

IN THE SUPREME COURT OF NEW ZEALAND

[2016] NZSC 5

BETWEEN JOHN KENNETH SLAVICH
Applicant

AND THE QUEEN
Respondent

Court: Elias CJ, William Young, Glazebrook, Arnold and O'Regan JJ
Counsel: Applicant in person
Judgment: 10 February 2016

JUDGMENT OF THE COURT

The application for recall is dismissed.

REASONS

[1] Mr Slavich seeks a recall of our judgment of 18 December 2015 in which we dismissed two applications for leave to appeal which he had filed in relation to two Court of Appeal decisions.¹ The Registrar had rejected the applications for want of jurisdiction² and Arnold J upheld this decision.³ Mr Slavich sought to review the judgment of Arnold J. For the reasons explained in the 18 December judgment, we determined that there was no jurisdiction to entertain the two proposed appeals and, on this basis, dismissed the applications.⁴

¹ *Slavich v R* [2015] NZSC 195.

² The 18 December judgment addressed an application dated 14 October 2015 challenging the Registrar's decision relating to one of the leave applications. Mr Slavich says that he challenged the decision of the Registrar in relation to the other leave application by way of application dated 15 October 2015. We do not have a copy of that application. Whether such an application was filed is of no moment as our 18 December judgment was directed not to applications to review the Registrar's decision and the subsequent decision of Arnold J but rather the original applications for leave to appeal.

³ *Slavich v R* [2015] NZSC 174.

⁴ At [3]—[5] and [10].

[2] We have considered Mr Slavich’s submissions. They seem to proceed on the basis that we wrongly categorised the decisions which were challenged as the dismissal of recall applications, a contention which we reject.⁵ His submissions do not engage with our reasons for concluding that there is no jurisdiction to entertain the proposed appeals and there is nothing in them to cause us to doubt the correctness of that conclusion.

[3] Therefore, the application for recall is dismissed.

⁵ He claims that there “was no issue before this Court about a decision not to Recall. The issue was about a decision by the CoA to not consider the facts and issues properly put to them about Heath J’s legal error and his decision to refuse to consider a Recall because of his lack of jurisdiction”. He also seeks to categorise the judgment of Heath J as addressed to an allegation of contempt of court and suggests that, as an unsuccessful accuser, he should have a right of appeal. These arguments are misconceived. The judgment of Heath J was that he would not recall his earlier judgment. If a right of appeal exists, it is in relation to the judgment and not the reasons. There is no right of appeal in respect of such a judgment refusing a recall application; this is so even if the judge’s reason for the conclusion reached is that there is no jurisdiction. As well, there is nothing on the face of Heath J’s judgment which suggests that the proceedings were in the nature of a prosecution for contempt of court. Plainly they were not: *Slavich v New Zealand Police* HC Hamilton CIV-2006-419-89, 13 December 2011.