

ORDER: NO PUBLICATION OF APPLICANTS' NAMES OR PARTICULARS LIKELY TO LEAD TO THEIR IDENTIFICATION IS PERMITTED. PUBLICATION OF JUDGMENT IN PRESENT FORM IN LAW REPORT OR LAW DIGEST IS PERMITTED.

IN THE SUPREME COURT OF NEW ZEALAND

**SC 2/2010
[2010] NZSC 18**

BETWEEN	R L First Applicant
AND	W L Second Applicant
AND	THE CHIEF EXECUTIVE OF THE MINISTRY OF SOCIAL DEVELOPMENT First Respondent
AND	THE FAMILY COURT AT PAPA KURA Second Respondent
AND	THE ATTORNEY-GENERAL Third Respondent

Court: Elias CJ, McGrath and Wilson JJ

Counsel: E Orlov for Applicants
U R Jagose for First and Third Respondents

Judgment: 10 March 2010

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed with no order for costs.

[1] This application for leave to appeal arises out of proceedings brought in the Family Court in June 2007 by the Child, Youth and Family division of the Ministry of Social Development seeking a declaration that children of the applicants were in

need of care and protection. As a result of an interim custody order made on 6 June 2007 the children were placed with caregivers arranged by the Ministry.

[2] On 22 August 2007 a Family Court Judge made a declaration that the children were in need of care and protection and on 26 September 2007 another Judge refused a rehearing of that application.

[3] The Court of Appeal has aptly described the present proceedings challenging the Family Court's orders and declaration as an unprecedented procedural wrangle, the result of which is that a final determination of what should happen to the children is yet to emerge.¹

[4] The applicants' proceedings for judicial review were struck out in the High Court,² but reinstated on terms by the Court of Appeal. The applicants seek leave to appeal to this Court in order to challenge the restrictions imposed by the Court of Appeal. Their submissions assert that the appeal raises significant issues concerning the rights of Maori or indigenous peoples under the Treaty of Waitangi and the right of indigenous people to family life under s 20 of the New Zealand Bill of Rights Act 1990.

[5] We are satisfied that none of the rights raised is engaged by this leave application. The applicants' submissions do not persuade us that the Court of Appeal's judgment provides other than a principled basis for judicial determination of the matters raised. Accordingly, the applicants have not demonstrated that the interests of justice require the grant of leave to appeal.

[6] The application is dismissed. There will be no order for costs.

Solicitors:

Alastair McClymont, Auckland for Applicants

Crown Law Office, Wellington for First and Third Respondents

¹ *RL v The Chief Executive of the Ministry of Social Development* [2009] NZCA 596 at [4].

² *RL v The Chief Executive of the Ministry of Social Development* HC Auckland CRI-2007-404-7031, 24 July 2008.

