

**NOTE: HIGH COURT ORDER PROHIBITING PUBLICATION OF NAME
OR IDENTIFYING PARTICULARS OF [MS D] IN
[2021] NZHC 2080 REMAINS IN FORCE.**

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

**SC 53/2023
[2023] NZSC 94**

BETWEEN D (SC 53/2023)
Applicant

AND N (SC 53/2023) AND OTHERS
(CA431/2022 AND CA452/2022)
Respondents

Court: Ellen France, Williams and Kós JJ

Counsel: Applicant in person
D Jones for Eighth Respondent in CA431/2022
P N Collins for First Respondent in CA452/2022

Judgment: 28 July 2023

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B The applicant must pay costs of \$500 to the New Zealand Law Society (the first respondent in CA452/2022).**
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REASONS

Introduction

[1] The applicant has filed an application for leave to appeal from a judgment of the Court of Appeal delivered on 26 May 2023.¹ In that judgment Goddard J declined an application for review of the Deputy Registrar's decision to proceed to seal draft

¹ [D] v [N] [2023] NZCA 193 [CA judgment].

judgments in the form that had been sent to the parties prior to sealing. The Registrar was directed to proceed to seal the judgments. The sealed judgments related to the judgment of the Court of Appeal delivered on 14 February 2023² and to a later judgment declining recall of the 14 February judgment.³

Background

[2] In the judgment of 14 February 2023, the Court of Appeal dealt with a number of applications by Ms D. Ms D was partially successful in that the Court allowed an appeal against a judgment of Toogood J directing the Registrar not receive certain applications for filing and against orders by Jagose J declining to permit Ms D to file proceedings pursuant to Toogood J's order.⁴ Ms D was, however, unsuccessful in her application for leave to appeal an order of Toogood J striking out a proceeding. The New Zealand Law Society had opposed the latter application and was awarded standard costs in relation to that aspect of the appeal.

[3] In dismissing the application for recall of the 14 February 2023 judgment, the Court of Appeal said that the application largely sought to challenge or relitigate issues determined in the substantive decision. The Court made minor corrections to the judgment under the slip rule. The New Zealand Law Society was awarded standard costs on the recall application.

The proposed appeal

[4] The applicant would challenge the decision relating to the sealed judgments and aspects of the underlying judgments. The proposed appeal would cover a range of matters said to have resulted in erroneous decisions and, on the applicant's case, raising questions of general and public importance.⁵ For example, in relation to the judgment concerning the sealed orders, Ms D says that the Court of Appeal has concealed facts. Ms D would also challenge the award of costs against her on the recall decision. Finally, reference is made to difficulties incurred in relation to ongoing litigation in the High Court.

² [D] v [N] [2023] NZCA 15 (Cooper P, Courtney and Goddard JJ).

³ [D] v [N] [2023] NZCA 112 (Cooper P, Courtney and Goddard JJ) [Recall judgment].

⁴ [D] v *New Zealand Law Society* [2021] NHZC 2080 at [51].

⁵ Senior Courts Act 2016, s 74(2)(a).

[5] We are satisfied that the criteria for leave to appeal are not met. In terms of the proposed appeal from the decision declining review of the Deputy-Registrar’s decision, nothing raised by the applicant gives rise to any questions of general or public importance. Rather, resolution of these matters would turn on the particular combination of facts. Sealed judgments record the orders made by the Court. Goddard J was satisfied that the sealed judgments accurately reflected the orders made in both judgments. We see no error in the approach adopted, which was orthodox.

[6] To the extent that Ms D wishes to challenge aspects of the 14 February 2023 judgment, an application for leave in relation to those judgments has already been declined by this Court.⁶ Nor do the matters raised by Ms D about ongoing litigation in the High Court satisfy the leave criteria.

[7] Finally, in terms of the award of costs against Ms D on the recall application, the Court of Appeal considered costs to the New Zealand Law Society should follow the event. The Court said that the application for recall lacked merit and “put the New Zealand Law Society to the time and expense of responding to it”.⁷ Nothing raised by the applicant suggests a miscarriage of justice arises from that approach.⁸

Result

[8] For these reasons, the application for leave to appeal is dismissed. The applicant must pay costs of \$500 to the New Zealand Law Society (the first respondent in CA452/2022).

Solicitors:

Crown Law Office, Wellington for Eighth Respondent in CA431/2022

G D Smith, New Zealand Law Society, Wellington for First Respondent in CA452/2022

⁶ *[D] v Auckland High Court* [2023] NZSC 57 and an application for recall of that Supreme Court judgment was declined: *[D] v Auckland High Court* [2023] NZSC 78.

⁷ Recall judgment, above n 3, at [11].

⁸ Senior Courts Act, s 74(2)(b); and see *Junior Farms v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369.