

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC MA 4/2019  
[2019] NZSC 52

IN THE MATTER OF      Application by VINCENT ROSS SIEMER  
for Access to Court Documents

Judgment:              21 May 2019

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**JUDGMENT OF O'REGAN J**

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**The application for review of the Registrar's decision is dismissed.**

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**REASONS**

[1]    The Registrar has referred to me the following communication from the applicant named above:

Kieron,

Your legal position that public access to the formal court record in civil appeals is not by right is rejected as wrong in law. Moreover, I consider it obstructive.

Due to your refusal to appropriately address my request for copies of the formal court record in *Guy v Bank of New Zealand* and *Slavich v The Queen* I require a judicial ruling as to whether my request for the formal court record falls under R8(5) of the Senior Courts (Access to Court Documents) Rules 2017, along with the mandatory reasons if a plain reading of R8(5) is no longer to be considered applicable to the Supreme Court.

I relevantly record for the judge determining this issue:

1.    I have evidence the Supreme Court and its Registrar are using *Guy v Bank of New Zealand* and *Slavich v The Queen* as legal authority to disavow statutory rights of review, and this broader legal application of each ruling alone provides cogent justification for transparency into how this new law was handed down.

2. As you have confirmed in your email these judgments accurately record what “were considered by the judges”, copies of the formal court record to be provided [to] me in both Guy and Slavich would include the appeal indexes, their respective applications to the Supreme Court, notice as to the date when and venue where Mr Guy was heard “in person” and Mr Slavich was heard “in person”, as well as the transcript recording their *in person* legal submissions.
3. I wish to be given notice and be heard, and consider the Attorney-General should similarly be invited to make legal submissions, if the Judge considering my request is predisposed to generally disavow the public right provided by R8(5) of the Senior Courts (Access to Court Documents) Rules 2017 in response to my application made under R8(5).

[2] The applicant is a vexatious litigant, having been the subject of an order made by the High Court under s 88B of the Judicature Act 1908.<sup>1</sup>

[3] The request referred to in the applicant’s communication was as follows:

Please provide by return email copies of the following information from the public court record –

1. The applications upon which the full bench convened and acted with its judgments *Slavich v The Queen* [2005] NZSC 195, *Greer v Smith* [2015] NZSC 196 and *Guy v Bank of New Zealand* [2013] NZSC 127 **(individually referred to as “Slavich”, “Greer” and “Guy”, and collectively as “Judgments”)?**
2. The court notices, party submissions, transcripts and minutes if they exist which relate to each Judgment?
3. The dates and times at which the full court convened to determine the issues decided in Slavich, in Greer and in Guy?
4. The list of parties heard by the Supreme Court on the issues determined in Slavich, in Greer and in Guy?
5. The venue in which the parties appeared “in person” where the intituling of the Judgments records this was the case?

[4] The Registrar responded to the request by advising that the applications for review in *Slavich v R*,<sup>2</sup> *Greer v Smith*<sup>3</sup> and *Guy v Bank of New Zealand*<sup>4</sup> were considered by the Judges recorded on the relevant judgments but there was no hearing.

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<sup>1</sup> *Attorney-General v Siemer* [2014] NZHC 859. The scope of the order was expanded on appeal: *Siemer v Attorney-General* [2016] NZCA 43, [2016] NZAR 411.

<sup>2</sup> *Slavich v R* [2015] NZSC 195, (2015) 23 PRNZ 117.

<sup>3</sup> *Greer v Smith* [2015] NZSC 196, (2015) 22 PRNZ 785.

<sup>4</sup> *Guy v Bank of New Zealand* [2013] NZSC 127.

(This meant items 3, 4 and 5 of the request were inapplicable). He advised that the documents the applicant sought in relation to *Slavich* and *Guy*, other than the judgments, were not available as of right and it was necessary for the applicant to provide reasons for seeking access to these documents and the purpose for which access is sought and to set out any conditions (if access were to be provided) that the applicant would be prepared to meet were a Judge to impose those conditions. He advised that, as the *Greer* application had been made by the applicant, a copy of the application could be provided if required.

[5] Insofar as the request related to *Greer*, it should not have been accepted for filing, given the direction made in the Court's minute of 25 November 2016 as follows:

[3] One aspect of the jurisdiction of the Court which is now engaged is its entitlement to deal with abuse of its processes. We say this given:

- (a) the repeated in-substance challenges to the judgment of 18 December 2015 which come on top of the two unsuccessful recall applications;
- (b) the absence of any other apparent point to Mr Siemer's recent conduct; and
- (c) Mr Siemer's persistence in advancing s 28(3) arguments which have previously been rejected by us.

[4] Accordingly, we direct the Registrar not to accept for filing any further application by Mr Siemer by way of, or relating to:

- (a) his application for access to Mr Greer's application for leave to appeal;
- (b) challenge, direct or indirect, to the judgments of this Court of 18 December 2015, 10 February 2016 or 10 March 2016;
- (c) the minutes of 20 October 2015, 28 October 2016 or 9 November 2016; or
- (d) this minute.

[6] To the extent that the applicant's request can be construed as an application to review the Registrar's decision on the applicant's request in relation to *Slavich* and *Guy*, I uphold the Registrar's decision.

[7] The applicant's request was made under r 8(5) of the Rules. Under r 8(5), a member of the public has the right to access the "formal court record", as defined in

r 4. As the application in *Slavich* was dealt with on the papers and there was no hearing, the only document coming within the “formal court record” is the judgment, which is published on the Courts of New Zealand website.

[8] The same analysis applies to *Guy*. In fact, the Registrar took a generous approach in applying r 8(5) in relation to *Guy*. Rule 8(5) of the Rules applies to appeals. “Appeal” is defined in r 4 as including an application for leave to appeal. *Guy* was neither an appeal nor an application for leave.

[9] The Registrar has correctly interpreted r 8(5).

[10] The application for review of the Registrar’s decision is therefore dismissed.