

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

**SC 84/2018
[2018] NZSC 108**

BETWEEN PETER RICHARD PRESCOTT
 Applicant

AND DISTRICT COURT AT NORTH SHORE
 First Respondent

 MALCOLM DENMEAD
 Second Respondent

Court: William Young, O'Regan and Ellen France JJ

Counsel: Applicant in person
 N A Speir for Second Respondent

Judgment: 19 November 2018

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B The applicant is to pay costs of \$2,500 to the second respondent.**
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REASONS

[1] Mr Prescott seeks leave to appeal against a decision of Clifford J declining his application for review of the decision of Deputy Registrar McGrath to dispense with security for costs.¹

[2] The application for leave to appeal has its genesis in an attempt, in mid-December 2016, by Mr Prescott to commence a private prosecution against the

¹ *Prescott v District Court at North Shore* [2018] NZCA 385.

second respondent, Mr Denmead.² Mr Denmead was one of two Auckland Council officers involved in an incident arising out of inquiries into an alleged breach of Council bylaws. The charging documents were rejected for filing by Judge Down in the District Court.³ Mr Prescott, who is self-represented, successfully sought judicial review of that decision and Paul Davison J remitted the private prosecution documentation to the District Court for reconsideration.⁴ The Judge subsequently declined to award costs to Mr Prescott.⁵

[3] Mr Prescott has appealed that decision to the Court of Appeal. Security for costs was set on the appeal at \$6,600 and Mr Prescott applied for dispensation under r 35(6)(c) of the Court of Appeal (Civil) Rules 2005. The Deputy Registrar declined to dispense with security for costs and Clifford J declined to review that decision.

[4] The focus of Mr Prescott's submissions is on the merits of his substantive appeal against the decision not to award him costs in the High Court as a self-represented litigant. Mr Prescott does not seek to challenge the principles applied by Clifford J in declining to review the Deputy Registrar's decision. Those principles were set out in *Reekie v Attorney-General* and were applied by Clifford J in the present case.⁶ No question of general or public importance accordingly arises out of the approach to the application for dispensation and there likewise is no appearance of a miscarriage of justice.⁷

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

[6] The applicant is to pay costs of \$2,500 to the second respondent.

Solicitors:

Crown Law Office, Wellington for First Respondent
Rice Speir, Auckland for Second Respondent

² The first respondent abides the decision of the Court on the application for leave.

³ *Prescott v Denmead* DC North Shore, 27 January 2017.

⁴ *Prescott v District Court at North Shore* [2017] NZHC 2828, [2018] NZAR 307.

⁵ *Prescott v District Court at North Shore* [2018] NZHC 485.

⁶ *Reekie v Attorney-General* [2014] NZSC 63, [2014] 1 NZLR 737.

⁷ *Junior Farms Ltd v Hampton Securities Ltd (In liq)* [2006] NZSC 60, (2006) 18 PRNZ 369 at [4]-[5].