

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

**CRI-2014-404- [REDACTED]  
[2014] NZHC [REDACTED]**

BETWEEN [REDACTED]  
Appellant

AND NEW ZEALAND POLICE  
Respondent

Hearing: [REDACTED] 2014

Counsel: A J Haskett for the Appellant  
N J Small for the Respondent

Judgment: [REDACTED] 2014

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**JUDGMENT OF DUFFY J  
[re Appeal Against Conviction and Sentence]**

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This judgment was delivered by Justice Duffy  
on [REDACTED] 2014 at 5.00 pm, pursuant to  
r 11.5 of the High Court Rules

Registrar/Deputy Registrar  
Date:

Counsel: A J Haskett, Auckland

Solicitors: Meredith Connell, Auckland

[REDACTED]

[1] The appellant appeals against his convictions for refusal to accompany and refusal to give a blood specimen (third or subsequent) on the ground that the District Court Judge erred in fact and in law. The appellant also appeals against his sentence for the second conviction on the ground that it was manifestly excessive. The appeal is opposed.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

discharged. Given the penalty imposed, I consider it would be a waste of Court resources for this matter to be reheard. In addition, a further hearing might also affect the appellant's fair trial rights. Accordingly, I consider that for this offence, the appeal should be allowed and the conviction set aside.

[60] Under s 233 of the Criminal Procedure Act, I am required to direct that a judgment of acquittal be entered on both charges.

[61] There is no need, therefore, to consider the appeal against sentence.

### **Result**

[62] The appeals against conviction are allowed. The convictions entered against the appellant in the District Court are set aside. Judgments of acquittal are entered on both charges.

Duffy J4