

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 107/2022  
[2022] NZSC 137

BETWEEN ROBERT FRANK TERRY  
Applicant

AND NEW ZEALAND POLICE  
Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: Applicant in person  
H S Cunningham for Respondent

Judgment: 30 November 2022

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**JUDGMENT OF THE COURT**

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

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**REASONS**

[1] The applicant, Mr Terry, was convicted in the District Court of two charges of driving while disqualified and one charge of wilful damage by using a rock to damage a police car.<sup>1</sup> His appeal against conviction and sentence was dismissed by the High Court.<sup>2</sup> Mr Terry now seeks leave to appeal against a judgment of the Court of Appeal dismissing his application to bring a second appeal.<sup>3</sup>

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<sup>1</sup> *R v Terry* [2021] NZDC 13487 (Judge Rielly). He was then sentenced to fines of \$500 and disqualified from driving for six months, as well as ordered to pay reparations and court costs: *R v Terry* [2021] NZDC 16962 (Judge Rielly).

<sup>2</sup> *Terry v R* [2021] NZHC 2838 (Edwards J).

<sup>3</sup> *Terry v New Zealand Police* [2022] NZCA 198 (Cooper, Peters and Palmer JJ).

[2] There is no jurisdiction to appeal to this Court against a Court of Appeal decision declining leave to bring a second appeal.<sup>4</sup>

[3] We comment that, in any event, this proposed appeal would not meet the criteria for leave to appeal,<sup>5</sup> and in particular, would not meet the requirements for a direct appeal to this Court from the High Court decision.<sup>6</sup> Nothing raised by Mr Terry would suggest that the Courts below erred in their analysis or that there was any risk of a miscarriage of justice.

## **Result**

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

Solicitors:  
Crown Law Office, Wellington for Respondent

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<sup>4</sup> Senior Courts Act 2016, s 71; Criminal Procedure Act 2011, s 213(3); and *Rangihuna v R* [2022] NZSC 1 at [6]–[7].

<sup>5</sup> Senior Courts Act, s 74(2).

<sup>6</sup> Senior Courts Act, s 75. Such an application would in any event be some 11 months out of time.