

OFFICE OF THE
Judicial Conduct Commissioner

4 December 2012

PRIVATE AND CONFIDENTIAL

Mr John Adams
24 Greens Road
RD 2
PALMERSTON NORTH

Dear Mr Adams

Complaint concerning Judge Kenderdine

In your letter to me dated 11 November, you say that you "would appreciate being informed of the definition of judicial retirement". In particular, you wish to know the date upon which Judge Kenderdine surrendered her warrant as a Judge.

I have looked into the position. Judge Kenderdine's original warrant as a District Court Judge, with Environment Court responsibilities, expired on 6 August 2006. She retired on that date. She was appointed as an acting District Court judge and an alternate Environment Judge the following day, 7 August 2006, for a period of two years. When that period expired, on 6 August 2008, she was re-appointed to the same position for a further – and final – two years. That period expired on 6 August 2010.

A Judge's warrant to serve is always for a finite period. When that period expires, the warrant automatically expires. (And if a Judge retires early, then the warrant expires with the date of retirement.)

I see from your original complaint that the Environment Court hearings into the Turitea Wind Farm Proposal began on 6 July 2009 and ended on 30 March 2010. It follows that Judge Kenderdine did hold a warrant during that period, when she was presiding over those hearings. Her final warrant continued until 6 August 2010, when her period in office finally came to an end.

She was thus not in office when the final report and decision of the Environment Court was released in September 2011. (I mention this point for completeness, as it is not determinative of the issue about my jurisdiction.)

You lodged your complaint with my Office on 11 January this year. By that time, Judge Kenderdine's final term of office had expired some 17 months earlier, on 6 August 2010.

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As I have mentioned previously, I have no jurisdiction to entertain a complaint where "the person who is the subject of the complaint is no longer a Judge." That passage occurs in section 16 (1) (g) of the Act under which I operate. (The Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004). In those circumstances, I am required to dismiss the complaint. The legislative policy is that a person who has been a Judge should not be pursued into his or her retirement.

So by the time that you lodged your complaint with my Office, it is clear that Judge Kenderdine was "no longer a Judge". She had retired and she no longer held a warrant. And thus I have no jurisdiction.

I hope this answers your inquiry.

Yours sincerely

David Gascolgne

Sir David Gascolgne, KNZM
Judicial Conduct Commissioner