

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 101/2020
[2020] NZSC 135

BETWEEN VINCENT ROSS SIEMER
 Applicant

AND DEPUTY REGISTRAR OF THE
 SUPREME COURT OF NEW ZEALAND
 Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: Applicant in person

Judgment: 27 November 2020

JUDGMENT OF THE COURT

- A The application for review of the decision of the Registrar to refuse to accept for filing a statement of claim seeking judicial review is dismissed.**
- B The application for directions is dismissed.**
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REASONS

[1] The applicant has attempted to file with the Supreme Court Registry a statement of claim seeking judicial review of a decision of the Deputy Registrar of the Court declining his application for a waiver of fees in relation to an application for leave to appeal to this Court against a decision of the Court of Appeal.¹ The Deputy Registrar declined the fee waiver application on the basis that insufficient information had been provided as to the financial position of the applicant.

¹ *Re Siemer* [2020] NZCA 393.

[2] The statement of claim has a banner in bold type at the top of the first page as follows:

This originating application is filed with the Supreme Court due to case authority cited at para 4. The Applicant has no objection to this matter being transferred to the High Court at Auckland if a judge or judges of this Court determine the High Court to be the appropriate jurisdiction.

[3] Paragraph 4 of the statement of claim provides:

Mafart & Prieur v Television New Zealand [2006] 3 NZLR 18^[2] places the jurisdiction and obligation for remedy against registrars with the judges who comprise the supervising court.

[4] The statement of claim is said to be made under the Judicial Review Procedure Act 2016 and s 27(2) of the New Zealand Bill of Rights Act 1990.

[5] The statement of claim was accompanied by a document headed “Application for Judicial Directions under ss 82(1) and 82(3) of the Senior Courts Act 2016”. This document says that the applicant “seeks a reasoned decision as to whether the jurisdiction to judicially review administrative decisions of the Supreme Court registrar lies with the High Court or Supreme Court”.

[6] The Registrar of the Court did not accept the statement of claim for filing. He advised the applicant that this Court did not have any originating jurisdiction in that, if the applicant wished to pursue judicial review, the application would need to be made to the High Court.

[7] The applicant sought a review by a Judge of the Registrar’s decision to refuse to accept the statement of claim for filing. As the matter concerns the Court’s jurisdiction, it has been referred to the present panel for decision.³

Judicial review statement of claim

[8] This Court’s jurisdiction is a statutory jurisdiction under Part 4 of the Senior Courts Act 2016. It is an appellate jurisdiction. The Court has no jurisdiction to

² *Mafart v Television New Zealand Ltd* [2006] NZSC 33, [2006] 3 NZLR 18.

³ *Slavich v R* [2015] NZSC 195, (2015) 23 PRNZ 117 at [9].

consider an application for judicial review under the Judicial Review Procedure Act. In addition, s 8(1) of the Judicial Review Procedure Act provides that an application for judicial review must be commenced by filing a statement of claim and notice of proceeding “in the High Court”.

[9] As the applicant knows from prior experience, an application for judicial review is not an appropriate procedural step to take in circumstances where the objective is to challenge a decision of a Registrar or Deputy Registrar. This was made clear by Clifford J in *Siemer v Registrar, Supreme Court*.⁴ In that case Clifford J said:

[27] As a matter of principle, therefore, the exercise by the Registrar of such a power, being under the supervision of the Judges who comprise the Court, is to be reviewed by those Judges. In my view, that form of review is best understood as being part of the Supreme Court’s inherent supervisory powers relating to matters, such as Mr Siemer’s application for access to Court records, properly before it. The Registrar’s decision to decline Mr Siemer’s request will be reviewable by a Supreme Court Judge in like manner as, for example, the way in which decisions by the Registrar refusing to accept applications for leave to appeal are reviewed.

[28] Furthermore, as Mr Keith submitted, it is clear that judicial review is not available to challenge the actions of the Higher Courts.

(footnote omitted)

[10] If the applicant wishes to challenge the decision of the Deputy Registrar with a view to obtaining a decision favourable to his application, he should seek the review of that decision by a Judge of this Court, as he did in relation to the earlier decision of the Registrar to reject his application for fee waiver on public interest grounds.

[11] The application for review of the Registrar’s decision not to accept for filing the statement of claim is dismissed.

Application for directions: s 82 Senior Courts Act 2016

[12] The power of a Judge to give directions under s 82 of the Senior Courts Act applies in relation to “a proceeding before the Supreme Court”. There is no proceeding before the Court here. So the power is not engaged. The application for directions is therefore dismissed.

⁴ *Siemer v Registrar, Supreme Court* [2014] NZHC 1179.

[13] However, this judgment makes it clear that there is no basis for the applicant to obtain judicial review under the Judicial Review Procedure Act of a decision of a Registrar of this Court, whether in this Court or the High Court. So the judgment gives the applicant the guidance he seeks.