

**In the Supreme Court of New Zealand**

**I Te Kōti Mana Nui**

*CIV 2019-404-761*

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**In the matter** The Declaratory Judgments Act 1908

**Between** **Kiwi Party of New Zealand**  
*Applicant*

**And** **ATTORNEY-GENERAL**  
*Respondent*

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Notice of application for leave to bring civil appeal  
*Dated 21 April 2020*

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Presented for filing by:

**G E Minchin**  
Barrister acting  
Telephone: 0224890306  
minchin@pl.net  
P.O. Box 121464 Henderson  
Auckland  
**Instructing Solicitors**  
Thomas & Co.  
Telephone: 09 827 5907  
Facsimile: 09 827 4462 DX BOX DP95036  
NEW LYNN WEST

## **To the Registrar of the Supreme Court**

I, the Kiwi Party Incorporated, the applicant in the proceeding identified above, give you notice that I apply for the leave of the Supreme Court to appeal against the decision of Collins, Simon France, Lang JJ, Court of Appeal, Auckland, 27 May 2020.

The specific grounds of the proposed appeal are:

1. The learned Judges erred in finding, at paragraph [19] of their Decision, that Article 61 of Magna Carta is not part of the laws of New Zealand.
2. The learned Judges erred in finding, at paragraph [19] of their Decision, that Article 61 of Magna Carta does not include the right to bear arms, by necessary implication.
3. The learned Judges erred, at paragraph [21] of their Decision, in finding that the caveat in the Bill of Rights 1688 referred to the possession of arms being hence regulated by law when the Bill of Rights 1688 was a constitutional settlement following the English Civil Wars and the caveat referred to historic prohibitions on concealed weapons.
4. The learned Judges erred, at paragraph [21] of their Decision, in eliding “judicial power” with constitutional limitations on absolutist power.
5. The learned Judges erred, at paragraph [22] of their Decision, in finding that as a matter of constitutional law Parliament is “supreme” and not subject to any constitutional limitation.
6. The learned Judges erred, at paragraph [24] of their Decision, in conflating “an unbridled right to bear arms” with the constitutional right to possess such arms as are capable of resisting tyranny.
7. The learned Judges erred, at paragraphs [23] [24] [47] – [51] of their Decision, in finding that art 3 of the Treaty of Waitangi did not confer a right to bear arms which was unilaterally abrogated by the Amendments to the Arms Act and as such was an inconsistency with the Treaty, able to be declared as such by the Court.

8. The learned Judges erred, at paragraphs [23] [24] [47] – [51] of their Decision, in conflating the privileges conferred by art 3 of the Treaty of Waitangi, which may be unilaterally withdrawn, with the rights conferred by art 3 of the Treaty of Waitangi, which cannot.
9. The learned Judges erred, at paragraph [25] of their Decision, in finding that the constitutional right to bear arms in NZ is relative to constitutional norms in other commonwealth countries.
10. The learned Judges erred, at paragraph [26] of their Decision, in finding that the constitutional right to bear arms in NZ is relative to international conventions, when the such conventions are based on civil codes, which are foreign to the laws of NZ.
11. The learned Judges erred, at paragraph [27] (a) by not regarding the Bill of Rights 1688 as a constitutional instrument which applies in NZ and supports the right to bear arms.
12. The learned Judges erred, at paragraph [27] (d) by not finding that the right to bear arms necessarily extends to the right to own semi-automatic firearms, as without such weapons resistance to a police state is futile.
13. The learned Judges erred, at paragraph [27] (d) by not finding that the provision in the Amendments, which allows for any ammunition to be prohibited, negates any right to bear arms.
14. The learned Judges erred, at paragraph [45] of their Decision, that the Parliamentary Privilege Act was capable of ousting constitutional limitations on absolutism.
15. The learned Judges erred, at paragraph [53] of their Decision, in finding that there is no property right that overrides the supremacy of Parliament.

16. The learned Judges erred, at paragraphs [57] [58] in not finding that the factual issues, as to whether or not the Select Committee had abdicated its responsibility to the Crown, was not amenable to strike-out.

17. The learned Judges erred, at paragraphs [60] – [65] of their Decision, in finding that s3 Declaratory Judgments Act and the inherent supervisory jurisdiction of the High Court did not allow the Court to determine the “validity of any statute”.

Dated 21 April 2020



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G E Minchin  
Counsel for applicant

To: Registrar Supreme Court NZ  
And to: the respondent