

**NOTE: SUPPRESSION ORDERS MADE IN THE HIGH COURT REMAIN  
IN FORCE.**

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 48/2010  
[2010] NZSC 69**

BETWEEN                      W & W  
   Applicants  
  
AND                              ATTORNEY-GENERAL  
   Respondent

Court:                      Elias CJ, Blanchard and McGrath JJ  
  
Counsel:                    S M Cooper and K R Ross for Applicants  
   U Jagose and R Schmidt for Respondent  
  
Judgment:                29 June 2010

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed.**

**REASONS**

[1]     The applicants allege physical and sexual abuse while under social welfare supervision and in institutional care from 1959 to 1976 and 1978 respectively. One filed proceedings in December 1999 and the other in October 2001. They pleaded five causes of action, including breach of duty of care by Child Welfare (later Social Welfare), assault and battery and false imprisonment. Ordinarily, the causes of action in terms of the Limitation Act 1950 would have accrued in February 1979 for one applicant and in March 1981 for the other, the dates on which each turned 20 years of age, and so they would have been time-barred 6 years subsequently. The applicants have argued that their claims were not time-barred because until recently each was suffering from a “disability” under s 24 of the Limitation Act which made him incapable of conducting litigation. Alternatively, they argue that the doctrine of

reasonable discoverability applies to their case, and that time periods ran only from April 2000 for one applicant and April-May 1999 for the other.

[2] The claims have been disposed of both in the High Court<sup>1</sup> and in the Court of Appeal<sup>2</sup> essentially on the basis of factual findings adverse to the applicants. The decisions of the lower courts on the Limitation Act questions which the applicants seek to raise in this Court are based on concurrent findings of fact as to the credibility and reliability of the applicants' evidence. No good reason arises from the applicants' submissions to this Court to suggest that this Court would disturb those findings. While the applicants have undoubtedly undergone regrettable suffering during their childhood and adolescence, the Limitation Act operates to preclude them seeking legal redress. The other legal issues raised by the appellants are not appropriate for consideration in light of the findings on limitation.

Solicitors:  
Cooper Legal, Wellington for Applicants  
Crown Law Office, Wellington

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<sup>1</sup> *W & W v Attorney-General* HC Wellington CIV-1999-485-85, CIV-2001-485-864, 28 November 2007.

<sup>2</sup> *W & W v Attorney-General* [2010] NZCA 139.