

IN THE SUPREME COURT OF NEW ZEALAND

SC 94/2013
[2013] NZSC 130

BETWEEN JOHN KENNETH SLAVICH
Applicant
AND ATTORNEY-GENERAL
Respondent

Court: Elias CJ, William Young and Arnold JJ
Counsel: Applicant in person
P J Gunn for Respondent
Judgment: 26 November 2013

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B The applicant is to pay the respondent costs of \$2,500 and reasonable disbursements to be fixed, if necessary, by the Registrar.**
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REASONS

[1] In a judgment delivered on 8 August 2013, Harrison J declined an application to review a decision by the Registrar of the Court of Appeal requiring the applicant to pay security for costs in respect of two appeals and directed that security be provided within 20 working days of the judgment.¹ The applicant seeks leave to appeal against that judgment.

[2] The two appeals concern a single High Court proceeding which resulted in orders being made against the applicant under s 88B of the Judicature Act 1908. The

¹ *Slavich v Attorney-General* [2013] NZCA 356.

first appeal was in respect of an interlocutory judgment² and the second against the final orders.³ The Registrar had recognised this by fixing security as if for a single appeal.

[3] Harrison J's primary reasons for declining the application for review were that the applicant had:⁴

- (a) simply asserted that he would be financially disadvantaged if required to pay security and had not adduced evidence as to his financial circumstances; and
- (b) failed to demonstrate that his appeals had any merit.

[4] In support of the application for leave to appeal to this Court, the applicant maintained that Harrison J should not have dealt with the application for review because he was one of a number of respondents⁵ to proceedings by the applicant against the Judicial Conduct Commissioner. These proceedings were amongst those relied on by the High Court in concluding that the applicant was a vexatious litigant. The applicant also asserts that his impecuniosity had been accepted when the Registrar waived filing fees and that Harrison J's approach on the merits had not been open to him.

[5] Contrary to the applicant's submissions, his appeal raises no point of public or general importance. The application therefore falls to be determined on the basis of the substantial miscarriage of justice ground.

[6] The making of a complaint to the Judicial Conduct Commissioner against a judge does not serve to disqualify that judge from hearing cases involving the complainant. The same is true of review proceedings against the Judicial Conduct Commissioner to which the judge is also a respondent.⁶ And a decision by a

² *Attorney-General v Slavich* HC Auckland CIV-2012-404-6353, 8 March 2013.

³ *Attorney-General v Slavich* [2013] NZHC 627 [High Court judgment].

⁴ At [8] and [9].

⁵ According to the submissions for the respondent, Harrison J was one of 20 High Court, Court of Appeal and Supreme Court judges who were second respondents in proceedings of this kind.

⁶ On the basis of the High Court judgment at [169], the complaints were that judges who rejected

Registrar to waive filing fees is not controlling as to impecuniosity in relation to security for costs. Even now, there is no evidence to suggest that the applicant is not able to put up security for costs. We have evaluated the applicant's submissions in light of the High Court judgment which we have considered. All in all, we see no appearance of a substantial miscarriage of justice.

[7] Accordingly, the application for leave to appeal is dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent

his arguments had done so corruptly. The applicant's broader position was that no New Zealand judge should hear the vexatious litigant proceedings and that the Queen should appoint judges from overseas to do so, see at the remarks made at [20] of the High Court judgment.