

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 29/2023
[2023] NZSC 58

BETWEEN TANYA FELICITY DUNSTAN
Applicant
AND NEW ZEALAND POLICE
Respondent

Court: O'Regan, Ellen France and Kós JJ
Counsel: Applicant in person
S K Shaw and M L Clarke-Parker for Respondent
Judgment: 17 May 2023

JUDGMENT OF THE COURT

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

[1] The applicant has applied for leave to appeal to this Court against a decision of the District Court dismissing her claim against the respondent for malicious prosecution.¹ After she filed the application, the Registrar advised her that this Court does not have jurisdiction to consider and determine a direct appeal from the District Court. The application for leave to appeal was therefore not accepted for filing. The applicant sought review of this decision and the Registry therefore accepted her application and referred it to a panel of Judges for resolution.

¹ *Tanya Felicity Dunstan v New Zealand Police* [2023] NZDC 5173.

[2] This Court's jurisdiction is governed by the Senior Courts Act 2016. Section 70 of that Act provides as follows:

70 Appeals against decisions of other courts in civil proceedings

The Supreme Court may hear and determine an appeal against a decision made in a civil proceeding in a New Zealand court other than the Court of Appeal or the High Court to the extent only that an enactment other than this Act provides for the bringing of an appeal against the decision to the Supreme Court.

[3] In the present case there is no enactment other than the Senior Courts Act 2016 that provides for the bringing of an appeal against a decision of the District Court to the Supreme Court. So this Court does not have jurisdiction to hear and determine the proposed appeal and, consequentially, does not have jurisdiction to grant leave for such an appeal.

[4] The application for leave to appeal is therefore dismissed for want of jurisdiction.

[5] The applicant also filed an application that Glazebrook, Williams and Kós JJ recuse themselves from any further cases involving her. The application says that she believes that there is an appearance of bias because six applications for leave to appeal to this Court have been dismissed by panels comprised of those three Judges in 2023.

[6] The fact that Judges have ruled against a litigant in previous cases is not an indication of bias or an indication of an appearance of bias.² So, there is no basis on which the Judges could or should recuse themselves. The applicant seeks an open court hearing to deal with the recusal application. We are satisfied that no such hearing is required.

[7] The application for recusal is therefore dismissed.

[8] The applicant must pay the respondent costs of \$2,500.

Solicitors:
Meredith Connell, Wellington for Respondent

² *Creser v Creser* [2015] NZSC 116 at [6]; *N v M* [2015] NZSC 185 at [4]–[5]; and *Prasad v Indiana Publications (NZ) Ltd* [2018] NZSC 48 at [4], n 4.