisages that from the finding of eligibility to surrender or discharge, the subject of a request is to be detained in custody.

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21 Sections 72(1), 73(1), 73(2)and see s 72.

22 The Extradition Regulations 1999 provide two forms for detention warrants. One is applicable to s 70 and the other to s 26.

[26] Against this background, the scope of s 70 is not entirely clear. Its most obvious application is to the situation where the District Court determines that the person is not eligible for surrender and the country seeking extradition appeals. The section clarifies that in such a situation the individual can still be detained. In explaining why the Select Committee considering the bill recommended the inclusion of a new part dealing with appeals, Hon Tony Ryall said the new part:[23]

> gives both the requesting country and the person sought the right of appeal on a question of law against the decision of the District Court. At present, the main remedies available are the writ of habeas corpus for the person sought, and judicial review for the requesting country. *A primary objective of this change is to ensure that the requesting country has an effective remedy where for some reason a court refuses, for example, to make a committal order.* This Bill now provides that the person being sought can continue to be detained pending the determination of an appeal and that the Court of Appeal itself can make a committal order, rather than referring the case back to the District Court.

[27] Hence, s 26(4) specifically provides that if the Court is not satisfied the person is eligible for surrender, the person must be discharged, unless the Court orders detention is to continue under s 70(1), or a warrant is issued pending determination of the appeal.

[28] It is clear that s 26(1) requires a warrant be issued once the Judge is satisfied as to eligibility for surrender. One would normally expect the warrant to be issued straight away. However, we do not see any bar in the Act to rectifying the situation subsequently. If the position was otherwise, there would be a clear gap in the legislation. The subject of the eligibility determination could signal a wish to appeal immediately and then, as Mr Kim did, abandon that appeal. Given the scheme of the Act, it would seem an absurd outcome if the individual could be released from detention in practice by default, in this way. We see no basis for reading the legislation to achieve this outcome given that any concerns about, for example, delay or detention in a prison when that is not appropriate, can be met in the ways earlier described.

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[23] (16 March 1999) 575 NZPD 15367 (emphasis added). The authors of Clive Nicholls and others *Nicholls, Montgomery, and Knowles on The Law of Extradition and Mutual Assistance* (3rd ed, Oxford University Press, Oxford, 2013 at [9.70] note of an equivalent provision in the Extradition Act 2003 (UK), s 30, that where "a defendant is discharged and the requesting state successfully appeals there is an obvious risk that he will have absconded by the time of that decision, rendering it no more than a *brutum fulmen* [an empty threat]."

[29] As a practical solution to the problem that has arisen here, where the person is held to be eligible for surrender, the warrant should be issued under s 26 thereby reserving the use of s 70 for situations of an appeal by the country seeking extradition. That would avoid the situation where a person may be unlawfully detained without the superintendent knowing of the position.

[30] Mr Edgeler for Mr Kim sought to plug the gap that would otherwise exist in the legislation with the submission that the Court on appeal could have ordered his detention. He pointed, for example, to s 72(1)(d) as providing a basis for detention. The section states that the High Court must hear and determine the question(s) of law and do any one or more other things including "make any other order in relation to the determination that it thinks fit". However, we are not persuaded that this subsection extends to making an order for detention when the appeal itself has been abandoned. On the face of the section, the power is only available if the Court hears and determines the questions raised.

Arbitrary detention?

[31] On our approach, the detention under s 26(1) was lawful and not on its face arbitrary. It is necessary then to address the other matters raised by Mr Kim to suggest the detention was nonetheless arbitrary.

[32] First, he says he was not afforded natural justice when the new warrant under s 26(1) was issued. What occurred is summarised by Brewer J as follows:

> [9] Judge Gibson convened a telephone conference on 2 December 2014. Mr Ellis and his junior, Mr Park, participated, although Mr Ellis submits that he did so out of courtesy and as an officer of the Court since he had no instructions from Mr Kim. Mr Park has made an affirmation summarising his notes of the telephone conference and I take the following account from it.
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> [10] Judge Gibson, who had been made aware by Crown counsel of the outstanding application for a writ of habeas corpus, asked whether the new Crown position had been put before me. Mr Ellis informed Judge Gibson that it had not. He also told Judge Gibson that the eligibility hearing having been determined, Judge Gibson was functus officio and, further, that the Judge should not pre-empt the habeas corpus proceeding. Judge Gibson was made aware that Mr Ellis had no instructions from Mr Kim, nor did he have a legal aid grant to cover the telephone conference. Mr Ellis requested that the parties be heard before the Judge made any decision. Judge Gibson is

> noted by Mr Park as saying that the telephone conference was not a hearing and that he would not hold a hearing because he was simply correcting an error relating to the warrant. The Judge said that he would issue a warrant pursuant to s 26(1).

