

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 121/2022  
[2023] NZSC 16

BETWEEN

MICHAEL RAWIRI TAIA  
Applicant

AND

AUCKLAND STANDARDS COMMITTEE  
5 AND SOUTHLAND STANDARDS  
COMMITTEE  
Respondents

Court: Glazebrook, O'Regan and Kós JJ

Counsel: T L Hovell for Applicant  
E J McCaughan for Respondents

Judgment: 9 March 2023

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JUDGMENT OF THE COURT

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

**B The applicant must pay the respondents costs of \$2,000.**

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REASONS

[1] Mr Taia, a solicitor, was found guilty of six charges of misconduct, and two of unsatisfactory conduct, by the New Zealand Lawyers and Conveyancers Disciplinary Tribunal in 2017, 2020 and 2022 respectively.<sup>1</sup> Penalties imposed included supervision, censure, suspension, fines and, finally, an order that he be struck off.

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<sup>1</sup> *Auckland Standards Committee 5 v Taia* [2017] NZLCDT 29; *Auckland Standards Committee 5 v Taia* [2020] NZLCDT 39; and *Auckland Standards Committee 5 v Taia* [2022] NZLCDT 17.

[2] In its 2022 decision, the Tribunal observed:<sup>2</sup>

Our current findings of misconduct on two charges arise from a number of grave shortcomings. Our finding of unsatisfactory conduct contributes to our concerns that Mr Taia has a lax approach, lacks candour, and treats the proper interests of clients and regulatory bodies with disdain. These concerns relate to fundamental duties of a member of the legal profession. They would cause concern for members of the public as to character and performance of a practitioner who exhibited such conduct.

Mr Taia's response to these charges (and to the underlying complaints and issues) has been determinedly one of avoidance. He has not engaged with these disciplinary processes in any usefully substantive manner. His energies seem to have been reserved for self-protective purposes. He has not prioritised the needs of clients, let alone regulatory bodies, in a manner that gives us any confidence in his future professional dealings.

...

Threads that emerged in earlier matters have woven into a fabric that reveals his practise as unreliable, insufficiently concerned about his clients, unresponsive and unhelpful. In this case, he left the N's in the lurch and failed to resolve the matter for them. Attempts to scaffold his practise through supervision failed because of his own lack of candour. In short, we find he lacks the essential attributes of honesty, trustworthiness and integrity. We have formed the unanimous view that Mr Taia's conduct demonstrates he is not a fit and proper person to practise as a lawyer.

[3] In July 2022 a notice of appeal was filed in the High Court against all three decisions. At a case management conference on 23 August 2022 Campbell J declined adjournment and directed filing of applications to appeal the 2017 and 2020 decisions out of time and any application for waiver of security for costs by 20 September 2022. Those directions were not complied with.

[4] In October 2022 Powell J extended time for compliance with the first direction (to 25 October 2022), directed security for costs be paid in the sum of \$2,390 by 18 October 2022, and gave further directions as to representation. Powell J was satisfied that it was appropriate for directions to be issued "to ensure that Mr Taia either begins taking substantive steps to prosecute his appeal or it is struck out". An unless order was made in these terms: "In the event that security is not paid as directed [the] appeal will, without further notice or mention in Court, stand dismissed".

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<sup>2</sup> *Auckland Standards Committee 5 v Taia* [2022] NZLCDT 17 at [27], [28] and [34].

[5] The applicant sought to revisit those directions, both formally and informally, without avail. Compliance with the directions did not occur.

[6] On 28 October 2022 Powell J issued a further minute recording that, the applicant having failed to comply with the direction to pay security by 18 October 2022, the appeal had been struck out. He invited a memorandum as to costs from the respondents. In the event, the respondents did not seek costs but, somewhat curiously, the applicant did. That application was in due course declined.<sup>3</sup>

[7] The applicant seeks to appeal directly to this Court against the unless order dismissing the appeal and the decision declining costs. He alleges various procedural deficiencies and in particular asserts that the High Court process was unjust and inconsistent with tikanga, including the applicant's hauora and the role of hui with whānau.

### **Our assessment**

[8] This application raises potential issues as to the jurisdiction of this Court in light of s 254(4) of the Lawyers and Conveyancers Act 2006, which provides the decision of the Court of Appeal on appeal from the High Court is final,<sup>4</sup> and the fact that the High Court proceedings were struck out.<sup>5</sup> Without deciding that jurisdiction question now, we observe that, even if there were jurisdiction for this Court to entertain an application for leave for a leapfrog appeal, leave could not be granted unless the proposed appeals satisfied the leave criteria specified in s 74 of the Senior Courts Act 2016 and met the exceptional circumstances test set out in s 75(1) of the Act. Neither proposed appeal is capable of meeting the latter, s 75 requirement. That makes it unnecessary to consider whether either of the proposed costs appeals is capable of meeting the former, s 74 requirement.

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<sup>3</sup> *Taia v Auckland Standards Committee 5* [2022] NZHC 2911.

<sup>4</sup> See, for example, *Ngati Wahiao v Ngati Hurungaterangi* [2015] NZSC 67, (2015) 22 PRNZ 448; *Vukomanovic v Residence Review Board* [2011] NZSC 15; *J (SC 93/2016) v Accident Compensation Corporation* [2017] NZSC 3; *Mihinui v Attorney-General* [2017] NZSC 155; and *Skagen v Wellington Standards Committee of the New Zealand Law Society* [2022] NZSC 145.

<sup>5</sup> Senior Courts Act 2016, s 69(c): see, for example, *M v Minister of Immigration* [2011] NZSC 154; *Peterson v Attorney-General* [2015] NZSC 154; and *Ceramalus v Chief Executive of the Ministry of Business, Innovation and Employment* [2018] NZSC 26, (2018) 24 PRNZ 8;

[9] It follows the application for leave to appeal direct to this Court must be dismissed. The applicant must pay the respondents costs of \$2,000, being the sum sought.

Solicitors:  
Kayes Fletcher Walker, Manukau for Respondents