

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 125/2021  
[2024] NZSC 138

BETWEEN ANTHONY PRATT KAYE AND MORVA  
KAYE  
Applicants

AND NORRIS WARD MCKINNON  
Respondent

Court: Glazebrook, Ellen France and Kós JJ  
Counsel: Applicants in person  
Judgment: 15 October 2024

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**JUDGMENT OF THE COURT**

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- A The application for recall of this Court’s judgment of 23 April 2024 (*Kaye v Norris Ward McKinnon* [2024] NZSC 39) is dismissed.**
- B There is no order as to costs.**
- C The Registrar is directed not to accept for filing any further documents from the applicants relating to this matter.**
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**REASONS**

[1] The applicants seek leave to recall this Court’s judgment of 23 April 2024<sup>1</sup> declining the application for recall of the Court’s judgment of 3 December 2021.<sup>2</sup> Recall is sought on the basis the Court’s approach relied on what the applicants say is

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<sup>1</sup> *Kaye v Norris Ward McKinnon* [2024] NZSC 39 (Glazebrook, Ellen France and Kós JJ).

<sup>2</sup> *Kaye v Norris Ward McKinnon* [2021] NZSC 168 (O’Regan, Ellen France and Williams JJ). This is accordingly the second application for recall concerning the originating 3 December 2021 judgment.

a “false assumption” that the matters of which they complain have been dealt with fully and correctly.

[2] The contention the Court has proceeded on a false assumption that the applicants’ complaints were addressed fully and correctly highlights the point made in our judgment of 23 April 2024. Namely, that the applicants are simply seeking to reargue their case with a view to achieving a different outcome. That does not provide a very special reason for departing from the important principle of finality.<sup>3</sup> Nothing has been advanced which meets the test for recall.

[3] The application for recall is accordingly dismissed.

[4] As the respondent was not asked to make any submissions, we make no order as to costs.

[5] The Registrar is directed not to accept for filing any further documents from the applicants relating to this matter.<sup>4</sup>

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<sup>3</sup> See *Horowhenua County v Nash (No 2)* [1968] NZLR 632 (SC) at 633 as cited in *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd (No 2)* [2009] NZSC 122, [2010] 1 NZLR 76 at [2].

<sup>4</sup> See *Greer v Smith* [2015] NZSC 196, (2015) 22 PRNZ 785 at [6].