[33] It may have been preferable, given the history of the matter, for the Judge to have heard from counsel on the question whether the applicable power arose under s 26 or s 70. However, the argument is ultimately a hollow one given the requirement in s 26(1) that a warrant be issued and the fact there is now no question of s 70 applying. Further, the Judge was not functus officio. He had not in fact ever exercised the power under s 26(1). It is also relevant that Mr Kim still has an application for discharge before the High Court. There is accordingly no adverse consequence to him flowing from Judge Gibson's actions that cannot be remedied by the statutory mechanisms for discharge or for release on bail.

[34] In conclusion on this aspect, we agree with Brewer J that the contestable part of the process was the s 24 hearing.[24] In acting under s 26(1) to issue the warrant for detention, "[t]he Judge did what he was required to do."[25] It follows we agree with Brewer J when he said:

> [31] I accept that Judge Gibson did not inform Mr Kim of the matters set out in s 26(1)(d). But no wrong has flowed from that failure. Mr Kim is already contesting his surrender and has already exercised his right to make an application for a writ of habeas corpus. He understands he has a right to lodge an appeal, and indeed exercised that right in respect of the s 70 warrant. In these circumstances, the failure to give required information does not make Mr Kim's detention arbitrary.

[35] As to the argument that detention was arbitrary because Judge Gibson did not consider bail, again, we agree with Brewer J. The Judge stated:

> [32] Mr Ellis's submission that the process was wrong because Mr Kim was not considered for bail is not material to the issue of the validity of the warrant. There is no requirement that a bail hearing take place immediately upon a warrant being issued. Section 26(2) makes it clear that bail may be granted notwithstanding the issue of a warrant. Mr Kim remains entitled to apply for bail. He has applied unsuccessfully several times in the past.

[36] Finally, as to the submission the Judge should have considered detention elsewhere, again, that matter can be raised in the District Court if Mr Kim considers

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[24] At [24].
[25] At [30].

this is necessary. The statute is clear as to the circumstances in which detention in a place other than a prison should be considered and Mr Kim does not presently point to any of those situations applying.[26] We note also that, to the extent the argument for Mr Kim in this respect focuses on the conditions of his detention, it strays outside the proper scope of habeas corpus.[27]

Result

[37] For these reasons the appeal is dismissed.

Solicitors:
Crown Law Office, Wellington, for Respondent

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[26] Extradition Act 1999, s 27 provides for detention in a place other than prison where detention in prison would be "dangerous to … life or pose a significant risk to … health".

[27] *Bennett v Superintendent, Rimutaka Prison* [2002] 1 NZLR 616 (CA) at [74].

Appendix – chronology of events

Date	Event	Reference
14 Dec 2009	Mr Kim flies from Shanghai to Seoul.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [29].
31 Dec 2009	The body of Ms Chen is found at a wasteland area in Shanghai.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [30].
11 Mar 2010	Warrant for Mr Kim's arrest is issued by the Shanghai Municipal Public Security Bureau (alleged offence: murder/intentional homicide).	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [31].
14 May 2010	Interpol "Red Notice" is issued in relation to Mr Kim.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [31].
4 Oct 2010	Mr Kim flies from Seoul to Auckland. Subsequently resides in New Zealand.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [32].
23 May 2011	Ministry of Justice receives an initial request from the People's Republic of China (PRC) to extradite Mr Kim. Application is made for a provisional arrest warrant under s 20 of the Act.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [33].
9 June 2011	Provisional arrest warrant is issued by Judge Broadmore. Mr Kim is arrested.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
11 June 2011	Mr Kim is brought before a court, however, no judge is available (being a Saturday). Mr Kim is remanded in custody.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
13 June 2011	Mr Kim is brought before Judge Cunningham and again remanded in custody. He reserves his position as to bail.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
17 June 2011	Proceeding is called before Judge Wilson QC. PRC requests that a date be fixed for filing of the Minister of Justice's notice (s 23(4)(c) of the Act). Mr Kim is remanded in custody.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
22 June 2011	Proceeding is called before Judge Harvey. Adjourned to allow additional time for filing of the Minister's notice. District Court requires the Minister to notify the Court by 17 August 2011 if he has received a request to surrender Mr Kim. Mr Kim is remanded in custody but expressly reserves his position as to bail.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3]. *Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [36].
24 June 2011	Minister is notified under s 21 of the Act that the District Court has issued a provisional arrest warrant for Mr Kim.	*Kim v Attorney-General* [2014] NZHC 1383(Collins J) [35]
27 June 2011	Minister decides to continue the extradition proceeding.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) [35]
17 Aug 2011	Proceeding is called before Judge McElrea. Minister's notice is filed.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417,

