

IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

**CA586/2023
[2024] NZCA 30**

BETWEEN HARRY HIRIWI WHAANGA
Appellant
AND THE KING
Respondent

Hearing: 12 February 2024
Court: Collins, Woolford and Mander JJ
Counsel: T Epati for Appellant
M J M Mitchell for Respondent
Judgment No (2): 22 February 2024 at 11.00 am

JUDGMENT (NO 2) OF THE COURT

The application is granted. Pursuant to s 80K of the Sentencing Act 2002 the sentence of 22 months' imprisonment is substituted with one of six months' home detention on the conditions set out in [3] of this judgment.

REASONS OF THE COURT

(Given by Collins J)

[1] On 13 February 2024, we allowed Mr Whaanga's appeal against sentence and reduced his sentence from 26 months' imprisonment to 22 months' imprisonment.¹ We ordered a pre-sentence report as to the suitability of an address currently occupied by Mr Whaanga's wife and four children for the purposes of a sentence of home detention. We also granted leave to Mr Whaanga to apply to have a sentence of

¹ *R v Whaanga* [2024] NZCA 14 [Results judgment].

six months' home detention imposed if his wife's address was deemed suitable for home detention.

[2] A pre-sentence report has now been provided which confirms the address is suitable. Mr Whaanga has applied to substitute the sentence of imprisonment with one of home detention.

[3] The application is granted. Pursuant to s 80K of the Sentencing Act 2002 the sentence of 22 months' imprisonment is substituted with one of six months' home detention. In addition to the standard conditions for home detention, we impose the following special condition:

- Mr Whaanga is to attend an assessment for an alcohol and drug programme as directed by a probation officer. He is to attend and complete any counselling, treatment or programme as recommended by the assessment and as directed by and to the satisfaction of a probation officer.

[4] The sentence of home detention is to be served at 50A Main Road, Wainuiomata, Lower Hutt.

Solicitors:
Crown Solicitor, Napier for Respondent