

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 145/2023
[2024] NZSC 44

BETWEEN GRAHAM HERBERT TAYLOR
Applicant

AND COMMISSIONER OF INLAND
REVENUE
Respondent

Court: Glazebrook, Kós and Miller JJ

Counsel: Applicant in person
A B Goosen for Respondent

Judgment: 30 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 respondent costs of \$2,500.**
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REASONS

[1] Mr Taylor seeks leave to appeal a decision of the Court of Appeal¹ declining his application for an extension of time to appeal a judgment of the High Court.²

[2] The District Court had delivered a default judgment for unpaid tax and interest and penalties.³ Mr Taylor says that he was not served with the proceeding. An application to have the judgment set aside on that ground was declined in the

¹ *Taylor v Commissioner of Inland Revenue* [2023] NZCA 515, (2023) 31 NZTC ¶26-014 (French and Wylie JJ) [CA judgment].

² *Taylor v Commissioner of Inland Revenue* [2023] NZHC 460 (Venning J) [HC judgment].

³ *Commissioner of Inland Revenue v Taylor* DC Auckland CIV-2016-004-2079, 24 February 2022 (Judge Harrison).

District Court, and the High Court declined an extension of time for a late appeal on the ground that the appeal had no merit.⁴

[3] Mr Taylor’s appeal to the Court of Appeal against the decision of the High Court was five working days out of time.⁵ The Court of Appeal observed that the delay was short and had occasioned no prejudice to the respondent. However, the Court declined the extension for the reason that the appeal against the District Court’s default judgment was “clearly hopeless”.⁶ Under s 109 of the Tax Administration Act 1994 a tax assessment may be challenged only in proceedings under that Act.⁷ Mr Taylor did not follow that procedure. As a result, he could not dispute the assessments in the District Court debt recovery proceeding that the Commissioner then took against him.

[4] Nothing raised by Mr Taylor suggests the Court of Appeal was wrong on this point of law. It follows that there was no miscarriage of justice (as that term is used in a civil context).⁸ Nor is there any question of general or public importance.⁹

[5] The applicant also filed these proceedings out of time. In these circumstances, there is no point in granting an extension of time.¹⁰

[6] The application for an extension of time to apply for leave to appeal is dismissed. The applicant must pay the respondent costs of \$2,500.

Solicitors:

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

⁴ HC judgment, above n 2, at [17].

⁵ CA judgment, above n 1, at [5].

⁶ At [6] citing *Almond v Read* [2017] NZSC 80, [2017] 1 NZLR 801 at [39(c)].

⁷ Save for limited circumstances where judicial review proceedings may be available: *Tannadyce Investments Ltd v Commissioner of Inland Revenue* [2011] NZSC 158, [2012] 2 NZLR 153 at [58]–[61] per Blanchard, Tipping and Gault JJ.

⁸ Senior Courts Act 2016, s 74(2)(b); and *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369 at [5].

⁹ Section 74(2)(a).

¹⁰ *Almond v Read*, above n 6, at [39(c)].