

IN THE SUPREME COURT OF NEW ZEALAND

SC 103/2016
[2016] NZSC 154

BETWEEN FRIEDRICH JOACHIM FEHLING
 Applicant

AND ATTORNEY-GENERAL
 Respondent

Court: Arnold, O'Regan and Ellen France JJ

Counsel: Applicant in Person
 C J Lange and H F McKenzie for Respondent

Judgment: 24 November 2016

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

B The applicant is to pay the respondent costs of \$2,500.

REASONS

[1] The applicant was dissatisfied with a decision of Nation J contained in a minute of an audio visual hearing dated 26 July 2016.¹

[2] His application for leave describes the decision against which he wishes to appeal as “the Greymouth High Court’s unwritten but inherent unlawful decision ... to dismiss the Statement of Claim and reject Democracy and the Bill of Rights”.

[3] The High Court minute records that the applicant’s statement of claim sought as relief “nullifying of anti-democratic s.24 local electoral act”.² It was accompanied by an interlocutory application for an injunction. It named as defendants The Queen

¹ *Fehling v The Crown* HC Greymouth, CIV-2016-418-20, 26 July 2016 (Minute of Nation J).

² At [1].

and the Governor-General.³ The applicant was directed by a High Court Judge to serve the proceedings on the Crown Law Office but failed to do so. Nation J therefore made directions as to service on the Crown Solicitor at Christchurch and set a timetable for the making of submissions. The Judge refused to consider the applicant's application for an injunction until after service and full argument.

[4] The Judge subsequently dismissed the applicant's application for interim injunctive relief, made directions for a hearing of an application by the Crown to strike out the proceedings, directed the applicant to desist from serving documents on the Governor-General and/or to Government House, and directed the applicant to desist from filing documents containing offensive and scandalous statements.⁴ He also directed the Court not to accept documents containing such statements.

[5] This Court does not have jurisdiction to hear and determine an appeal by a party to a civil proceeding in the High Court against any decision made in that proceeding if the decision "was made on an interlocutory application".⁵

[6] The decision against which the applicant wishes to appeal was made on an interlocutory application. The application for leave to appeal is therefore dismissed for want of jurisdiction. We record, however, that even if there were jurisdiction we would not have granted leave. The application clearly does not meet the requirements for the grant of leave set out in ss 13 and 14 of the Supreme Court Act 2003.

[7] The respondent was required to file submissions in opposition to the application and, in the circumstances, we award costs to the respondent of \$2,500.

[8] As was the case in relation to the High Court proceedings, the documents filed in this Court contained a number of offensive and scandalous statements. The applicant is directed to desist from filing such material in this Court. Documents of

³ The application for leave also named the Queen as respondent. The Registrar was directed to alter the Court file to record the respondent as the Attorney-General: *Fehling v Attorney-General* SC 103/2016, 3 October 2016 (Minute of O'Regan J).

⁴ *Fehling v R* [2016] NZHC 2026.

⁵ Supreme Court Act 2003, s 8(c).

this kind in the future will not be accepted for filing and will be returned to the applicant.

Solicitors:
Raymond Donnelly & Co, Christchurch for Respondent