

IN THE SUPREME COURT OF NEW ZEALAND

SC 91/2014
[2014] NZSC 125

BETWEEN VINCENT ROSS SIEMER
 Applicant

AND REGISTRAR OF THE SUPREME
 COURT
 First Respondent

 MINISTRY OF JUSTICE
 Second Respondent

Court: McGrath, Glazebrook and O'Regan JJ

Counsel: Applicant in person

Judgment: 15 September 2014

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Mr Siemer applies for leave to appeal against a minute of French J dated 28 August 2014 declining Mr Siemer's application under s 61A(1) of the Judicature Act 1908 for want of jurisdiction.

Background

[2] Mr Siemer commenced judicial review proceedings in the High Court in relation to a decision of the Registrar of the Supreme Court declining him access to court documents. On the application of the respondents, in a judgment by Clifford J dated 29 May 2014, the proceedings were struck out.¹

¹ *Siemer v Registrar, Supreme Court* [2014] NZHC 1179.

[3] Mr Siemer appealed against that judgment and the notice of appeal was accepted for filing by the Court of Appeal on 13 June 2014.

[4] On 16 June 2014, Mr Siemer also applied for leave to appeal directly to the Supreme Court against Clifford J's judgment. On 5 August 2014, the Supreme Court dismissed Mr Siemer's application for leave to appeal.²

[5] On 25 June 2014, the Registrar of the Court of Appeal ordered Mr Siemer to pay \$5,880 security for costs in relation to his appeal.

[6] On 2 July 2014, Mr Siemer applied for a dispensation of security for costs under r 35(7) of the Court of Appeal (Civil) Rules 2005. On 21 August 2014, the Registrar of the Court of Appeal declined to dispense with the security for costs.

[7] Mr Siemer then, on 21 August 2014, applied for a direction by a single judge of the Court of Appeal under s 61A(1) of the Judicature Act as to security for costs.

[8] On 28 August 2014, French J released the minute referred at [1] above.

Grounds of Application

[9] The grounds of Mr Siemer's application for leave are that:

- (a) French J erred in concluding that she lacked jurisdiction to make the order sought under s 61A(1) of the Judicature Act 1908; and
- (b) the minute was in the form of a private and unrecorded minute whereas the law requires publicly recorded judgments when dealing with such applications.

Our Assessment

[10] French J stated that the proper course for review of the Registrar's decision on security for costs was under an application under s 61A(3) of the Judicature Act

² *Siemer v Registrar of the Supreme Court* [2014] NZSC 100.

and r 7(2) of the Court of Appeal (Civil) Rules. Accordingly, French J declined Mr Siemer's application for want of jurisdiction.

[11] As this Court has previously recognised, the proper avenue for review of the Court of Appeal Registrar's decisions is under s 61A(3) of the Judicature Act and r 7(2) of the Court of Appeal (Civil) Rules 2005.³ Given this avenue of review, this Court has previously recognised that a judge will "most unlikely" assume or exercise jurisdiction under s 61A(1).⁴

[12] In this case, French J has decided not to exercise that jurisdiction. That course was open to her and indeed, as the Registrar had already made a decision, the only logical course of action was to direct that Mr Siemer apply for review under s 61A(3). On 2 September 2014, Mr Siemer, in accordance with the minute of French J, filed a proper application for review of the Registrar's decision.

[13] As to the issue that the minute was not publicly issued, this Court has previously stated that, under the Court of Appeal (Civil) Rules, "there is no prescribed method for the delivery of interlocutory orders".⁵ In light of that, French J was entitled to issue her decision via a minute to the parties of the proceeding.

[14] In conclusion, nothing Mr Siemer has put forward indicates that there is a risk of a miscarriage of justice. Nor does it raise any matters of general or public importance.

Result

[15] The application for leave to appeal is dismissed.

Solicitors:
Crown Law Office, Wellington for First and Second Respondents

³ *Siemer v Stiassny* [2013] NZSC 115 at [9]; *Siemer v Stiassny* [2013] NZSC 110 at [9]–[11].

⁴ *Siemer v Official Assignee* [2014] NZSC 42 at [5]. See also *Siemer v Stiassny* [2013] NZSC 115 at n 4.

⁵ *Siemer v New Zealand Court of Appeal* [2014] NZSC 69 at [3].