

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 15/2024  
[2024] NZSC 30

BETWEEN JOHN KENNETH SLAVICH  
Applicant

AND WELLINGTON DISTRICT COURT  
First Respondent

ATTORNEY-GENERAL  
Second Respondent

Court: Glazebrook, Kós and Miller JJ

Counsel: Applicant in person

Judgment: 16 April 2024

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**JUDGMENT OF THE COURT**

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**The application for review is declined.**

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**REASONS**

[1] The applicant's appeal was struck out in the Court of Appeal on 14 February 2024. First, under r 37(1) of the Court of Appeal (Civil) Rules 2005 for non-payment of security for costs and, secondly, under r 44A for failure to prosecute the appeal with due diligence, by failing to pay the filing fee for the appeal.<sup>1</sup> The background circumstances are set out in full in the decision of the Court of Appeal and need not be traversed again here.

[2] The applicant does *not* seek leave to appeal against that decision.<sup>2</sup> Instead he seeks leave to appeal a direction by Mallon J, made after the appeal had been struck

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<sup>1</sup> *Slavich v Wellington District Court* [2024] NZCA 12 (Goddard and Mallon JJ) at [17].

<sup>2</sup> Mr Slavich confirmed that fact in correspondence with a Deputy Registrar of this Court.

out, to take no action on a collateral complaint of contempt made against Crown counsel in the appeal. That direction, given on 15 February 2024, stated that as the appeal had been struck out, no live matter remained before that Court for decision.

[3] A Deputy Registrar of this Court rejected the present application for leave to appeal on the basis that there was no application for leave to appeal against the judgment below striking out the applicant's appeal. The applicant seeks review of this filing decision.

[4] The position here is not dissimilar to that in *Fehling v West Coast District Health Board*.<sup>3</sup> The circumstances of the present application are that there is no longer a live proceeding below, and nor is there an application for leave to appeal calculated to reinstate that former proceeding. That combination of events effectively leaves this Court without jurisdiction to act in terms of s 68 of the Senior Courts Act 2016.<sup>4</sup>

[5] The application for review is declined.

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<sup>3</sup> *Fehling v West Coast District Health Board* [2016] NZSC 155.

<sup>4</sup> None of this, of course, precludes resort by the applicant to the complaint procedures under Part 7 of the Lawyers and Conveyancers Act 2006.