

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 48/2020
[2020] NZSC 85

BETWEEN PAULINE JANICE HARRISON
Applicant

AND ADRIENNE HARRISON
First Respondent

GRAEME ROSS HARRISON
Second Respondent

Court: O'Regan, Ellen France and Williams JJ

Counsel: Applicant in person
P M Webb for Respondents

Judgment: 20 August 2020

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

B There is no order as to costs.

REASONS

[1] The applicant, Ms Pauline Harrison, is an appellant in the Court of Appeal. She is self-represented. Due to health issues, Ms Harrison applied to that Court to appoint her daughter as her litigation guardian in the appeal.¹

[2] Cooper J, exercising the power of a single judge under s 49(3) of the Senior Courts Act 2016, declined the application on the ground that Ms Harrison was not an

¹ See High Court Rules 2016, r 4.35(2). See also Court of Appeal (Civil) Rules 2005, r 5(4).

“incapacitated person” as required by the High Court Rules 2016.² An incapacitated person is a person who:³

... by reason of physical, intellectual, or mental impairment, whether temporary or permanent, is—

- (a) not capable of understanding the issues on which his or her decision would be required as a litigant conducting proceedings; or
- (b) unable to give sufficient instructions to issue, defend or compromise proceedings

[3] The Judge considered Ms Harrison satisfied neither of those alternative grounds. The medical certificates provided in support indicated that she was not fit to attend court hearings in person and that undue stress would not be in the best interests of her health, but did not suggest she was unable to understand the issues or give sufficient instructions. The Judge also noted that while Ms Harrison had been admitted to the coronary care unit at Christchurch Hospital in January 2020, she subsequently signed a lengthy notice of appeal in early February.⁴

[4] Ms Harrison then applied to review the Judge’s decision. A panel of three judges declined that application.⁵ The Court agreed with Cooper J that there was no suggestion on the documents provided that Ms Harrison was incapable of understanding the issues or giving instructions.⁶

[5] Ms Harrison now applies for leave to appeal that decision to this Court. She submits that her right to access civil justice has been denied. She also makes reference to various provisions of the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993, the International Covenant on Civil and Political Rights, the Convention on the Rights of Persons with Disabilities, and the rule of law.

² High Court Rules, r 4.35(2). Ms Harrison made two applications, the second being a renewal of her first application with additional information. Both were declined: *Harrison v Harrison* CA57/2020, 28 February 2020 (Cooper J) [First Minute]; and *Harrison v Harrison* CA57/2020, 1 May 2020 (Cooper J) [Second Minute].

³ High Court Rules, r 4.29 definition of “incapacitated person”.

⁴ First Minute, above n 2, at [5]; and Second Minute, above n 2, at [5].

⁵ *Harrison v Harrison* [2020] NZCA 189 (French, Brown and Clifford JJ).

⁶ At [10].

[6] We do not consider the proposed appeal to this Court involves a matter of general or public importance, or that a substantial miscarriage of justice may have occurred.⁷ The Court of Appeal applied the definition of “incapacitated person” and nothing Ms Harrison has raised suggests that the Court erred in its decision. It follows that it would not in any event be in the interests of justice to hear the proposed appeal before the substantive Court of Appeal proceeding is concluded.⁸

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

[8] In the circumstances, we make no order as to costs.

Solicitors:
Denham Bramwell, Auckland for Respondents

⁷ Senior Courts Act 2016, s 74(2)(a) and (b).

⁸ Section 74(4).