

IN THE SUPREME COURT OF NEW ZEALAND

SC 48/2012  
[2012] NZSC 66

BETWEEN	BENJAMIN MORLAND EASTON Applicant
AND	GOVERNOR-GENERAL Respondent

Court: Tipping, McGrath and Chambers JJ

Counsel: Applicant in Person  
D N Soper for Respondent

Judgment: 2 August 2012

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed with costs of \$2,500 to the respondent.**

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**REASONS**

[1] Benjamin Easton brought a claim in the High Court seeking to challenge the Governor-General's assent to the Care of Children Act 2004. His argument was essentially that Parliament erred procedurally in dealing with the Care of Children Bill and purporting to pass it into law. He said that the Act therefore was "invalid". There was also a claim that the Governor-General had unlawfully dealt with a claim for the exercise of the prerogative of mercy. The Governor-General successfully applied to have the claim struck out on the basis that it disclosed no reasonably arguable cause of action.<sup>1</sup>

[2] Mr Easton has appealed to the Court of Appeal. He sought a waiver of the filing fee on the basis that the appeal raised "a matter of public interest". The Deputy Registrar declined the application. Wild J declined Mr Easton's review of

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<sup>1</sup> *Easton v Governor-General* [2012] NZHC 206.

the Deputy Registrar’s decision, finding that she “was correct to treat the appellant’s claim against the Governor-General as hopeless” and holding that there could not be “any public interest in pursuing a hopeless case on appeal”.<sup>2</sup>

[3] Mr Easton now seeks leave to appeal from Wild J’s decision. The proposed appeal against Wild J’s decision has no chance of success. It does not involve “a matter of general or public importance”.<sup>3</sup> Nor will a substantial miscarriage of justice occur if leave is declined.<sup>4</sup> Mr Easton can after all continue with his appeal to the Court of Appeal if he pays the filing fee immediately and pays security for costs (unless waived by the Court of Appeal Registrar).

[4] Accordingly, we are not satisfied it is necessary in the interests of justice for this Court to hear and determine the proposed appeal. We dismiss the application. We order Mr Easton to pay costs to the Crown, which was put to expense in having to file submissions opposing the ground of leave.

Solicitors:  
Crown Law Office, Wellington for Respondent

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<sup>2</sup> *Easton v Governor General* [2012] NZCA 192 at [6].

<sup>3</sup> Supreme Court Act 2003, s 13(2)(a).

<sup>4</sup> Section 13(2)(b).