

**NOTE: PUBLICATION OF NAMES OR IDENTIFYING PARTICULARS OF
COMPLAINANTS PROHIBITED BY S 139 OF THE CRIMINAL JUSTICE
ACT 1985.**

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

**SC 95/2019
[2019] NZSC 127**

BETWEEN NICHOLAS PAUL ALFRED REEKIE
 Applicant

AND CLAIMANTS A & B
 Respondents

Court: Winkelmann CJ, O'Regan and Ellen France JJ

Counsel: Applicant in person
 No appearance for Respondents

Judgment: 18 November 2019

Reissued: 23 December 2019

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] In a judgment delivered on 29 August 2019, the Court of Appeal declined to grant Mr Reekie an extension of time to file his case on appeal.¹ The Court also declined to make a direction to the Department of Corrections (Corrections) to

¹ *Reekie v Claimants A & B* [2019] NZCA 398 (Clifford & Wild JJ) [CA judgment].

remove limits on Mr Reekie communicating with claimant A. Mr Reekie seeks leave to appeal from the judgment of the Court of Appeal with a particular focus on the failure of the Court of Appeal to issue the direction sought.

Background

[2] In early 2016, Mr Reekie and Corrections settled a claim made by Mr Reekie about a breach of the Privacy Act 1993. As part of the settlement, Corrections agreed to pay Mr Reekie \$1,350 to be held by the Secretary of Justice to be dealt with in accordance with the Prisoners' and Victims' Claims Act 2005 (the Act).

[3] Claimants A and B made claims under the Act on the basis they were victims of Mr Reekie as envisaged by the Act.² The claim was referred to the Victims' Special Claims Tribunal. The Tribunal found exemplary damages were available and awarded \$25,000 to each claimant.

[4] Mr Reekie's appeal to the High Court against the Tribunal's decision was successful.³ The Court accepted the claim had not been served on Mr Reekie and that this was a breach of natural justice. Moore J however rejected Mr Reekie's submission the claims should be struck out or that the Judge should substitute his own decision. Instead, the matter was referred back to the Tribunal for rehearing, while giving some guidance on the approach to be taken to the assessment of damages. It is the decision of Moore J that Mr Reekie sought to challenge in the Court of Appeal. However, Mr Reekie did not comply with the relevant time frames in the Court of Appeal (Civil) Rules 2005 for the filing of his case on appeal. He sought an extension of time to meet the requirements of the Rules.

[5] In its decision, the Court of Appeal recorded that Mr Reekie sought an extension of time to file his case on appeal to enable him to meet with claimant A to try to settle the claim.⁴ The Court of Appeal took the view that, although "well

² Moore J set out the process envisaged by the Act: *Reekie v Claimants A and B* [2018] NZHC 2434 [HC judgment] at [10]–[14].

³ HC judgment, above n 2.

⁴ Mr Reekie says he has settled the claim with claimant B.

intentioned” in seeking an extension, Mr Reekie essentially had to progress the appeal which by then had been afoot for some six months.⁵

The proposed appeal

[6] Mr Reekie wants to argue that the delay in proceeding with the appeal is mostly beyond his control, well explained and is justified. On this basis he says that an extension should have been granted. His underlying proposition is that it would have been pointless to move the appeal along to a hearing when, on his account, it seems likely that the matter can be settled. But he says that he cannot try to bring about the settlement because of delays he attributes to Corrections. (Mr Reekie’s case is that Corrections is “dragging its feet” and so preventing him from making the necessary arrangements to meet with claimant A.) In addition, Mr Reekie wishes to argue that the Court should have made the direction to Corrections that he sought. Finally, he has some criticisms of specific passages in the Court of Appeal judgment. To take one example of these criticisms, he challenges the Court’s description of what the registry had been told by Dr Gardner, who had represented the claimants before the Tribunal, about the position of the claimants.⁶

[7] The proposed appeal does not raise any question of general or public importance.⁷ Rather, the challenge is fact-specific. Nor does anything raised by Mr Reekie give rise to a risk of a miscarriage of justice if the appeal is not heard.⁸ Finally, the question whether the direction should have been issued to Corrections seems to have insufficient prospects of success to justify an appeal to this Court.

Result

[8] For these reasons, the application for leave to appeal is dismissed. The respondents have not participated and therefore there is no order as to costs.

⁵ CA judgment, above n 1, at [8]. The appeal had been lodged some months earlier but there was an issue about the jurisdiction to hear the appeal which held up its acceptance for filing.

⁶ The Court of Appeal said that Dr Gardner expressed the view the claimants’ wanted their claims reheard by the Tribunal: at [9]. The Court said that it could not resolve the conflict on this point but did not need to do so anyway: at [9]. Mr Reekie doubts Dr Gardner represents the claimants.

⁷ Senior Courts Act 2016, s 74(2)(a).

⁸ Senior Courts Act, s 74(2)(b); and *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369.