

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 15/2024
[2024] NZSC 41

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
No appearance for respondents

Judgment: 29 April 2024

JUDGMENT OF THE COURT

- A** The application for recall of this Court's judgment of 16 April 2024 (*Slavich v Wellington District Court* [2024] NZSC 30) is dismissed.
- B** There is no order as to costs.
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REASONS

[1] The applicant seeks recall of this Court's judgment of 16 April 2024 declining his application for review of a decision of a Deputy Registrar to reject an application for leave to appeal on the basis that it was not made against a decision made in the proceeding for the purposes of s 68 of the Senior Courts Act 2016.¹

¹ *Slavich v Wellington District Court* [2024] NZSC 30 (Glazebrook, Kós and Miller JJ).

[2] The circumstances are set out in the judgment and need not be repeated save to observe that the applicant:

- (a) Had confirmed that he was not seeking leave to appeal against the judgment of the Court of Appeal striking out his appeal to that Court;² and
- (b) Has since stated that nor does he seek to appeal the direction made by Mallon J, following that judgment, to take no action on a collateral complaint of contempt made against Crown counsel in the appeal.

[3] The latter point is at odds with the terms of the document presented for filing, which describes that direction as a “judicial breach” of “the Appellant’s rights to have the allegation considered ... [and] to receive a judicial decision to that allegation”, and seeks “[a]n order on the [Court of Appeal] to hear arguments on the allegation and rule on the allegation”.

[4] Be that as it may, the fact remains that, as our judgment concluded, absent a live proceeding below or an application for leave to appeal calculated to reinstate that former proceeding, there is no appeal sought against a decision made in the proceeding for the purposes of s 68 of the Senior Courts Act.

[5] That absence of statutory jurisdiction renders futile the attempt by the applicant to invoke appeal rights based on the decision of this Court in *Attorney-General v Chapman*.³

[6] The application for recall is dismissed.

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

² *Slavich v Wellington District Court* [2024] NZCA 12 (Goddard and Mallon JJ) at [17].

³ *Attorney-General v Chapman* [2011] NZSC 110, [2012] 1 NZLR 462.