

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 72/2021  
[2021] NZSC 91

BETWEEN

TAIMING ZHANG  
Applicant

AND

DISTRICT COURT AT WELLINGTON  
Respondent

Court: William Young and Williams JJ

Counsel: Applicant in person

Judgment: 26 July 2021

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JUDGMENT OF THE COURT

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

**B The application for leave to appeal is dismissed.**

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REASONS

**Introduction**

[1] The applicant sought to file charging documents in the District Court in order to pursue proposed private prosecutions. The charging documents were not accepted for filing by the District Court on the basis the evidence provided was not sufficient to justify a trial.<sup>1</sup> The applicant then sought to present documents for filing in the High Court seeking judicial review of the decisions of the District Court. The Registrar of the High Court did not accept the documents for filing. The applicant sought a review

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<sup>1</sup> *Zhang v Kibblewhite* DC Wellington, 18 January 2021 (Judge Hastings); and *Zhang v Wojcicki* DC Wellington, 18 January 2021 (Judge Hastings).

of that decision. The proceedings were referred to Isac J. The Judge struck out both claims as an abuse of process.<sup>2</sup> The applicant now seeks leave to appeal out of time directly to this Court from the decision of the High Court.

## **Background**

[2] The first of the proposed private prosecutions was based on allegations that the Chief Executive Officer of YouTube committed murder and manslaughter arising from the removal of a video about COVID-19 from YouTube. The second of the proposed private prosecutions reflected allegations that the Secretary for Justice had conspired to defeat the course of justice. This alleged offence related to the rejection by a court registry officer of an electronic evidence bundle. The applicant says this reflects a more systemic issue which is inconsistent with the Evidence Act 2006.

## **The proposed appeal**

[3] The applicant's case is that there was no proper basis for striking out the claims, both of which, it is said, complied with the High Court Rules 2016.

[4] As the applicant wishes to appeal directly to this Court, the Court must be satisfied both that it is necessary in the interests of justice for the Court to hear and determine the appeal and that there are exceptional circumstances that justify a direct appeal.<sup>3</sup> The applicant says the proposed appeal meets this threshold essentially because the underlying case, that is, the private prosecutions he wishes to pursue, have merit and are of substantial public importance. He maintains the lower Courts have mischaracterised the nature of his claims.

## **Our assessment**

[5] The proposed appeal would challenge the application of the High Court Rules dealing with strike-out for abuse of process. The appeal would turn on the Judge's assessment that both claims were so deficient as to be incapable of remedy by repleading. There is no challenge to the principles applied; rather, the challenge is to

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<sup>2</sup> *Zhang v District Court at Wellington* [2021] NZHC 703.

<sup>3</sup> Senior Courts Act 2016, s 75(a) and (b).

the outcome. That outcome turns on the particular circumstances of this case. No question of general or public importance arises.<sup>4</sup> Nor does anything raised by the applicant give rise to any appearance of a miscarriage of justice.<sup>5</sup> Against this background, we are satisfied the proposed appeal has no prospects of success and there are no exceptional circumstances warranting a direct appeal.

## **Result**

[6] The application for leave to appeal is out of time. There is some explanation for the delay, and given the delay is not lengthy, the application for an extension of time is granted. The application for leave to appeal is dismissed.

[7] We add that the fact the applicant is self-represented does not excuse the intemperate and improper remarks about the judiciary in the materials supporting this application.

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<sup>4</sup> Section 74(2)(a). The other matters the applicant wishes to advance as giving rise to general questions have insufficient prospects of success to warrant a grant of leave.

<sup>5</sup> Section 74(2)(b).