

IN THE SUPREME COURT OF NEW ZEALAND

**SC 6/2006
[2006] NZSC 30**

BETWEEN CHRISTOPHER HAPIMANA BEN
MARK TAUNOA AND ORS
Appellants and Cross-Respondent

AND THE ATTORNEY-GENERAL AND
ANOR
Respondents

Court: Elias CJ, Blanchard and Tipping JJ

Counsel: T Ellis and D La Hood for Appellants and Cross-Respondent
T Arnold QC and B Keith for Respondents

Judgment: 12 April 2006

JUDGMENT OF THE COURT

A. Leave to appeal is granted on both applications.

B. The approved grounds are:

- (1) Whether there were breaches of s 9 of the New Zealand Bill of Rights Act 1990 (cruel, degrading or disproportionately severe treatment or punishment) in relation to the four appellants.**
- (2) Whether there were breaches of s 27 of that Act (denial of natural justice) in relation to those appellants.**
- (3) Whether the awards of compensation to the first, second and fourth appellants and the cross-respondent were appropriate as a remedy for breach of their rights and, if so, whether the quantum of each award was properly assessed. (The determination on this ground will have regard to the determinations on grounds 1 and 2 as well as to the breaches which have already been found.)**

REASONS

[1] Leave has not been granted on issues raised separately by counsel for the appellants concerning international conventions and the Standard Minimum Rules for the Treatment of Prisoners. These issues may be relevant to the establishment of the Bill of Rights breaches but do not give rise to separate claims.

[2] The Crown pleading point concerning the “failure to investigate” argument will be considered, if necessary, at the hearing.

[3] The Court will not hear any argument concerning the Prisoners’ and Victims’ Claims Act 2005 and the tribunal established thereunder since the enactment of that legislation post-dates the hearing in the Court of Appeal and the claims made in this proceeding were therefore not addressed to it.

Solicitors:
N B Dunning, Wellington for Appellants
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