

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

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU ROHE**

CIV-2018-404-160

BETWEEN

**BRETT EDWARD EDWARDS and
MANGERE BULK SEAFOODS LIMITED
Appellants**

AND

**MINISTRY FOR PRIMARY INDUSTRIES
First Respondent**

**NZME PUBLISHING LIMITED
Second Respondent**

Hearing: 16 and 17 July 2018

Appearances: D Jones QC and H T Drury for Appellants
S Symon / T McGuigan for First Respondent (abides decision of
the Court)
A Cropp for Second Respondent

Date: 17 July 2018

ORDERS OF LANG J
[on appeal against ruling on media applications for access to Court file]

[1] Yesterday I began hearing an appeal against a decision given by Judge McGuire in the District Court at Manukau on 24 April 2018.¹ In that decision the Judge granted the media access to the District Court file relating to a prosecution brought by the Ministry of Primary Industries against the appellants and others.

[2] As the hearing before me progressed, counsel were encouraged to examine the District Court file to endeavour to reach an agreed position regarding the documents to which the media could be granted access. The basis for any such decision was to be in accordance with the principles referred to by the Court of Appeal in *Greymouth Petroleum Holdings Ltd v Empresa Nacional Del Petróleo*,² and by this Court in *Berry v Crimson Consulting Ltd*.³

[3] Counsel then examined the material on the District Court file and reached agreement regarding the material to which the media could have access. The rationale underpinning their decision was that access should be granted to material that was directly before the Court during two interlocutory hearings in the District Court. The first of these was an application by the defendants for an order staying the proceeding. This was heard and ultimately dismissed by Judge Neave in a decision delivered on 28 February 2017.⁴ Counsel agree that the evidence and material from that hearing should be made available to the media.

[4] The second decision is that of Judge Johns delivered on 8 May 2018.⁵ In this decision the Judge ruled inadmissible evidence located by fishery officers during searches of the appellants' premises. The Judge made that ruling on the basis that the searches had been carried out in an unreasonable manner. Counsel agree that the evidence and material from the hearing before Judge Johns should also be made available to the media. These two decisions demonstrate the way in which the proceeding matured to an ultimate conclusion.

¹ *R v Edwards* [2018] NZDC 8269.

² *Greymouth Petroleum Holdings Ltd v Empresa Nacional Del Petróleo* [2017] NZCA 490 at [66]-[68].

³ *Berry v Crimson Consulting Ltd* [2017] NZHC 3026 at [24].

⁴ *The Ministry for Primary Industries v Edwards* [2017] NZDC 3099.

⁵ *The Ministry of Primary Industries v Edwards* [2018] NZDC 8692.

[5] Counsel have agreed that the remaining material on the file largely consists of untested assertions by the prosecution. The appellants have not yet had the opportunity to answer these, and will never have that opportunity given the fact that the charges in the District Court have now been dismissed. For that reason it would be unfair and inappropriate for the material to be released into the public domain.

[6] Counsel have helpfully conferred in isolating the documents that may be released to the media. The Registrar is to ensure that access is given to those documents, but not the remainder of the documents on the District Court file.

[7] The appeal is therefore allowed to the extent that it relates to material on the District Court file that does not relate to the two interlocutory hearings in the District Court. It is dismissed to the extent that it relates to the balance of the material on the District Court file.

Lang J

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