

IN THE HIGH COURT OF NEW ZEALAND  
CHRISTCHURCH REGISTRY

*DT Small*

CP NO 157/99

BETWEEN      DAVID THOMAS SMALL

Plaintiff

AND            ATTORNEY-GENERAL

Defendant

Dates of Hearing:    17, 18 and 19 April 2000

Judgment Released:    *Reserved Judgment released 4:30pm on  
Friday 5 May 2000*

Counsel:            **Dr Small in Person**  
                             **Mr Pike for the Attorney-General**

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RESERVED JUDGMENT OF YOUNG J

[62] There is one other general point which I should mention. It is, I suppose, human nature for some police officers to view an activist such as Dr Small with suspicion – as someone who is on the other side. Of course, some police officers will be more prone to this mind-set than others. Given police responsibilities for security, police officers are perfectly entitled to maintain intelligence files on those who are, or conceivably could be, security threats. Such people may well include political activists. But there is a difference between the police maintaining an interest in political activists (which I accept is legitimate) and the police equating political activism with either the commission of criminal offences or with a sufficient propensity to commit criminal offences to justify the obtaining of search warrants when an offence has been committed. In his closing submissions Dr Small took the view that his freedoms of thought, expression and association and not merely his freedom from unreasonable search had been infringed. Although there was an element of hyperbole in all of this, there is also a sense in which his claims as to this are right. To say that Dr Small's property was searched because he is an activist in what he regards as social justice causes involves some telescoping of the thought processes of the police. But it is nonetheless true. From the point of view of the police, I think that this is the worst aspect of the case.