NOTE: ORDER MADE BY COURT OF APPEAL PROHIBITING PUBLICATION OF NAME AND IDENTIFYING PARTICULARS OF PROPOSED WITNESS CW PENDING ANY FURTHER ORDER OF THE HIGH COURT REMAINS IN FORCE.

NOTE: INTERIM HIGH COURT ORDER SUPPRESSING THE NAME AND IDENTIFYING PARTICULARS OF THE APPLICANT REMAINS IN FORCE.

IN THE SUPREME COURT OF NEW ZEALAND

SC 128/2016 [2017] NZSC 26

BETWEEN Y

Applicant

AND THE ATTORNEY-GENERAL

Respondent

Court: Arnold, O'Regan and Ellen France JJ

Counsel: S M Cooper for Applicant

K P McDonald QC and C A Griffin for Respondent

Judgment: 7 March 2017

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.
- B We make no award of costs.

REASONS

[1] This is an application for leave to appeal against a decision of the Court of Appeal.¹ In that decision, the Court of Appeal dismissed an appeal against a decision of the High Court² declining an application by the applicant for suppression of the names and identifying particulars of witnesses who were to give evidence for

¹ Y v Attorney-General [2016] NZCA 474, [2016] NZAR 1512 (Stevens, Wild and Winkelmann JJ) [Y v Attorney-General (CA)].

² Y v Attorney-General [2015] NZHC 844 (Brown J).

the applicant in his civil claims against the Crown. Those claims relate to allegations

of abuse and ill-treatment suffered while in the care of the Ministry of Social

Development. An exception was made in relation to one witness (referred to in the

Court of Appeal judgment as "CW") in respect of whom the Court of Appeal made a

suppression order.³

[2] The Court has been informed that the underlying proceeding has been settled,

and that there will therefore be no trial. The applicant asks that the application for

leave to appeal nevertheless be advanced, and argues that leave is appropriate

because the Court of Appeal decision raises issues of importance and the fact that

that Court was divided shows that these issues are arguable. We do not consider it is

appropriate to give leave in these circumstances. The interim suppression order was

made pending the trial, but there will now be no trial.

[3] We therefore formally dismiss the application for leave to appeal.

[4] The respondent did not file submissions on the application. In those

circumstances, we make no award of costs.

Solicitors:

Cooper Legal, Wellington for Applicant

Crown Law Office, Wellington for Respondent

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Y v Attorney-General (CA), above n 1.