

Hon David Parker BCom, LLB

Attorney-General

Minister for the Environment
Minister for Oceans and Fisheries
Minister of Revenue
Associate Minister of Finance



21 October 2021

John Creser

By email: fyi-request-16581-412363fe@requests.fyi.org.nz

Dear Mr Creser

REQUEST REGARDING COURT OF APPEAL DECISION

I refer to your email dated 30 September 2021 in which you:

- a. ask me to reconsider my response of 29 September 2021 to your email dated 30 August 2021, which asked for my opinion about two documents issued by the Court of Appeal; and
- b. refer to a stay of a private prosecution you had issued and ask whether my office would object to its reinstatement.

In my letter of 29 September 2021, I said it would not be appropriate to comment on your question as it related to a matter on which the Court of Appeal had already issued a decision. In your email, you seek clarification, noting the Court of Appeal has issued two decisions in respect of the same hearing. The Court of Appeal decision to which I was referring is the judgment dated 2 December 2015 – *Creser v Creser (as executors nominated in the will of J J Creser)* [2015] NZCA 579. In this judgment the Court of Appeal addresses the fact that there are two documents and comments on the discrepancy between the reasons for judgment and the sealed order. My response to your question remains the same.

In relation to your second question, s 176(1) of the Criminal Procedure Act 2011 provides that: “The Attorney-General may, at any time after a person has been charged with an offence and before judgment is given, direct that the proceedings be stayed.” In practice, this law officer function is generally exercised by the Solicitor-General. Accordingly, any decision concerning reinstatement of a prosecution would be a matter for the Solicitor-General.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Parker'.

Hon David Parker
Attorney-General