

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC UR 51/2025  
[2025] NZSC 148

RE

JOHN KENNETH SLAVICH  
Applicant

Counsel: Applicant in person

Judgment: 30 October 2025

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JUDGMENT OF ELLEN FRANCE J

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**The application for review of the decision of the Registrar  
declining to waive the filing fee is dismissed.**

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REASONS

**Introduction**

[1] The applicant wishes to file a notice of application for leave to appeal to this Court against a decision of the Court of Appeal.<sup>1</sup> The Court of Appeal dismissed his appeal from a decision of the High Court striking out an application for recall under r 5.35B of the High Court Rules 2016 as an abuse of process.

[2] Two days after receipt by this Court of the notice of application for leave to appeal, the applicant filed an application for fee waiver. That application was determined by the Registrar and declined on 10 October 2025. The applicant was advised that the filing fee of \$1,482 was payable. The applicant then applied for a review of the Registrar's decision under s 160 of the Senior Courts Act 2016. That application has been referred to me for decision.

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<sup>1</sup> *Slavich v Judicial Conduct Commissioner* [2025] NZCA 453 (Cooke, Brewer and Harvey JJ) [CA judgment].

## Background

[3] The Court of Appeal sets out the relevant background. The Court notes that the applicant was convicted of various dishonesty offences on 12 October 2006 after a judge-alone trial before Heath J.<sup>2</sup> Since then the applicant has brought a number of proceedings challenging his convictions. The challenges have focused on the evidence of a witness, a Ms Gibbs, whose brief of evidence and a transcript of the questions put to her, were admitted at trial.<sup>3</sup>

[4] The Court of Appeal continued:<sup>4</sup>

[2] The present appeal arises from a decision of the High Court dated 14 July 2011 which dismissed a series of judicial review and misfeasance claims raising essentially the same issues. Andrews J held that the claims were “attempts to re-litigate matters that have already been heard and determined, [were] collateral attacks on decisions of the Court of Appeal and Supreme Court, and [were] abuses of process”. This Court then declined to grant an extension of time to appeal Andrews J’s judgment on the basis that the arguments about Ms Gibbs’ evidence involved a “hopeless appeal”. It then declined Mr Slavich’s application to recall its judgment on the basis that the application was a “yet further attempt ... to re-argue an issue effectively decided against him”.

[3] Notwithstanding these decisions, in November last year Mr Slavich applied to the High Court to have Andrews J’s judgment recalled. Again, he wishes to advance allegations about the way in which Ms Gibbs’ evidence was addressed by Heath J. This application was referred to Tahana J under r 5.35A of the High Court Rules 2016. Tahana J struck out the application under r 5.35B on the basis that it was plainly an abuse of process.

[5] In dismissing the applicant’s appeal in the present case, the Court of Appeal considered the proceeding in the High Court was properly struck out as an abuse of process. The Court said:<sup>5</sup>

It again seeks to re-litigate an issue that has been finally determined in the original criminal proceedings against Mr Slavich some 19 years ago, and then further raised a number of times in subsequent proceedings which were all dismissed as abuses of process. It would be fundamentally wrong to allow the application to proceed, or to expect any of the eleven respondents to respond to it.

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<sup>2</sup> *R v Slavich* HC Hamilton CRI-2006-419-89, 12 October 2006.

<sup>3</sup> See at [14]–[17].

<sup>4</sup> (footnotes omitted).

<sup>5</sup> CA judgment, above n 1, at [4].

### **The fee waiver application**

[6] The fee waiver application is based on reg 5(2)(a) of the Supreme Court Fees Regulations 2003. Under that provision, the Registrar may waive the application fee if satisfied the applicant is unable to pay the fee. The Registrar accepted the applicant was unable to pay the fee so that the discretion to grant a fee waiver was engaged. However, the Registrar did not consider the discretion should be exercised. That was because to do so would not promote access to justice.

[7] The applicant in the application for review accepts that on the material before the Registrar, no different decision was available. However, the applicant says the earlier decisions have not dealt with evidence now available which, essentially, casts a different light on the case.

[8] If the application for leave was accepted for filing and was before this Court, the issue for us would be whether the Court of Appeal was correct to see the proceeding as an abuse of process. I agree with the Registrar that the application for leave to appeal is without merit, vexatious and would not be pursued by a reasonable solvent litigant.<sup>6</sup> As the Court of Appeal said, it is simply an attempt to re-litigate matters that have been determined in the earlier proceedings.

### **Result**

[9] On this basis, I dismiss the application for review of the Registrar's decision declining to waive the filing fee.

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<sup>6</sup> *Duncan v The Royal New Zealand Society for the Prevention of Cruelty to Animals Inc* [2024] NZCA 628 at [26].