	Minister notifies the District Court that he has received a request to surrender Mr Kim to the PRC. Discussion as to suitable fixture for surrender eligibility hearing. Various dates are rejected by then counsel for Mr Kim. Mr Kim is remanded in custody.	[2012] NZAR 990 (Kós J) at [3]. *Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [37].
4 Nov 2011	Proceeding is called before Judge Weir. Listed for mention on 17 November 2011 to monitor progress. Mr Kim is remanded in custody.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
17 Nov 2011	Mr Kim is brought before Judge Behrens QC. Fixture on 15 February 2012 vacated. Surrender eligibility hearing fixed for 2-4 July 2012. Mr Kim is remanded in custody.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
26 Jan 2012	Mr Kim is brought before Judge Cunningham for bail hearing. Adjourned to allow Mr Kim further time to file an affidavit. Mr Kim is remanded in custody.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
7 Feb 2012	Bail hearing before Judge Gibson. Bail is refused. Mr Kim is remanded in custody.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
28 Feb 2012	Unsuccessful appeal to High Court against refusal to grant bail.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
10 Apr 2012	Mr Kim's counsel applies for vacation of 2-4 July 2012 fixture.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
24 May 2012	Mr Kim successfully applies for surrender eligibility hearing to be deferred (new date: 15 October 2012).	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [39].
2 July 2012	Proceeding is called before Judge Gibson. Mr Kim is remanded in custody	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
5 Sep 2012	Mr Kim's counsel applies for fixture on 15 October 2012 to be vacated pending determination of habeas corpus and judicial review applications.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
7 Sep 2012	PRC oppose vacation of 15 October 2012 fixture.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [3].
14 Sep 2012	Surrender eligibility hearing for 15 October 2012 is vacated on application of Mr Kim.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J)

		at [3].
18 Sep 2012	Application for habeas corpus is declined.	*Kim v Manager, Mt Eden Corrections Facility* [2012] NZHC 2417, [2012] NZAR 990 (Kós J) at [58].
12 Oct 2012	Unsuccessful habeas corpus appeal.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [40].
20 Nov 2012	Mr Kim files application for judicial review of the process leading to issue of the provisional warrant.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [41].
17 Dec 2012	Further bail application is made.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [42].
20 Dec 2012	Supreme Court dismisses further habeas corpus appeal.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [40].
1 Mar 2013	High Court dismisses appeal against refusal of bail.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [42].
6 May 2013	Unsuccessful appeal against High Court decision dismissing appeal against refusal of bail.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [42].
9 Sep 2013	District Court judgment on preliminary issues relating to the surrender eligibility hearing.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [43].
29 Nov 2013	District Court Judge (Judge Gibson) determines Mr Kim is eligible for surrender. Mr Kim notifies the Court of his intention to appeal the eligibility finding. Judge Gibson issues a warrant under s 70 of the Act. Further bail application is dismissed.	*Kim v The Prison Manager, Mt Eden Corrections Facility* [2014] NZHC 3051 (Brewer J) at [2],[3] and [5]. *Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [43].
11 Dec 2013	Mr Kim files notice of appeal from eligibility decision.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [44].
3-4 June 2014	Hearing of application for judicial review.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J).
19 June 2014	High Court dismisses application for judicial review except to order Mr Kim is entitled to a declaration that police acted unlawfully when they took his photograph and fingerprints when he was arrested pursuant to the provisional arrest warrant.	*Kim v Attorney-General* [2014] NZHC 1383 (Collins J) at [4] and [111].
12 Sep 2014	Mr Kim abandons appeal by notice of abandonment. Brown J endorses the notice: "[A]ppeal dismissed".	*Kim v The Prison Manager, Mt Eden Corrections Facility*[2014] NZHC 3051 (Brewer J) at [6].
19 Sep 2014	Judicial review is discontinued.	
28 Nov 2014	Mr Kim's second application for writ of habeas corpus (based upon expiry of the s 70 warrant) is heard by Brewer J.	*Kim v The Prison Manager, Mt Eden Corrections Facility* [2014 NZHC 3051 (Brewer J).
2 Dec 2014	Judge Gibson issues a new warrant for Mr Kim's detention, this time pursuant to s 26(1) of the Act.	*Kim v The Prison Manager, Mt Eden Corrections Facility*

		[2014] NZHC 3051 (Brewer J) at [23]. *Kim v The Prison Manager, Mt Eden Corrections Facility* [2014] NZHC 3152 (Brewer J) at [2].
3 Dec 2014	Brewer J dismisses second application for habeas corpus.	*Kim v The Prison Manager, Mt Eden Corrections Facility* [2014] NZHC 3051 (Brewer J) at [23].
3 Dec 2014	Mr Kim files third application for habeas corpus.	*Kim v The Prison Manager, Mt Eden Corrections Facility* [2014] NZHC 3152 (Brewer J) at [3].
10 Dec 2014	Brewer J gives judgment under appeal issued dismissing third application for habeas corpus.	*Kim v The Prison Manager, Mt Eden Corrections Facility* [2014] NZHC 3152 (Brewer J) at [43].