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IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

**SC 65/2026
[2026] NZSC 111**

BETWEEN	GOLD Applicant
AND	GREEN Respondent

Court:	Ellen France, Williams and Kós JJ
Counsel:	Applicant in person No appearance for Respondent
Judgment:	14 August 2026

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

Introduction

[1] The applicant¹ seeks leave to appeal from a decision of the Court of Appeal.² The Court of Appeal declined to grant the applicant an extension of time to file a number of applications for leave in the Court of Appeal. The decision was made in

¹ We use the pseudonyms adopted by the High Court and the Court of Appeal for the parties.

² *Gold v Green* [2026] NZCA 186 (Edwards and Collins JJ) [CA judgment].

the context of proceedings which began in the Family Court in 2021 following on from the separation of the parties.

Background

[2] In March 2023 the Family Court made a final protection order and a final parenting order in relation to the parties' child, both in favour of the respondent.³ The applicant appealed that decision to the High Court. The High Court dismissed the appeal.⁴ The applications for leave to appeal to the Court of Appeal from the decisions of the High Court, both substantive and interlocutory, were filed some 12 months out of time.

[3] In determining that it was not in the interests of justice to extend time, the Court of Appeal found that the delay in filing the applications, particularly given the nature of the proceedings, was significant and had not been adequately explained. The Court took the view that there would be some prejudice to the respondent if an extension of time were granted.

[4] The Court of Appeal accepted that the issues raised by the leave applications were important to both of the parties. But the Court did not consider that there were issues of general or public importance that warranted a grant of leave. Further, the proposed appeals did not raise a question of law. The Court noted this was "fatal" to the application for leave to appeal from the protection order, which is confined to questions of law.⁵

[5] Finally, the Court of Appeal made the point that there were ongoing proceedings in the Family Court. The applicant's attempt to discharge the protection order in that Court had not succeeded and there were pending decisions in relation to amendment of the parenting order.

³ *[Green] v [Gold]* [2023] NZFC 2398 (Judge Otene).

⁴ *Gold v Green* [2024] NZHC 2288 (Johnstone J); see also two interlocutory decisions: *Gold v Green* [2023] NZHC 2140 (Johnstone J); *Gold v Green* [2024] NZHC 851 (Johnstone J); and a decision on an application for a rehearing: *Gold v Green* [2025] NZHC 265 (Johnstone J).

⁵ CA judgment, above n 2, at [20] citing the Family Violence Act 2018, s 179.

The proposed appeal

[6] The applicant says that various questions of law arise on the proposed appeal along with matters of general or public importance. He also submits that a miscarriage of justice will result if leave to appeal is not granted.

[7] Some of the matters the applicant wishes to raise are directed at the Court of Appeal's analysis of where the interests of justice lay. As an illustration of matters in this category, the applicant is critical of aspects of the Court of Appeal's analysis of the explanation for delay. For example, he submits the Court should have factored into the equation his neurodiversity, which he says was identified in a report provided to the Court of Appeal, as well as the fact he was a self-represented litigant navigating multiple proceedings.

[8] He also says that the Court should have provided some explanation for its conclusion that the proposed appeals did not raise a question of law. He notes, amongst other matters, that he made the submission that the Family Court and the High Court erred in not undertaking a proportionality analysis under s 5 of the New Zealand Bill of Rights Act 1990 given his protected rights were affected.⁶ He contends the Court of Appeal effectively confirmed the legal framework he relied on but did not then engage with whether it applied. He submits that a breach of his rights to natural justice has resulted.

[9] The matters the applicant includes in the category of questions of general or public importance include the correct framework for credibility assessments in the Family Court. He also challenges the Family Court's approach to the assessment of identity under s 5(f) of the Care of Children Act 2004 and raises issues about various evidentiary and investigative aspects.

[10] In support of the miscarriage of justice ground, the applicant says the Court of Appeal was wrong to rely on the 2026 Family Court judgment maintaining the protection order.⁷ His submission is that he provided the Court of Appeal with material

⁶ He says a similar issue arises in relation to the way the test for an extension of time is applied.

⁷ *[Gold] v [Green]* [2026] NZFC 4151 (Judge Sharkey).

about what he maintains were procedural irregularities in that hearing before the Family Court and that the decision is under appeal.

Our assessment

[11] The Court of Appeal applied the settled test for an extension of time as set out by this Court in *Almond v Read*.⁸ Nothing raised by the applicant provides a basis for this Court to reconsider the Court of Appeal’s assessment of the factors discussed in *Almond v Read*.

[12] We reach that view noting, first, that the Court has given the applicant, as a self-represented litigant, some leeway in assessing his explanation for the delay. The Court of Appeal also observed that the applicant has legal training and the applications he had made in that Court and in the High Court showed “a familiarity with civil procedure.”⁹ In the circumstances, nothing further was required here by way of a response to the issues of neurodiversity or otherwise that the applicant raises.

[13] Second, the explanation provided was correctly considered in light of the extended period of delay. As the Court said, consideration of delay had to be put in the context of the Family Court proceedings and, for the parenting order, that engaged the child’s welfare and best interests. In that setting, a year’s delay can be dispositive and was significant in this case. Third, the Court had to assess the various factors bearing in mind that, given the passage of time, were the appeals to proceed the Court of Appeal would be dealing with a factual situation that had, to a considerable extent, been overtaken by subsequent events including the more recent decision of the Family Court not to discharge the final protection order. As the Court of Appeal noted, a number “of the arguments Mr Gold seeks to raise on appeal have been considered by a specialist court with the benefit of up-to-date information”.¹⁰

[14] We turn then to the Court’s assessment of the merits. The Court was dealing with an application for an extension of time, not the full appeal and, in that context, the rules contemplate only an impressionistic assessment, as this Court noted in

⁸ *Almond v Read* [2017] NZSC 80, [2017] 1 NZLR 801.

⁹ CA judgment, above n 2, at [15].

¹⁰ At [21].

Almond v Read. Further, in any event, we see no error in the Court’s conclusion where, first, as the Court said, the relevant law relating to parenting and protection orders is “well-settled” and, second, underlying the applicant’s contentions are adverse factual findings not amenable to points of law.¹¹ As the Court of Appeal has effectively found, those issues are being, or have been, addressed in the ongoing proceedings.

[15] In the circumstances, the criteria for leave to appeal are not met.¹² We add that, citing a lack of resources, the respondent has not made any submissions on the application for leave to appeal. In these circumstances, the question of costs on this application does not arise.

Result

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

Copy to:
A E Ashmore, Auckland for Respondent
J C Maxwell, Harvey Law, Pukekohe for Respondent

¹¹ At [19].

¹² Senior Courts Act 2016, s 74.