

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 21/2018
[2019] NZSC 74

BETWEEN COLIN GRAEME CRAIG
Appellant and Cross-Respondent

AND JORDAN HENRY WILLIAMS
Respondent and Cross-Appellant

Court: Winkelmann CJ, Glazebrook, O'Regan, Ellen France and
Williams JJ

Counsel: S J Mills QC, J W J Graham, T F Cleary and for Appellant
P A McKnight and A J Romanos for Respondent

Judgment: 17 July 2019

JUDGMENT OF THE COURT

The application for a stay of the costs orders is dismissed.

REASONS

[1] Mr Williams successfully sued Mr Craig in defamation and the jury awarded Mr Williams damages of \$1.27 million.¹ Subsequently the trial judge, Katz J, set aside the jury's verdict and ordered a retrial on the basis of an excessive damages award and a jury misdirection.² The Court of Appeal overturned Katz J's finding, entered judgment in accordance with the jury's verdict on liability and ordered a retrial on the question of damages.³

¹ The jury trial ran for four weeks from 5 September to 29 September 2016.

² *Williams v Craig* [2017] NZHC 724, [2017] 3 NZLR 215 [Retrial judgment].

³ *Williams v Craig* [2018] NZCA 31, [2018] 3 NZLR 1 (Harrison, Miller and Gilbert JJ).

[2] On appeal to this Court, Mr Craig’s appeal was allowed and a general retrial on liability and damages was ordered.⁴ Mr Williams’ cross-appeal was dismissed. This Court made the following orders as to costs: the costs award in the Court of Appeal was set aside and Mr Williams was ordered to pay costs of \$35,000 plus usual disbursements to Mr Craig.

[3] Mr Williams applied for a recall of this Court’s judgment. His application was dismissed, and he was ordered to pay costs of \$3,500 to Mr Craig.⁵

[4] Mr Williams, by memorandum of 3 July 2019, accepts that he should pay the costs order of \$3,500 on the recall application. He also accepts the disbursements figure of \$10,872.26 with regard to the substantive appeal, as set out in the appellant’s memorandum of 2 May 2019. He, however, seeks a stay of the costs orders on the substantive appeal judgment pending the outcome of the retrial ordered by this Court.

[5] The only reason Mr Williams puts forward is that the stay should be granted “[d]ue to the very unusual circumstances of this case”. It may be that this argument is based on the possibility that he may be successful in the retrial.

[6] Even assuming this is Mr Williams’ argument, we accept Mr Craig’s submission that no proper basis has been advanced for granting the stay application. Mr Craig was after all successful on his appeal before this Court.

[7] The stay application is dismissed.

Solicitors:
Chapman Tripp, Auckland for the Appellant
Langford Law, Wellington for Respondent

⁴ *Craig v Williams* [2019] NZSC 38, [2019] 1 NZLR 457 [Substantive appeal judgment] (Elias CJ, Ellen France and Arnold JJ for the majority, William Young and Glazebrook JJ for the minority).

⁵ *Craig v Williams* [2019] NZSC 60 [Recall judgment] (Winkelmann CJ, Glazebrook, O’Regan, Ellen France and Williams JJ).