

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

CRI-2008-409-000193

MATTHEW NOEL BAILEY

v

POLICE

Hearing: 8 April 2009

Appearances: M Starling for Appellant
R Thomas for Police

Judgment: 8 April 2009

ORAL JUDGMENT OF HON. JUSTICE FRENCH

[1] This is the third fixture that has been allocated for the hearing of this appeal against conviction and sentence.

[2] The previous two fixtures have been vacated at request of counsel for the appellant. There have been at least three changes of solicitor, and the current assigned counsel, Mr Starling, is not able to proceed. He has had no contact with the appellant in relation to these appeals, and has received no instructions.

[3] I am also advised that the appellant, who was sentenced to a term of 12 months' imprisonment, has now served that sentence and been released from prison.

[4] The appeal against conviction was apparently going to be founded on an argument about competency of counsel. Without an affidavit from the appellant and his counsel, Mr Garrett, Mr Starling advises it will not be possible for him to progress the appeal.

[5] In all the circumstances I am satisfied that we have reached a point where the appeal should be dismissed as the Crown has requested, for want of prosecution, and I accordingly so order.

Solicitors:
M Starling, Christchurch
Crown Solicitor, Christchurch