



Supreme Court of New Zealand

8 November 2011

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

Vincent Ross Siemer v Michael Richard Heron and Others
(SC 6/2011)
[2011] NZSC 133

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

Mr Siemer brought a proceeding in a District Court. He was ordered to give security of \$20,000. He appealed to the High Court against that order. The High Court itself made an order that he must pay \$800 by way of security for costs on the appeal. On Mr Siemer's failure to do so by the date fixed by the High Court (as extended), his appeal to that Court was treated as abandoned under s 74(2) of the District Courts Act 1947. Mr Siemer then purported to bring an appeal against the High Court's security for costs order, first to the Court of Appeal and ultimately to the Supreme Court.

The issues in the appeal were whether a right of appeal to the Court of Appeal existed in relation to the High Court's order under s 66 of the Judicature Act 1908 and, if so, whether any appeal was validly brought.

The Supreme Court has unanimously dismissed the appeal. Four of the Judges have held that a right of appeal existed under s 66 but that it was not validly exercised because, by the time that Mr Siemer took any step which could be regarded as the bringing of an appeal, s 74(2) had operated to deem his underlying appeal to the High Court to be abandoned. The fifth Judge has concluded that no right of appeal against an interlocutory order in an appeal from a District Court is conferred by s 66 but that, in agreement with the other Judges, any appeal right would in any event have ceased to exist under the operation of s 74(2).

Contact person: Gordon Thatcher, Supreme Court Registrar (04) 914 3545