IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 132/2024
[2025] NZSC 25

BETWEEN	ARTEMIS INDIGO DELILAH DAVIS Applicant
AND	DAVID P ROBINSON Respondent

Court: Williams, Kós and Miller JJ

Counsel: Applicant in person

Judgment: 1 April 2025

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

B There is no order as to costs.

REASONS

[1] The applicant, Ms Davis, seeks leave to appeal a judgment of the Court of Appeal which upheld a strike-out decision of the High Court.[1] The respondent in these proceedings is a District Court judge who, in separate proceedings, declined Ms Davis's applications for interim injunction and suppression orders pending determination of her substantive application for takedown and other orders under s 19 of the Harmful Digital Communications Act 2015 (in respect of certain media articles about Ms Davis).[2] Ms Davis then filed the present proceedings against the Judge in

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1 *Davis v Robinson* [2024] NZCA 599 (Cooke, Fitzgerald and Jagose JJ) [CA judgment]; and *Davis v Robinson* [2024] NZHC 344 (Dunningham J) [HC judgment].

2 *Davis v McNeilly* DC Dunedin CIV-2022-012-360, 25 September 2023 [DC interlocutory judgment]. See also *Davis v McNeilly* [2023] NZDC 23615.

the High Court, alleging defamation, malicious falsehood and misfeasance in public office.[3]

[2] The High Court struck out these proceedings under r 5.35B of the High Court Rules.[4] The Court found the proceedings were an abuse of process, primarily on the basis that the District Court Judge was entitled to judicial immunity from suit,[5] but also because Ms Davis's assertion that the Judge acted without jurisdiction was unfounded, the proceedings were merely a collateral challenge to the correctness of the Judge's decision where there was a clear right of appeal and the proceedings were "prolix, unfocussed, repetitive and in several respects advanced matters that were plainly irrelevant or unarguable".[6] The Court of Appeal upheld the strike-out decision on broadly the same grounds.[7]

[3] Ms Davis now argues the Court of Appeal erred in rejecting her arguments that the District Court Judge lacked jurisdiction to make determinations about employment status,[8] and that the Judge was aware of, or recklessly indifferent to, that fact while purporting to make such determinations.

[4] We see no appearance of an error in the Court of Appeal's approach. Leaving the issue of judicial immunity to one side and ignoring the fact that Ms Davis herself had sought to invoke the District Court's jurisdiction under the Harmful Digital Communications Act, this was not an employment dispute; rather, the proceedings were brought against journalists and Stuff Ltd, and Ms Davis's alleged employer was not party to the dispute. Furthermore, and in any event, Ms Davis's intended appeal is clearly a collateral challenge to the correctness of the District Court Judge's decision in circumstances where an appeal was the appropriate remedy.

[5] It follows that we do not consider it necessary in the interests of justice for this Court to hear and determine the proposed appeal.[9] There is no risk that a miscarriage

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3 HC judgment, above n 1, at [9].
4 At [24].
5 At [10] citing District Court Act 2016, s 23.
6 At [14], [16] and [17] citing DC interlocutory judgment, above n 2, at [137].
7 CA judgment, above n 1, at [11]–[14].
8 Ms Davis cites s 161(1)(c) and (3) of the Employment Relations Act 2000.
9 Senior Courts Act 2016, s 74(1).

of justice may have occurred, or may occur, unless the proposed appeal is heard, nor does the proposed appeal involve a matter of general or public importance or general commercial significance.[10]

[6] The application for leave to appeal is dismissed.

[7] There is no order as to costs.

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[10] Section 74(2).