

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 12/2024
[2024] NZSC 32

BETWEEN	CATHERINE ANNE SIXTUS Applicant
AND	JACINDA ARDERN First Respondent
AND	KRIS FAAFOI Second Respondent
AND	ANDREW LITTLE Third Respondent
AND	ASHLEY BLOOMFIELD Fourth Respondent

Court: Glazebrook, Ellen France and Miller JJ

Counsel: Applicant in person
P J Gunn and A J Vincent for Respondents

Judgment: 18 April 2024

JUDGMENT OF THE COURT

- A** The application for an extension of time to apply for leave to appeal is dismissed.
- B** The applicant must pay the respondents one set of costs of \$2,500.
-

REASONS

[1] This is an application for leave to appeal a decision of the Court of Appeal to refuse an extension of time to file a case on appeal and set the appeal down for hearing.¹

¹ *Sixtus v Ardern* [2023] NZCA 521 (Brown and Katz JJ).

[2] The appeal related to a High Court decision striking out an application for judicial review as unintelligible and outside jurisdiction.² The appeal to the Court of Appeal was filed on 21 June 2022. The applicant did not pay the filing fee and was denied a waiver.³ Her application for leave to appeal that fee waiver decision to this Court has already been dismissed.⁴

[3] The proposed appeal is futile. The application for an extension of time was made after the appeal had been deemed abandoned under r 43(1) of the Court of Appeal (Civil) Rules 2005. Once deemed abandoned an appeal cannot be revived.⁵

[4] This application for leave to appeal is also out of time by some three months. No sufficient explanation for the delay has been given.⁶ In these circumstances there is no point in granting an extension of time.

[5] For completeness, this Court has already observed, when dismissing an earlier fee waiver application, that any public interest value in the judicial review application was much diminished by the deficiencies that led the High Court to strike it out.⁷

[6] The application for an extension of time to apply for leave to appeal is dismissed.

[7] The applicant must pay the respondents one set of costs of \$2,500.

Solicitors:

Te Tari Ture o te Karauna | Crown Law Office, Wellington for Respondents

² *Sixtus v Ardern* [2022] NZHC 1161 (Cooke J).

³ *Sixtus v Ardern* [2022] NZCA 372.

⁴ *Sixtus v Ardern* [2023] NZSC 84.

⁵ *Siemer v Stiassny* [2009] NZCA 624 at [22]. An extension of time to file a new appeal would be required, which will be given only in exceptional cases: at [25].

⁶ *Almond v Read* [2017] NZSC 80, [2017] 1 NZLR 801 at [38].

⁷ *Re Sixtus* [2023] NZSC 1 at [5].