

**NOTE: THERE IS AN EXTANT ORDER PROHIBITING PUBLICATION OF
NAME OR IDENTIFYING PARTICULARS OF THE APPLICANT.**

IN THE SUPREME COURT OF NEW ZEALAND

**SC 56/2016
[2016] NZSC 78**

BETWEEN AN (SC 56/2016)
Applicant

AND COUNTIES MANUKAU DISTRICT
HEALTH BOARD
Respondent

Court: William Young, Arnold and O'Regan JJ

Counsel: DN (on behalf of Applicant)
A M Adams and H H Ifwersen for Respondent

Judgment: 1 July 2016

JUDGMENT OF THE COURT

The application to recall the judgment in *AN(SC 56/2016) v Counties Manukau District Health Board* [2016] NZSC 74 is dismissed.

REASONS

[1] DN, as attorney for AN, sought leave to appeal to this Court against a judgment of the Court of Appeal striking out an appeal by AN against a High Court decision refusing a writ of habeas corpus. This Court dismissed the application.¹

[2] DN has filed two memoranda objecting to the dismissal of the application for leave to appeal and “reapplying” for leave on the grounds of new evidence. We treat these as collectively constituting an application to recall the judgment.

¹ *AN(SC 56/2016) v Counties Manukau District Health Board* [2016] NZSC 74 [Leave judgment].

[3] In his memorandum objecting to the dismissal of the application, DN raises three points.

[4] The first is that one of the panel, Arnold J, was involved in the present decision and also “authorised the application to the ‘Court of Appeal’”. It is said that this meant it was inappropriate that Arnold J was on the panel that dealt with the application. DN’s allegation is incorrect: Arnold J is a Judge of this Court and had no involvement at the Court of Appeal stage. Arnold J issued a minute dealing with the timetabling of submissions for the application to this Court² but that obviously did not affect his ability to take part in the consideration and determination of the application.

[5] The second is that the judgment says DN is trying to appeal the Family Court process. In fact, the judgment noted that the Court of Appeal had observed that the proceedings were *in substance* an attempt to review the Family Court order.³

[6] The third was that some grounds advanced in support of the application for leave to appeal were unanswered. There was no need to address every issue: the Court considered all the material put before it but it is not required to deal specifically with each one when it is clear that the requirements for the grant of leave to appeal under s 13 of the Supreme Court Act 2003 are not met.

[7] The memorandum “reapplying” for leave is accompanied by an affidavit. Nothing in either the memorandum or the affidavit provides any basis for reconsideration of the application for leave or provides any indication that a writ of habeas corpus could issue in respect of AN.

[8] The applicant appears to be concerned that the copy of the judgment provided to him was not an original copy signed by the Judges. We confirm that the copy he received was a true copy of the judgment that was signed by the Judges.

² *AN v Counties Manukau District Health Board* SC 56/2016, 3 June 2016 (Minute of Arnold J).

³ Leave judgment at [6].

[9] There is no basis to recall the judgment. The application to recall the judgment in *AN(SC 56/2016) v Counties Manukau District Health Board* [2016] NZSC 74 is dismissed. The matter is now resolved and DN should not file any further memoranda or other communications relating to the judgment. We direct the Registrar to refuse to accept any further memoranda.

Solicitors:
Meredith Connell, Auckland for Respondent