



HIGH COURT OF AUSTRALIA

Public Information Officer

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TREVOR KINGSLEY FERDINANDS v COMMISSIONER FOR PUBLIC EMPLOYMENT

A South Australian police officer sacked after being convicted of a criminal offence did not have a right to appeal to the Industrial Relations Commission of SA, the High Court of Australia held today. The rights of police officers were governed by a separate legislative scheme.

In March 2001, Mr Ferdinands was convicted of assaulting a man taken into custody for drink driving. In November 2001, the Police Commissioner terminated his employment as a police officer. Mr Ferdinands applied to the Industrial Relations Commission complaining of wrongful dismissal and seeking reinstatement. Both the Full Court of the Industrial Relations Court and the Full Court of the Supreme Court held that the Industrial Relations Commission had no jurisdiction to deal with Mr Ferdinands' case. The two Courts held that the legislative scheme relating to appointment of police officers under the *SA Police Act*, and termination of their appointment, was not subject to review under the *Industrial and Employee Relations Act* (IER Act).

Mr Ferdinands appealed to the High Court, which by a 4-1 majority dismissed the appeal. It held that the *Police Act* impliedly excluded operation of the IER Act, the earlier of the two Acts. The nature of the *Police Act* and its apparent exhaustive coverage of termination created an incompatibility with the IER Act's provisions on terminations that were harsh, unjust or unreasonable. Section 40 of the *Police Act* confers a range of powers, from counselling to termination, upon the Police Commissioner if an officer is found guilty of a State, Territory or Commonwealth offence. A decision to dismiss an officer under section 40 is subject to review by the Supreme Court, and the conviction itself is subject to the ordinary avenues of appeal. The Court held that the *Police Act* should be read as a comprehensive statement of the Commissioner's powers to terminate an officer's appointment, the matters to be taken into account in exercising that power, the availability of review, and the processes for review.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*