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**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI**

**SC 85/2021  
[2021] NZSC 177**

BETWEEN C (SC 85/2021)  
Applicant

AND THE QUEEN  
Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: Applicant in person  
T R Simpson for Respondent

Judgment: 10 December 2021

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**JUDGMENT OF THE COURT**

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**The application for an extension of time to apply for leave to appeal is dismissed.**

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**REASONS**

[1] The applicant was found guilty after a jury trial on three charges of assaulting her daughter. Two of these were representative charges. She had earlier pleaded guilty to a fourth charge of assault, also against her daughter. The offending spanned a period of approximately six years, when the daughter was between three and nine years old.

[2] The applicant sought a discharge without conviction under s 106 of the Sentencing Act 2002 when she came up for sentence. However, the trial Judge declined that application and sentenced her to 12 months' supervision.<sup>1</sup>

[3] The applicant appealed against that decision to the Court of Appeal, but that appeal was dismissed.<sup>2</sup>

[4] The applicant now applies for an extension of time to seek leave to appeal against the decision of the Court of Appeal. The decision of the Court of Appeal was delivered on 22 September 2020, but the application for leave to appeal to this Court was not filed until 27 July 2021, some nine months out of time.<sup>3</sup> The applicant does not give any convincing explanation for the delay in filing her application for leave, simply noting that the sentence of 12 months' supervision did not afford her much opportunity to seek leave to appeal.

[5] The respondent opposes the extension of time, firstly, on the basis that the delay has not been adequately explained and secondly, on the basis that there is no proper foundation for the grant of leave to appeal.

[6] It is clear that the applicant's objective is to remove the conviction from her criminal history to remove an impediment to her working as a social worker. Section 28 of the Children's Act 2014 provides that a core worker convicted of a specified offence must not be employed or engaged by a specified organisation unless he or she is granted an exemption under s 35. The applicant's offences are specified offences. The Court of Appeal did not consider this provided a persuasive ground for the grant of a discharge without conviction, because a s 35 exemption would, if granted, allow a potential employer to look beyond the mere fact of a conviction and employ the convicted person if satisfied they would not pose an undue risk to the safety of children.<sup>4</sup>

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<sup>1</sup> *R v [C]* [2020] NZDC 9249 (Judge Collins) [DC judgment].

<sup>2</sup> *C (CA210/2020) v R* [2020] NZCA 443 (Clifford, Woolford and Dunningham JJ) [CA judgment]. The applicant's name was anonymised in the Court of Appeal's judgment (at [1], n 1) and we have done the same for the reason given by the Court of Appeal.

<sup>3</sup> The applicant subsequently filed submissions and other materials in support of her application, the most recent of which was filed in November 2021.

<sup>4</sup> CA judgment, above n 2, at [23]–[25].

[7] A similar argument had been rejected by the District Court Judge. There, the focus was on the effect of a conviction on the ability of the applicant to become registered as a social worker. The Judge considered that that was a decision that should be made by the Social Workers Registration Board, not by the Court.<sup>5</sup>

[8] The applicant notes that she now has custody of her daughter and they have been living together happily for three years. She recounts that she went through various courses relating to anger management and parenting skills, and that she has now rehabilitated herself. She notes that she could earn more as a social worker than she does in her current employment.

[9] We do not see this case as raising any matter of general or public importance.<sup>6</sup> Rather, the points raised by the applicant are factual matters that are personal to her. Nor do we see any appearance of a miscarriage of justice in the way the case has been dealt with in the District Court and Court of Appeal.<sup>7</sup> In these circumstances, there is no proper basis for the grant of leave.

[10] That being the case, there is no point in granting an extension of time to apply for leave to appeal. We therefore dismiss the application for an extension of time for leave to appeal.

Solicitors:  
Crown Law Office, Wellington for Respondent

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<sup>5</sup> DC judgment, above n 1, at [12]–[13].

<sup>6</sup> Senior Courts Act 2016, s 74(2)(a).

<sup>7</sup> Section 74(2)(b).