

IN THE SUPREME COURT OF NEW ZEALAND

SC 92/2017
[2017] NZSC 149

BETWEEN MALCOLM EDWARD RABSON
Applicant
AND ATTORNEY-GENERAL
Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: Applicant in person
H M Carrad for Respondent

Judgment: 5 October 2017

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

B Costs of \$2,500 are awarded to the respondent.

REASONS

[1] The applicant seeks leave to appeal from a decision of the Court of Appeal declining to grant an extension of time to apply for the allocation of a hearing date and to file a case on appeal.¹

[2] The background to the application is as follows:

(a) In *Greer v Smith* this Court dismissed an application for review of a decision about access to Court documents.²

¹ *Rabson v Attorney-General* [2017] NZCA 350 (French, Miller and Cooper JJ) [*Rabson* (CA)].

² *Greer v Smith* [2015] NZSC 196, (2015) 22 PRNZ 785. The application was made by Vincent Siemer.

- (b) The applicant took issue with the Court’s decision and asked the Attorney-General to notify Cabinet of what the applicant described as this Court’s “non-compliance” with s 28 of the Supreme Court Act 2003. The Attorney-General declined to do so.
- (c) The applicant sought judicial review of the Attorney-General’s decision. On the application of the Attorney-General, the proceeding was struck out.³
- (d) The applicant unsuccessfully sought leave to appeal to this Court from the decision to strike out.⁴ The Court saw “no appearance of error in the approach taken in the High Court and [saw] the attempted appeal as a continuation of the abuse of process identified by [the High Court]”.⁵
- (e) The applicant filed an appeal to the Court of Appeal against the judgment of the High Court striking out the proceeding. On 28 March 2017 the appeal was deemed abandoned under r 43(1) of the Court of Appeal (Civil) Rules 2005. An extension of time to file “submissions and the case on appeal” was sought. The Court of Appeal treated this as an application for filing the case on appeal and for the allocation of a hearing date. The application was declined on the basis that the proposed appeal would be hopeless and an abuse of process.⁶

[3] The principles applicable to an application for an extension of time under the Court of Appeal (Civil) Rules have recently been settled by this Court.⁷ No question of general or public importance arises out of the present application. Reflecting the background described above, there is nothing raised by the applicant to call into question the application of the principles in this case. The application is a continuation of the abuse of process identified in [2](d) above.

³ *Rabson v Attorney-General* [2016] NZHC 2876 (Ellis J).

⁴ *Rabson v Attorney-General* [2017] NZSC 22.

⁵ At [9].

⁶ *Rabson* (CA), above n 1, at [11].

⁷ *Almond v Read* [2017] NZSC 80, [2017] 1 NZLR 801.

[4] For these reasons, the application for leave to appeal is dismissed.

[5] We award costs of \$2,500 to the respondent.

Solicitors:
Crown Law Office, Wellington for Respondent