

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 45/2020
[2020] NZSC 70

BETWEEN	GEORGINA RACHELLE Applicant
AND	TIM CADOGAN First Respondent
AND	LYNE MCFARLANE Second Respondent
AND	BERN SCURR Third Respondent
AND	ALLWASTE CROMWELL DISPATCH/TROJAN HOLDINGS COMPANY Fourth Respondent
AND	STEVE GEE Fifth Respondent

Court: Glazebrook, Ellen France and Williams JJ

Counsel: Applicant in person

Judgment: 24 July 2020

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B There is no order as to costs.**
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REASONS

Introduction

[1] Ms Rachelle filed a claim in the District Court seeking damages of \$200,000 from the respondents.¹ The claim was struck out by Judge Hunt on 13 May 2020.

[2] By minute of 12 June 2020, Dunningham J determined that Ms Rachelle's notice of appeal to the High Court against the District Court decision was an abuse of process and should be struck out under r 5.35B of the High Court Rules 2016.² Dunningham J said that the notice of appeal did not focus on the law relating to strike-out decisions. Nor did it attempt to identify a specific error in the way the District Court applied the law. Rather, Ms Rachelle appeared to think that the appeal would allow a substantive hearing of her alleged grievances. Dunningham J considered that there were, however, problems with Ms Rachelle's substantive claim which would need to be "fundamentally revisited".³ Dunningham J noted that Ms Rachelle was "entirely resistant" to the suggestion she revisit the claim.⁴

[3] Ms Rachelle seeks leave to appeal against Dunningham J's decision.

Ms Rachelle's application to this Court

[4] Ms Rachelle says she wishes to continue her case relying on the Human Rights Act 1993 and her right to freedom of speech. She suggests that the strike-out ignores the reality of what has occurred. She also contends that her proceedings were struck out before there was an opportunity for mediation and argues that the strike-out orders are "inhuman" and go against the Central Otago District Council's code of conduct.⁵ Ms Rachelle also maintains that there has been harassment and bullying and that the Courts below ignored the evidence she put forward.

¹ The claims are set out in *Rachelle v Cadogan* [2020] NZDC 8374 (Judge Hunt) at [25]–[54].

² *Rachelle v Cadogan* HC Invercargill CIV-2020-425-000027, 12 June 2020.

³ At [16].

⁴ At [16].

⁵ All of the named defendants in Ms Rachelle's notice of appeal are employees or contractors of the Central Otago District Council, including the mayor (the first respondent). It is not entirely clear from Ms Rachelle's Notice of Appeal if she now also intends to make the Central Otago District Council a respondent to these proceedings, but we note the Council was not named as a party in the Courts below.

Our assessment

[5] The issues Ms Rachelle seeks to raise are related to the particular facts of her case. The principles relating to strike-out are well settled and were applied by both the District Court and the High Court. No point of general or public importance arises. Further, nothing raised by Ms Rachelle suggests any risk of a miscarriage of justice.⁶ The criteria for leave are not met.⁷

[6] In addition, there are no exceptional circumstances pursuant to s 75 of the Senior Courts Act 2016 to justify a direct appeal to this Court from the High Court decision.

Result

[7] The application for leave to appeal is dismissed.

[8] As the respondents filed no submissions, there is no order as to costs.

⁶ In the sense required in civil cases. See *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369 at [4]–[5]; and *Shell (Petroleum Mining) Co Ltd v Todd Petroleum Mining Co Ltd* [2008] NZSC 26, (2008) 18 PRNZ 855 at [4].

⁷ Senior Courts Act 2016, s 74(2).