

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC UR 20/2022

[2023] NZSC 1

RE

CATHERINE ANNE SIXTUS  
Applicant

Counsel: Applicant in person

Judgment: 1 February 2023

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JUDGMENT OF ELLEN FRANCE J

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**The application for review of the decision of the Deputy Registrar  
declining to waive the filing fee is dismissed.**

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REASONS

**Introduction**

[1] The applicant has applied for leave to appeal from a decision of the Court of Appeal dismissing an application to review the Deputy Registrar's decision declining a fee waiver.<sup>1</sup> The notice of application for leave also refers to other decisions including the decision of Cooke J striking out the applicant's statement of claim in the High Court as an abuse of process.<sup>2</sup>

[2] On 11 November 2022, the Deputy Registrar of this Court declined the applicant's application for a waiver of the leave to appeal filing fee of \$1,100. This was for two reasons. First, the Deputy Registrar was not satisfied that the proceeding was unlikely to be continued in the event the fee waiver was declined. The applicant had ticked the box on the form seeking a fee waiver indicating that if the application

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<sup>1</sup> *Sixtus v Ardern* [2022] NZCA 372.

<sup>2</sup> *Sixtus v Ardern* [2022] NZHC 1161.

was refused, she would start or continue with the proceeding anyway. Second, the Deputy Registrar considered the proposed appeal will not determine a question of law of significant public interest. That was because the judgment of Brown J in the Court of Appeal declining to grant the application of the review of the fee waiver decision in that Court raised issues specific to the applicant's application only.

### **The application for review**

[3] The application for review of the Deputy Registrar's decision in this Court canvasses a range of matters to support the proposition that the proposed appeal raises matters of genuine public interest. A consistent theme of the submissions is that the right to petition the King under the Bill of Rights 1688 (Imp) provides a right to petition without being subjected to fees and costs when petitioning the High Court on questions of law.

[4] The ultimate issue before this Court on the proposed appeal would be whether Brown J erred in declining to grant the review of the application for a fee waiver in the Court of Appeal. Having reviewed the material filed by the applicant, I agree with the Deputy Registrar's assessment that the proceeding does not concern a matter of genuine public interest because it turns on its particular facts. That means the Deputy Registrar is correct that there was no basis to grant a fee waiver in this case.<sup>3</sup>

[5] In declining the application for a fee waiver in the Court of Appeal, Brown J made the point, amongst other matters, that whatever the form of the proceeding in the High Court, the process in the Court of Appeal was a notice of appeal which was a matter for which a filing fee was prescribed in the schedule to the Court of Appeal Fees Regulations 2001. Further, I note that if the underlying proceedings had any public interest value, that has well been diminished by the deficiencies that led the High Court to strike out the claims in that Court.

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<sup>3</sup> Because I agree the criterion in reg 5(2)(b)(i) of the Supreme Court Fees Regulations 2003 is not met, it is not necessary to address the other applicable limb in reg 5(2)(b)(ii), namely, whether the proceeding is unlikely to be continued unless the fee is waived.

**Result**

[6] The application for review is dismissed. If the applicant wishes to have the application for leave to appeal accepted for filing, the applicant must first pay the filing fee.