



PRESS RELEASE

M v Roper and Anor

[2018] NZHC 2330

5 September 2018

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This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz

Background

This judgment arises from a civil claim for damages brought by a former member of the Royal New Zealand Air Force (RNZAF) against one of her superiors, a former Sergeant Robert Roper.

The claimant, M, sought damages from Mr Roper for mental harm she alleged was caused by the bullying, verbal abuse and sexual harassment he inflicted on her between 1985 and 1988. As well as damages against Mr Roper, M sought damages against the RNZAF for failing to act on her complaints about Mr Roper and failing to take all reasonable steps to protect her.

Mr Roper denied the allegations, and the RNZAF, the second defendant, denied that M had made the complaints, and that there was a failure to take all reasonable steps to protect M from harm.

In addition, both defendants argued that even if M were able to establish the alleged acts caused the mental harm for which she claimed damages, the claim could not succeed because of the statutory bar under the Limitation Act 1950 and under the Accident Compensation Act 2001.

Even if all these hurdles could be overcome, the RNZAF argued it could not be held liable, whether vicariously or directly, for any of the loss claimed by M.

Result

Edwards J found the events M said gave rise to her claim had likely occurred, albeit not with the frequency alleged. Specifically, the findings of fact established that Mr Roper assaulted and falsely imprisoned M as alleged.

The Judge accepted M suffers from symptoms consistent with post-traumatic stress disorder (PTSD), depression and anxiety, as attested by expert evidence. However, in order for a damages claim to succeed in law, the Court had to be satisfied that M's experiences at Whenuapai were a "substantial and material cause" of these symptoms.

After careful review of the medical evidence, and faced with M's clear presentation of a current mental injury, Edwards J found, on the balance of probabilities, that Mr Roper's actions at Whenuapai were a material and substantial cause of M's current mental injury, being her PTSD.

However, the Judge found that M's claim could not ultimately succeed because M could not escape the statutory bar on bringing claims out of time created by the Limitation Act 1950, nor the provisions of the Accident Compensation Act which preclude a person from suing for compensatory damages in relation to an injury for which they are, or were, entitled to cover under that scheme.

The finding that the claim was statute-barred meant the Court was not required to consider whether or not the RNZAF could have been held liable, whether vicariously or directly, for any of the loss claimed by M.

The names, address or identifying occupations of the victim and a witness are suppressed.

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