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IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

**SC 126/2019
[2019] NZSC 151**

BETWEEN DAVID STANLEY TRANTER
 Applicant

AND CHIEF EXECUTIVE OF THE
 DEPARTMENT OF CORRECTIONS
 Respondent

Court: Glazebrook, O'Regan and Williams JJ

Counsel: Applicant in person
 No submissions sought from Respondent

Judgment: 19 December 2019

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Mr Tranter seeks leave to appeal against the decision on 22 October 2019 of Brown J directing the Registrar of the Court of Appeal not to accept Mr Tranter's notice of appeal¹ for filing on the basis that "it is not a proper application for habeas corpus but a further attempt to use the procedure for a purpose for which it was not designed".

¹ This appears to have been against the decision of Clark J: *Tranter v Chief Executive of the Department of Corrections* [2019] NZHC 2417 [Clark J decision].

Background

[2] On 24 September 2019 Clark J dismissed Mr Tranter's application for habeas corpus. This was on the basis that this was his fourth application for habeas corpus raising substantially the same grounds as had been advanced in the previous applications. This meant the application offended s 15 of the Habeas Corpus Act 2001.²

[3] The first of these applications was dismissed by Nation J on 12 January 2016.³ On 22 June 2016 the Court of Appeal declined Mr Tranter's application for an extension of time to appeal against that decision.⁴ The second application was dismissed by Nicholas Davidson J on 16 April 2018.⁵ The third application was dismissed by Mallon J on 24 October 2018.⁶

[4] Clark J noted that the matters Mr Tranter seeks to raise should be addressed via the appeal process or pursuant to an application under s 406 of the Crimes Act 1961 (the prerogative of mercy).⁷ The application also offended against s 14(2)(b) of the Habeas Corpus Act in that Mr Tranter was wrongfully attempting to deploy habeas corpus as means of being released on bail.⁸ Finally, the application was contrary to s 14(2)(a) of the Habeas Corpus Act in that Mr Tranter was attempting to call into question his conviction by a court of competent jurisdiction.⁹

² At [3].

³ *R v Tranter* HC Christchurch CIV-2016-409-003, 12 January 2016 (Nation J).

⁴ *Tranter v Chief Executive of the Department of Corrections* [2016] NZCA 281 (Ellen France P, Randerson and Winkelmann JJ).

⁵ *Tranter v R* [2018] NZHC 681 (Nicholas Davidson J). The Judge considered the application was substantially the same as the one before Nation J despite the possibility of Mr Tranter having obtained further documents: at [9].

⁶ *Tranter v Executive Director of Department of Corrections* [2018] NZHC 2764 (Mallon J).

⁷ Clark J decision, above n 1, at [17].

⁸ At [18].

⁹ At [19].

Our assessment

[5] The grounds for leave to appeal are not made out.¹⁰ As the courts below have repeatedly said, the application for habeas corpus is misconceived and in any event falls foul of s 15 of the Habeas Corpus Act.¹¹

Result

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

¹⁰ Senior Courts Act 2016, s 74.

¹¹ This applies even if Mr Tranter was in fact attempting to appeal directly to this Court from Clark J's decision. It was not entirely clear if this was the case as he refers to a decision of the Court of Appeal of 24 September 2019 (the date of Clark J's High Court judgment). We note that, had the application concerned Clark J's decision, the hurdle would be even higher: Senior Courts Act, s 75.