

IN THE SUPREME COURT OF NEW ZEALAND

SC 86/2014
[2014] NZSC 138

BETWEEN VINCENT ROSS SIEMER
 Applicant

AND JUDICIAL CONDUCT
 COMMISSIONER
 First Respondent

 RODNEY HANSEN
 Second Respondent

 DAVID HARVEY
 Third Respondent

Court: McGrath, Glazebrook and O'Regan JJ

Counsel: Applicant in person
 D Goddard QC and L Theron for First Respondent
 A M Powell for Second and Third Respondents

Judgment: 9 October 2014

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Mr Siemer seeks leave to appeal against a decision of White J dated 30 July 2014.¹

[2] In that judgment, White J declined Mr Siemer's application under s 61A(1) of the Judicature Act 1908 for an order that security for costs be dispensed with in relation to an appeal before the Court of Appeal. He also dismissed Mr Siemer's

¹ *Siemer v Judicial Conduct Commissioner* [2014] NZCA 358.

application under s 61A(3) of the Judicature Act and r 7(2) of the Court of Appeal (Civil) Rules 2005 for review of the decision of the Deputy Registrar of the Court of Appeal refusing to dispense with security for costs in relation to that appeal. White J did, however, extend the time for Mr Siemer to pay security for costs in relation to the appeal.

[3] The application for leave to appeal to this Court is opposed by the first respondent, the Judicial Conduct Commissioner. The second and third respondents abide the Court's decision.

[4] Mr Siemer's appeal to the Court of Appeal is an appeal against a decision of Kós J ordering Mr Siemer to pay security for costs of \$10,000 each in two judicial review proceedings in the High Court challenging decisions of the Commissioner in relation to complaints against the second respondent and the third respondent respectively.² We will refer to the appeal as the substantive appeal.

[5] In relation to the application under s 61A(1) of the Judicature Act, White J noted that the Deputy Registrar of the Court of Appeal had already considered and declined Mr Siemer's application for an order dispensing with security for costs. In accordance with a number of decisions of this Court, White J decided that since an application for an order dispensing with security for costs had already been made to the Registrar of the Court of Appeal and had been dealt with, it was not appropriate for him to deal with a separate application for an order dispensing with security for costs under s 61A(1).³ In that respect he followed a number of decisions of this Court in cases involving Mr Siemer.⁴ The law has been stated and restated in those decisions. It would be pointless to give leave to appeal on this issue when this Court's determination of the issue has already been stated on a number of occasions.

[6] In relation to the application for review of the Deputy Registrar's decision under s 61A(3) and r 7(2), White J applied the law as set out in this Court's decision

² *Siemer v Judicial Conduct Commissioner* [2014] NZHC 596.

³ *Siemer v Judicial Conduct Commissioner*, above n 1, at [9].

⁴ *Siemer v Registrar of the Supreme Court* [2014] NZSC 125 and the cases referred to at [11] of that decision.

in *Reekie v Attorney-General*.⁵ White J's decision was an orthodox application of the law as set out in *Reekie v Attorney-General* to the facts of the case.

[7] Nothing put forward by Mr Siemer in his application gives any indication that there is a risk of a miscarriage of justice. Nothing in the application raises any matter of general or public importance.

[8] Counsel for the Commissioner, Ms Theron, has notified the Court that the substantive appeal has now been deemed abandoned under r 43 of the Court of Appeal (Civil) Rules. A notice to that effect was issued by the Court of Appeal on 17 September 2014. Ms Theron argued that this made the present application for leave moot. This provides an added reason for declining the application for leave.

Solicitors:
Gault Mitchell Law, Wellington for First Respondent
Crown Law Office, Wellington for Second and Third Respondents

⁵ *Siemer v Judicial Conduct Commissioner*, above n 1, at [12]–[24], applying *Reekie v Attorney-General* [2014] NZSC 63.