

IN THE NEW ZEALAND COURT OF
APPEAL
I TE KŌTI MATUA O AOTEAROA
AHURIRI ROHE

CIV 2019-404-761

In the matter Declaratory Judgments Act 1908

Between **The Kiwi Party Incorporated**
1285 Peak Road RD2
Helensville
Appellant

And **ATTORNEY-GENERAL**
Parliament House
Wellington
Respondent

NOTICE OF APPEAL

Dated May 2019

Judicial Officer
Next Date

Presented for filing by:

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To the Registrar of the Court of Appeal at Wellington

And

To the ATTORNEY-GENERAL

This document notifies you that

The appellant appeals the decision of the High Court dated 27 May 2019, in [2019] NZHC 1163.

On the Grounds

1. The learned High Court Judge erred in finding, at paragraph [29] of his Decision, that Parliament is able to oust the inherent supervisory jurisdiction of the High Court.
2. The learned High Court Judge erred in finding, at paragraph [30] of his Decision, that article 9 of the Bill of Rights 1688 prevented the Court from making a determination under the Declaratory Judgments Act.
3. The learned High Court Judge erred in finding at paragraph [30] of his Decision, that comity overrode the separation of powers.
4. The learned High Court Judge erred in finding, at paragraph [32] of his Decision, that the Treaty of Waitangi did not give rise to enforceable legal rights.
5. The learned High Court Judge erred in finding, at paragraph [39] of his Decision, that the Courts cannot determine that a statute is invalid.
6. The learned High Court Judge erred in finding, at paragraph [39] of his Decision, that Parliament was supreme, when the statement of claim at

paragraph 57 maintained that Parliament had abdicated from its sovereignty in the matter at issue.

7. The learned High Court Judge erred in finding, at paragraph [41] of his Decision, that in the context of the Amendments to the Arms Act, the right to private property as a limitation on the prerogatives of government, did not function as a “higher value”.
8. The learned High Court Judge erred in finding, at paragraph [41] of his Decision, that because any common law constitutional right to bear arms was qualified it did not represent a “higher value”, in the context that the Amendments to the Arms Act provides, that by Orders in Council all and any ammunition may be prohibited, thus entirely precluding any common law constitutional right to bear arms.
9. The learned High Court Judge erred in finding, at paragraph [41] of his Decision, that in regard to the qualification to the right to bear arms “as allowed by law”, as stated in the Bill of Rights 1688, that this qualification was not in respect of prior law.
10. The learned High Court Judge erred in finding, at paragraph [41] of his Decision that the Magna Carta and the Bill of Rights 1688 were simply Acts of Parliament and so did not have constitutional status.
11. The learned High Court Judge erred in finding, at paragraph [42] of his Decision that the statement of claim did not state “higher law values” when the statement of claim referred to Magna Carta and the Bill of Rights 1688.

12. The learned High Court Judge erred in finding, at paragraph [44] of his Decision, that the scope of the Declaratory Judgments Act does not empower the Court to consider the validity of legislation.

13. The learned High Court Judge erred in finding, at paragraph [50] of his Decision, that the factual context underlying the claim is not unprecedented, given the affidavit evidence of Mr Rodney Hide filed in support of the proceeding.

This notice of appeal relies on: s56(4)(a) Senior Courts Act 2006.

Dated at Auckland this day of May 2019.



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G E Minchin
Counsel for appellant

TO: The registrar, Court of Appeal.

AND To: The respondent.