IN THE SUPREME COURT OF NEW ZEALAND

SC 21/2014
[2014] NZSC 42

BETWEEN	VINCENT ROSS SIEMER Applicant
AND	OFFICIAL ASSIGNEE Respondent

SC 23/2014

BETWEEN	VINCENT ROSS SIEMER Applicant
AND	MICHAEL PETER STIASSNY AND KORDA MENTHA (FORMERLY FERRIER HODGSON) Respondents

Court:	William Young, Glazebrook and Arnold JJ
Counsel:	Applicant in person I T F Hikaka and E D Nilsson for Respondent SC 21/2014 M Heard and E D Nilsson for Respondents SC 23/2014
Judgment:	30 April 2014

JUDGMENT OF THE COURT

A The applications for leave to appeal are dismissed.

B The applicant is to pay, in relation to each application, costs of $2,500 plus reasonable disbursements to be fixed, if necessary, by the Registrar.

REASONS

[1] The applicant has sought leave to appeal against three judgments of Wild J. In the first, given in the context of an appeal to which Mr Michael Stiassny and Korda Mentha were respondents, he upheld a decision of the Registrar of the Court

of Appeal not to dispense with security for costs.[1] The other two involved an appeal by the applicant to the Court of Appeal against the Official Assignee. In these judgments, Wild J upheld decisions of the Registrar of the Court of Appeal to reject applications made under s 61A(1) of the Judicature Act 1908 for a judge to dispense with security.[2]

[2] It appears that the appeals to the Court of Appeal in which the disputed decisions were made have now been abandoned, which in itself would probably warrant the dismissal of the applications for leave to appeal.[3] We will, however, discuss briefly the arguments raised by the applicant.

[3] The applicant maintains that Wild J ought not to have determined the applications because he is the subject of proceedings which the applicant has commenced against the Court of Appeal and the Attorney-General. These proceedings were struck out by Allan J on 12 December 2013[4] but the applicant lodged an appeal with the Court of Appeal on 30 December 2013. There are other cases in which arguments addressed to whether particular judges should be disqualified for similar reasons have been raised unsuccessfully.[5] For the reasons given in those cases, this point does not warrant leave to appeal.

[4] In relation to the decision given by Wild J in the appeal to which Mr Stiassny and Korda Mentha were respondents, the applicant maintains that the Judge did not address what he refers to as "the appeal bona fides". By "bona fides" we assume that the applicant means "merits". The merits, however, were addressed by Wild J, albeit succinctly. Having considered the judgment under appeal (which struck out proceedings in which the applicant sought to re-litigate the results of earlier litigation),[6] we consider such succinct treatment was understandable and we are left with the view that there is no appearance of a miscarriage of justice.

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1 *Siemer v Stiassny* [2014] NZCA 2.
2 *Siemer v Official Assignee* [2014] NZCA 3; *Siemer v Official Assignee* [2014] NZCA 9.
3 *Siemer v Heron* [2012] 1 NZLR 309 (SC) at [40].
4 *Siemer v New Zealand Court of Appeal* [2013] NZHC 3344.
5 *Siemer v Heron [Recusal]* [2012] 1 NZLR 293 (SC); *Slavich v Attorney-General* [2103] NZSC 130 at [6].
6 *Siemer v Stiassny* [2013] NZHC 301.

[5] In relation to the other two judgments of Wild J, the applicant wishes to argue that a judge of the Court of Appeal, acting under s 61A of the Judicature Act 1908, may dispense with security for costs and that an appellant who seeks such dispensation is not required to apply, in the first instance, to the Registrar of the Court of Appeal and then to a judge only by review. Given that the Court of Appeal (Civil) Rules 2005 provide specifically for applications to dispense with security to be dealt with by the Registrar but with a right to seek review, a judge of the Court of Appeal is most unlikely to assume or exercise jurisdiction to do so under s 61A. For this reason, the argument of the applicant does not raise an issue of public or general importance[7] and we also see no appearance of a miscarriage of justice.

Solicitors:
LeeSalmonLong, Auckland for Respondents

[7] A similar, although not precisely identical, argument was advanced in *Siemer v Stiassny* [2013] NZSC 115. The point is also specifically addressed in *Siemer v Stiassny* [2013] NZSC 110 at fn 4.