

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 119/2022
[2023] NZSC 13

BETWEEN CHRISTOPHER JOSEPH O'NEILL
Applicant

AND COMMISSIONER OF POLICE
First Respondent

JUDICIAL CONDUCT COMMISSIONER
Second Respondent

CHIEF HIGH COURT JUDGE
Third Respondent

DIRECTOR OF HUMAN RIGHTS
PROCEEDINGS
Fourth Respondent

ATTORNEY-GENERAL
Fifth Respondent

Court: O'Regan, Ellen France and Williams JJ

Counsel: Applicant in person
J B Watson for Fifth Respondent

Judgment: 3 March 2023

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B The applicant must pay the fifth respondent, the Attorney-General, costs of \$2,500.**
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REASONS

[1] The applicant seeks leave to appeal against a decision of the Court of Appeal.¹ In that judgment, the Court of Appeal dismissed the applicant's appeal to that Court against a decision of the High Court striking out a judicial review proceeding brought by the applicant against the Commissioner of Police, the Judicial Conduct Commissioner, the Chief High Court Judge, the Director of Human Rights Proceedings and the Attorney-General.²

[2] The background to the High Court proceeding is set out in the Court of Appeal judgment, and we will not repeat it here.³

[3] The applicant's High Court claim was referred to the High Court Judge by the Registrar under r 5.35A of the High Court Rules 2016. That rule provides that the Registrar may refer plainly abusive proceedings to a judge before they are served. A judge may strike out such a proceeding under r 5.35B(2)(a) of the High Court Rules.

[4] In the present case, the High Court Judge found that the applicant's application for judicial review could fairly be described as abusive; there appeared to be no proper factual basis for his claims and he had not identified any decision to review. She considered he was using the Court's procedures to engage in abuse of the respondents.⁴

[5] The applicant wishes to challenge all aspects of the High Court and Court of Appeal decisions if leave to appeal is granted. However, we do not consider that the criteria for leave to appeal to this Court are met.⁵ In particular, we see no point of public importance arising, given that the decisions of the Courts below are based on the unusual facts of the present case rather than raising any point of principle. Nor do we see any appearance of a miscarriage of justice in the way in which the Court of Appeal dealt with the appeal to that Court.

¹ *O'Neill v Commissioner of Police* [2022] NZCA 501 (Miller, Brewer and Moore JJ) [CA judgment].

² *O'Neill v Commissioner of Police* [2021] NZHC 3362 (Cull J) [HC judgment].

³ CA judgment, above n 1, at [2]–[4].

⁴ HC judgment, above n 2, at [16].

⁵ Senior Courts Act 2016, s 74.

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

[7] The Attorney-General was the only respondent who made submissions in opposition to the grant of leave. The applicant must pay the Attorney-General costs of \$2,500.

[8] The Court of Appeal directed the Registrar of that Court to refer a copy of its judgment to the Solicitor-General for consideration of such further steps as she might consider appropriate, having regard to s 166 of the Senior Courts Act 2016.⁶ We ask the Registrar of this Court to do the same in relation to the present judgment.

Solicitors:
Crown Law Office, Wellington for Fifth Respondent

⁶ CA judgment, above n 1, at [31].