

**NOTE: PUBLICATION OF NAMES, ADDRESSES, OCCUPATIONS OR  
IDENTIFYING PARTICULARS OF COMPLAINANTS PROHIBITED BY  
SS 203 AND 204 OF THE CRIMINAL PROCEDURE ACT 2011.**

**IN THE COURT OF APPEAL OF NEW ZEALAND**

**I TE KŌTI PĪRA O AOTEAROA**

**CA28/2021  
[2022] NZCA 631**

BETWEEN DANIEL COE  
Appellant  
AND THE KING  
Respondent

Court: French, Courtney and Collins JJ

Counsel: Appellant in Person  
MRL Davie for Respondent

Judgment: 16 December 2022 at 10 am  
(On the papers)

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**JUDGMENT OF THE COURT**

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**The appeal is dismissed.**

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**REASONS OF THE COURT**

(Given by Courtney J)

[1] In January 2021 Daniel Coe filed a notice of appeal against conviction and sentence. Mr Coe was represented by Mr Fairley. The notice of appeal indicated that the grounds of appeal were that the verdicts were against the weight of the evidence, and that the verdicts were inconsistent. Mr Fairley subsequently ceased acting for Mr Coe. Mr Coe applied for legal aid.

[2] In April 2021 Mr Pyke was assigned to act for Mr Coe. He filed a memorandum on 26 May 2021 indicating that trial counsel error was being considered as a ground of appeal. On 31 May 2021 Courtney J directed that particulars of this ground of appeal be provided and that any application to adduce further evidence was to be filed by 15 July 2021. That direction was not complied with. Courtney J subsequently directed that the particularised grounds of appeal be filed by 20 August 2021, and that counsel were to advise by that date whether further evidence or particulars were needed. That direction was not complied with.

[3] In September 2021 Mr Pyke was granted leave to withdraw. Mr Simperingham was assigned to act for Mr Coe. A new timetable was agreed: a particularised notice of appeal was to be filed by 3 December 2021 and counsel was to advise whether evidence from trial counsel would be needed. That direction was not complied with.

[4] On 3 December 2021 Mr Simperingham advised that Mr Coe wished to terminate his engagement. By July 2022 there had been no indication of new counsel having been assigned. Upon inquiry, Legal Services advised that it had not received a request for reassignment.

[5] There was a telephone conference on 1 November 2022, which Mr Coe attended in person. He advised that he had been unable to find a solicitor to act for him and queried whether he could advance the appeal in person. As recorded in Courtney J's minute of 3 November 2022, Mr Coe was advised that he could advance the appeal in person, but that he would need to specifically identify the grounds of the appeal, and that it was an appeal that would be more effectively advanced with the assistance of counsel.

[6] Mr Coe was directed to file a particularised notice of appeal by 22 November 2022. Further, because of the lack of progress over more than 18 months, Mr Coe was put on notice under s 338(1) of the Criminal Procedure Act 2011 that if this direction was not complied with the Court intended to dismiss the appeal.

[7] Mr Coe has not filed particularised grounds of appeal. He has not contacted the Court with an explanation as to why the direction was not complied with. He has

not taken any other steps to advance the appeal. With no progress at all in nearly two years, and no sign of any progress being made, we consider that the appropriate course is to dismiss the appeal.

[8] The appeal is dismissed.

Solicitors:  
Crown Law Office, Wellington for Respondent