



Supreme Court of New Zealand | Te Kōti Mana Nui o Aotearoa

31 JULY 2026

MEDIA RELEASE

MICHAEL JOHN SMITH v ATTORNEY-GENERAL

(SC 10/2025)

**Hearing of the Supreme Court in the Auckland High Court
Monday 17 August–Wednesday 19 August 2026**

CASE HISTORY SYNOPSIS

This synopsis is provided to assist in understanding the history of the case and the issues to be heard by the Court. It does not represent the views of the panel that will hear the appeal in the Supreme Court.

Background

The appellant, Michael Smith, a kaumātua of Ngāpuhi and Ngāti Kahu, claims that the Crown's response to climate change has been, and is, inadequate to mitigate the risk that climate change presents, especially for Māori. Mr Smith pleads that climate change will harm whenua to which he and his whānau have a connection, and will, at a wider level, harm Māori disproportionately. This is due to the effect of the Crown's own emissions and also the effect of its response to the rest of the country's emissions.

Mr Smith claims that the Crown's response to climate change has been inadequate and has breached the following: (a) a common law duty (now reframed by the appellant in submissions to this Court as a public law duty) to protect him and his descendants from the adverse effects of climate change; (b) their rights to life and culture affirmed in the New Zealand Bill of Rights Act 1990 (NZBORA); and (c) the Treaty of Waitangi. Mr Smith also claimed a breach of fiduciary or fiduciary-like duties but no longer pursues that claim in this Court.

High Court judgment

The Attorney-General applied to strike out Mr Smith's claims before they could be heard, arguing that they were untenable and should not be allowed to proceed. The High Court delivered its judgment on the strike-out application on 15 July 2022. Grice J held that all of Mr Smith's claims were untenable and struck the proceeding out.

Court of Appeal judgment

The Court of Appeal on 19 December 2024 dismissed Mr Smith's appeal, agreeing with the High Court that Mr Smith's claims were untenable as pleaded. With respect to the NZBORA claims, while it was not untenable that an inadequate Crown response to the risks of climate

change could in some circumstances breach the rights to life and culture, the claim as pleaded could not succeed. The regulatory framework under the Climate Change Response Act 2002 – involving policy decisions unsuited to judicial second-guessing – provided a comprehensive basis for fulfilling New Zealand’s climate obligations and met any obligation the Crown may have. However, the Court did not rule out a tenable claim arising in the future should decisions made under that framework result in it failing to respond adequately to a real and imminent climate change driven threat to life and culture.

The Court held that the Treaty claim was untenable. The Crown’s obligation to engage with Treaty principles under the relevant legislation left no room for an independent claim under the Treaty itself.

Next, the common law duty claim had no tenable basis. It partly relied on the equally untenable NZBORA and Treaty claims and an unexplained tikanga basis. The final submitted basis, the public trust doctrine – traditionally protecting public access to navigable waters and the seashore – did not extend to climate change and would in any event cut across the legislative regime.

This appeal

On 19 December 2025, the Supreme Court granted Mr Smith leave to appeal to this Court. The approved question is whether the Court of Appeal was correct to dismiss the appeal.

Te Hunga Rōia Māori o Aotearoa | The Māori Law Society and Te Kāhui Tika Tangata | Human Rights Commission have been granted leave to appear as interveners.

Viewing of hearing

The courtroom (Courtroom 11 at the Auckland High Court) is open to the public.

This hearing of the appeal will also be live-streamed. Details about access to the live-stream and the conditions of access will be posted on the [Courts of New Zealand website](#) shortly before the hearing. No recording is permitted.

The panel

The Hon Justice Kós	The Hon Justice Ellen France	The Rt Hon the Chief Justice	The Hon Justice Williams	The Hon Justice Cooke
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Judges as seen from the public gallery

Counsel

- Michael John Smith (Appellant): *D M Salmon KC, M Heard and N R Coates and R McMenamin*
- Attorney-General (Respondent): *J E Hodder KC, J M Prebble, K F Gaskell and D Ranchhod*
- Te Hunga Rōia Māori o Aotearoa | The Māori Law Society (Intervener): *M K Mahuika, H K Irwin-Easthope and B C K Murfitt*
- Te Kāhui Tika Tangata | Human Rights Commission (Intervener): *A S Butler KC, R A Kirkness and H Z Yáng*

Sitting hours

Court will begin at 10:00am and conclude at 4:00pm with adjournments taken from 11:30am to 11:45am and from 1:00pm to 2:15pm. There is no afternoon adjournment.

Enquiries

Any enquiries about the hearing should be directed via email to supremecourt@justice.govt.nz.

Contact person:

Sue Leaupepe, Supreme Court Registrar (04) 914 3613

High Court decision: [\[2022\] NZHC 1693](#) (15 July 2022)

Court of Appeal decision: [\[2024\] NZCA 692](#) (19 December 2024)

Supreme Court leave decision: [\[2025\] NZSC 198](#) (19 December 2025)

