

IN THE SUPREME COURT OF NEW ZEALAND

SC 19/2017
[2017] NZSC 45

BETWEEN MALCOLM EDWARD RABSON
Applicant

AND JUDICIAL CONDUCT
COMMISSIONER
Respondent

Court: Arnold, O'Regan and Ellen France JJ

Counsel: Applicant in person
L Theron and C P A Cross for Respondent

Judgment: 5 April 2017

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

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

REASONS

[1] The applicant, Mr Rabson, issued judicial review proceedings against the Judicial Conduct Commissioner in respect of the Commissioner's rejection of various complaints made by Mr Rabson against members of this Court arising out of decisions made by the Court.¹ Cull J struck the proceedings out, on the basis that they disclosed no reasonable cause of action and were an abuse of process.²

[2] Cull J held that the proceedings disclosed no reasonable cause of action because the Commissioner had rejected Mr Rabson's complaints on the basis they challenged the legality or correctness of judicial decisions and were accordingly

¹ Mr Rabson included the "Supreme Court of New Zealand" as second respondent in the proceedings, but Williams J struck the Court out as a party: see *Rabson v Judicial Conduct Commissioner* [2016] NZHC 884.

² *Rabson v Judicial Conduct Commissioner* [2016] NZHC 2539, [2016] NZAR 1679.

outside the Commissioner's jurisdiction.³ Given the nature of Mr Rabson's complaints, Cull J considered that the Commissioner's assessment in relation to jurisdiction was correct.⁴ As to abuse of process, Cull J held that the application for judicial review contained speculative and extreme allegations without any reasonable basis and were, in any event, a collateral attack on earlier decisions of this Court.⁵

[3] Mr Rabson filed an appeal against Cull J's decision in the Court of Appeal, but that appeal was ultimately deemed to have been abandoned. Mr Rabson now seeks leave to appeal directly to this Court.

[4] The general point that Mr Rabson wishes to argue is that Cull J was wrong to strike out the proceedings because the Commissioner had not considered the merits of his complaints, so that it was not possible for Cull J to reach a view about them. In relation to the exceptional circumstances required to justify a "leap frog" appeal,⁶ Mr Rabson relies on his inability to pay security of costs in the Court of Appeal, as well as the importance of the matters he seeks to raise.

[5] We do not consider that Mr Rabson has raised anything which would justify a conclusion that there are exceptional circumstances sufficient to justify a "leapfrog" appeal to this Court. Moreover, we are not satisfied that Mr Rabson has raised anything which suggests that there is a point of general or public importance in the proposed appeal or which casts doubt on the correctness of Cull J's decision.

[6] Accordingly, the application for leave to appeal is dismissed. The applicant must pay the respondent costs of \$2,500.

Solicitors:
Meredith Connell, Wellington for Respondent

³ At [32]–[41].

⁴ At [38].

⁵ At [42]–[47].

⁶ Section 14 of the Supreme Court Act 2003, which applies to this application despite the Act's repeal: Senior Courts Act 2016, sch 5 cl 10.