

NOTE: HIGH COURT ORDER IN [2014] NZHC 550 PROHIBITING PUBLICATION OF NAMES OR IDENTIFYING PARTICULARS OF DEFENDANTS IN [2014] NZHC 550 AND [2014] NZHC 1848 REMAINS IN FORCE.

NOTE: DISTRICT COURT ORDER IN [2018] NZDC 15368 PROHIBITING PUBLICATION OF NAMES OR IDENTIFYING PARTICULARS OF T, C, H, B AND M REMAINS IN FORCE.

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

**SC 83/2019
[2020] NZSC 23**

BETWEEN	DERMOT GREGORY NOTTINGHAM Applicant
AND	THE QUEEN Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: Applicant in person
C A Brook for Respondent

Judgment: 20 March 2020

JUDGMENT OF THE COURT

- A** The judgment of 12 December 2019 (*Nottingham v R* [2019] NZSC 144) is recalled and leave to appeal is granted in relation to the appeal against sentence.
- B** The approved question is whether the Court of Appeal was correct to impose the maximum period of home detention in circumstances where the offender had already served a period of home detention in relation to the offending.
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REASONS

[1] The applicant seeks a recall of our judgment of 12 December 2019¹ dismissing his application for leave to appeal from a decision of the Court of Appeal.²

[2] Nothing has been advanced which would warrant a recall of our decision not to grant leave to appeal in relation to conviction. The application for recall in that respect is in substance primarily an attempt to re-argue the application for leave.

[3] Having had the benefit of further submissions from both parties on the question of the correct approach to sentence, we agree with the applicant that this aspect of the proposed appeal raises a question of general principle.³ The judgment is recalled and leave to appeal is granted on the question of whether the Court of Appeal was correct to impose the maximum period of home detention in circumstances where the offender had already served a period of home detention in relation to the offending.

Solicitors:
Crown Law Office, Wellington for Respondent

¹ *Nottingham v R* [2019] NZSC 144.

² *Nottingham v R* [2019] NZCA 344 (Wild, Thomas and Muir JJ).

³ Senior Courts Act 2016, s 74(2).