

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 22/2023
[2023] NZSC 29

BETWEEN TANYA FELICITY DUNSTAN
Applicant

AND EMMA MARION GIBBS
Respondent

Court: O'Regan, Ellen France and Williams JJ

Counsel: Applicant in person
Respondent in person

Judgment: 5 April 2023

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

B The applicant must pay the respondent costs of \$2,500.

REASONS

Introduction

[1] The applicant has filed a notice of application for leave to appeal from a judgment of the Court of Appeal dismissing her application for review.¹ The application for review related to the Deputy Registrar's decision declining to accept a notice of appeal for filing.

[2] The notice of appeal the applicant sought to file in the Court of Appeal was a challenge to the decision of the High Court of 27 May 2014 making an order that the

¹ *Dunstan v Gibbs* [2023] NZCA 19 (Brown J).

respondent be admitted as a barrister and solicitor.² The applicant was not a party to that decision.

The proposed appeal

[3] In challenging the decision declining review, the applicant wishes to argue that the decision ignores the impact the respondent has had on her in other, unrelated, proceedings. The submissions filed in support of the notice of application also purport to challenge, out of time, the High Court decision to admit the respondent. Amongst other matters, the applicant says the appeal is necessary to restore public confidence in the judicial system to be fair and without bias.³

[4] In declining the application for review, Brown J considered there was no jurisdiction for the Court of Appeal to hear the proposed appeal. Brown J said the Lawyers and Conveyancers Act 2006 made no provision for appeals from orders of the High Court under s 52(4) of that Act admitting a candidate as a barrister and solicitor. In addition, as the Deputy Registrar noted, the applicant was not a party to the proceeding. The Court concluded the Deputy Registrar was accordingly correct to decline to accept the notice of appeal for filing.

[5] The application for leave does not meet the leave criteria.⁴ Nothing raised by the applicant suggests we need to revisit the decision declining to accept her notice of appeal. Nor does any matter raised support the applicant's claim to be joined as a party, particularly given the passage of time.

[6] Nor can the application meet the threshold for a direct appeal to this Court.⁵ There are no exceptional circumstances advanced that would warrant leave.

² *Gibbs v New Zealand Law Society* [2014] NZHC 1141 (Keane J).

³ This submission appears to rely on recusal by a District Court Judge from other proceedings on the basis the respondent was married to another District Court Judge sitting in the same Court.

⁴ Senior Courts Act 2016, s 74(2).

⁵ Section 75.

Result

[7] The application for leave to appeal is dismissed. As the respondent was put to the cost of filing submissions, there will be an order for costs. The applicant must pay the respondent costs of \$2,500.