



HIGH COURT OF AUSTRALIA

Public Information Officer

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Z v NEW SOUTH WALES CRIME COMMISSION

A solicitor appearing before the New South Wales Crime Commission was obliged to provide the name and address of a client and could not rely on legal professional privilege, the High Court of Australia held today.

In September 2003, the solicitor, Z, was summonsed to attend the Commission to give evidence in relation to an investigation into the attempted murder of M. Z's client, X, had twice given Z certain information about M and, as instructed by X, Z had passed on that information to police. M was attacked in 2002, some years after X had consulted Z. When asked at a Commission hearing who had provided the information he had passed on to police and where that person could be contacted, Z declined to answer on the ground that the communications conveying that information were the subject of legal professional privilege. The Commission member conducting the hearing ruled that the communications were not privileged.

Section 18B(4) of the *New South Wales Crime Commission Act* provides that, if a lawyer is required to answer a question at a hearing and the answer would disclose a privileged communication with someone else, the lawyer is entitled to refuse to comply, but if required the lawyer must provide the Commission with the name and address of the person with whom the communication was conducted. The NSW Supreme Court dismissed an application for review of that ruling and the Court of Appeal refused Z leave to appeal. Z then appealed to the High Court.

In a 5-0 decision, the Court dismissed the appeal. Three members of the Court held that even if the communication of X's name and address to Z were otherwise subject to legal professional privilege, the qualification in section 18B(4) gave the Commission power to require disclosure of the name and address. Two members held that, because what X told Z was for the express purpose of being passed on to the police, the communications were not privileged, not confidential and not for the dominant purpose of obtaining legal advice.

- *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.*