

Imprisoned lecturer

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wins compensation

A FORMER Newcastle University lecturer who was wrongfully imprisoned for 56 days had his damages award increased last week from 2c to \$75,000.

The NSW Court of Appeal ordered the damages be paid by Mr Keith Butterworth, the then magistrate who issued the 1982 warrant for the arrest and imprisonment of Dr Michael Spautz.

The court found that because of a "defect in the Act", then applicable, no warrant could legally be issued to enforce an order that Dr Spautz be jailed for 200 days if he did not pay legal costs of \$5000.

"There simply was no punishment by way of imprisonment assigned by law for non-payment of the sum Dr Spautz was ordered to pay," the court said.

Dr Spautz appealed against the false imprisonment 2c award made by Justice Peter Young in April 1993.

The long-running legal saga began in 1978 when Dr Spautz accused a colleague of plagiarism, leading to an inquiry and Dr Spautz's dismissal in May 1980.

The next year he laid information at Cessnock Local Court, charging the colleague with criminal defamation.

But in June 1982, a magistrate dismissed the charge and ordered Dr Spautz to pay \$5000 costs within three months or default and spend 200 days in jail.

When he did not pay, Mr Butterworth — then a magistrate — issued a warrant of committal in respect of the order made by

the other magistrate. But Dr Spautz, who spent 56 days in jail, said his imprisonment was illegal and claimed damages in the Supreme Court.

While it was found that the first magistrate validly made the costs-jail order, no warrant could legally be issued to enforce the order because of the Act defect. This was because the Act referred to criminal matters, not orders for costs.

Justice Young assessed damages at \$9400, but reduced it to 2c, the maximum amount applicable by the then law if certain circumstances were proved.

Those circumstances included that the person was not imprisoned for any longer than the prescribed penalty for the offence — a circumstance the judge found existed. But in the appeal decision, Justice Matthew Clarke said Dr Spautz was never liable for imprisonment as a consequence of his failure to comply with the costs order.

Justice Clarke also found the \$9400 figure to be "so far outside the permissible range of compensatory damages as to be manifestly inadequate".

Taking into account factors, including that Dr Spautz had no criminal record "when he was unceremoniously cast into a prison in which he was to remain for 56 days", Justice Clarke said the appropriate award was \$75,000.

Mr Butterworth would not comment.