NOTE: PURSUANT TO S 139 OF THE CARE OF CHILDREN ACT 2004, ANY REPORT OF THE UNDERLYING PROCEEDING MUST COMPLY WITH SS 11B, 11C AND 11D OF THE FAMILY COURT ACT 1980. SEE https://www.justice.govt.nz/family/family-court/after-the-family-court/restrictions-on-publishing-information/

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC167/2025
[2026] NZSC 1

BETWEEN	JOHN JONES Applicant
AND	FAMILY COURT AT WHANGĀREI First Respondent
	SOPHIE SMITH Second Respondent

Court:	Ellen France, Kós and Miller JJ
Counsel:	Applicant in person No appearance for First Respondent Second Respondent in person
Judgment:	11 February 2026

JUDGMENT OF THE COURT

A The application for extension of time is granted.

B The application for leave to appeal is dismissed.

C The applicant must pay the second respondent costs of $500.

REASONS

[1] In the midst of protracted, contested proceedings in the Family Court concerning care of a child, Mr Jones applied for a "safety hearing".[1] That is a non-statutory

[1] The parties' names have been anonymised.

procedure by which that Court conducts a screening exercise to determine whether it is safe to permit a parent unsupervised access to their child.[2] The application was declined.[3] Mr Jones sought judicial review in the High Court. That application too was declined.[4] An appeal to the Court of Appeal failed,[5] as did an application for recall of that Court's judgment.[6]

[2] Leave is sought to appeal both judgments to this Court. The application for leave to appeal the primary judgment is out of time and extension of time is sought. The "primary" ground presented is that the Court of Appeal refused Mr Jones permission to have the assistance of a "McKenzie friend" assistant at the bar table during the hearing. (Although described variously as the "primary" or "main" ground, it is more correctly characterised as the *sole* ground advanced substantively in submissions filed.) The nominated assistant was to have attended "to provide silent assistance, including document management and note-taking". The Court of Appeal granted permission for the assistant to sit in the public gallery and take notes from there.

Consideration of the leave application

[3] Nothing raised by the applicant suggests the Court of Appeal erred in its consideration of the fundamental point at issue before it, which was whether Mr Jones's application for a safety hearing should have been dealt with by the Family Court *before* it considered Ms Smith's application for a protection order.[7] This issue raises no question of general or public importance requiring this Court's review.[8]

---

2 See *White v New Plymouth Family Court* [2024] NZHC 1824 at [53] and [56].

3 *[Smith] v [Jones]* FC Whangārei FAM-2023-088-294, 27 May 2024 (Memorandum of Associate Niemand).

4 *Jones v Whangārei Family Court* [2024] NZHC 2319 (Downs J).

5 *Jones v Whangārei Family Court* [2025] NZCA 325 (Hinton, van Bohemen and Cull JJ) [CA judgment].

6 *Jones v Whangārei Family Court* [2025] NZCA 548 (Courtney and Palmer JJ).

7 The High Court and Court of Appeal answered that question in the negative. As the Court of Appeal observed, "[d]etermination of the protection proceedings in this case was first required to inform the Court's decision on unsupervised access": CA judgment, above n 5, at [44].

8 Senior Courts Act 2016, s 74(2)(a).

[4] As to the further matter, characterised now as the primary ground, we accept that a court's refusal to allow a lay litigant a McKenzie friend is capable of giving rise to a question of general or public importance, but we are satisfied that here it does not.[9] The legal merits of the substantive appeal before the Court of Appeal were such that the more proximate presence of the assistant could not have made a difference to the outcome.

[5] Nor for the reasons given above is there a risk of miscarriage of justice, in the sense that expression applies in a civil application.[10]

[6] We are not therefore satisfied that it is necessary in the interests of justice for this Court to hear and determine the proposed appeal.[11] As the delay in filing the application to appeal the primary judgment was modest, we will grant the extension, but we dismiss the application in respect of both judgments.

Use of Artificial Intelligence to write submissions

[7] In submissions filed in this Court, Mr Jones cited a number of authorities which appear to have been hallucinated by an Artificial Intelligence (AI) application.[12] Misuse of AI in legal proceedings has serious implications for the administration of justice and public confidence in the justice system.[13] Persons filing submissions in court must ensure all authorities referred to are genuine and correctly cited. The current guideline for non-lawyers appearing in court proceedings reads relevantly as follows:[14]

---

9 See *Muir v Police* (1986) 2 CRNZ 12 (HC) citing *Mihaka v Police* [1981] 1 NZLR 54 (HC).

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

11 Senior Courts Act, s 74(1).

12 For instance, "*Teddy v Police* [2015] NZSC 62", "*Baird v R* [2013] NZSC 120" and "*Awatere Huata v Prebble* [2002] 3 NZLR 827" all combine real case names with incorrect citations. The genuine cases matching these names and citations, respectively, are of no direct relevance to the present application. The applicant's submissions misattribute certain propositions of law to a further four genuine but erroneously cited cases.

13 *R (Ayinde) v Haringey London Borough Council* [2025] EWHC 1383 (Admin), [2025] 1 WLR 5147 at [9] per Dame Victoria Sharp P.

14 Artificial Intelligence Advisory Group *Guidelines for Use of Generative Artificial Intelligence in Courts and Tribunals: Non-lawyers* (Courts of New Zealand | Ngā Kōti o Aotearoa, 7 December 2023) at [3]. See also *Wikeley v Kea Investments Ltd* [2024] NZCA 609, [2024] 3 NZLR 901 at [199], n 187; and *QTR v BXD* [2025] NZERA 716 at [13], [18] and [24].

> You are responsible for ensuring that all information you provide to the court/tribunal is accurate. You must check the accuracy of any information you get from a [generative AI] chatbot before using that information in court/tribunal proceedings.

Reliance on false citations, including the unverified outputs of AI applications, may in serious cases amount to obstruction of justice or contempt of court.[15]

Result

[8] The application for extension of time is granted.

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

[10] Because the second respondent has filed submissions, the applicant must pay her costs of $500.

---

15 *Ayinde*, above n 13, at [23]–[28]. See also Crimes Act 1961, ss 116 and 117(e); and Contempt of Court Act 2019, s 26(2) and (4).