

IN THE SUPREME COURT OF NEW ZEALAND

SC 137/2013
[2014] NZSC 8

BETWEEN VINCENT ROSS SIEMER
 Applicant

AND ATTORNEY-GENERAL OF NEW
 ZEALAND
 Respondent

Court: William Young, Glazebrook and Arnold JJ

Counsel: Applicant in person
 P J Gunn for Respondent

Judgment: 19 February 2014

JUDGMENT OF THE COURT

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

[1] Mr Siemer seeks leave to appeal against a judgment of Harrison J dated 27 November 2013. In that judgment Harrison J dismissed Mr Siemer's application for a review of the Court of Appeal Registrar's decision declining to waive security for costs.¹

¹ *Siemer v Attorney General* [2013] NZCA 472.

Context

[2] The background to this application for leave to appeal was set out in this Court's judgment in *Siemer v Attorney-General*.²

[3] In brief, the application for leave stems from a decision in the High Court striking out Mr Siemer's claim that this Court breached his rights under the New Zealand Bill of Rights Act 1990. Toogood J struck out the claim as a collateral challenge and an abuse of process ("the strike out decision"). Toogood J also refused to recuse himself from dealing with the strike out application ("the recusal decision").

[4] Mr Siemer filed appeals at the Court of Appeal with regards to the recusal decision (on 6 May 2013) and the strike out decision (on 21 May 2013). In respect of each separate appeal, he applied to the Registrar to dispense with security for costs. Both applications were declined by the Registrar.³ Mr Siemer then applied, separately in respect to each appeal, for a judge to review the Registrar's decisions. Both applications were dismissed.⁴

[5] In respect to the security for costs decisions in both the recusal appeal and the strike out appeal, Mr Siemer has sought leave from this Court to appeal against Harrison J's decisions. This Court has declined his application for leave in respect of the recusal appeal.⁵

Harrison J's decision on the strike out appeal

[6] In affirming the Registrar's decision in his judgment of 27 November 2013, Harrison J held that Mr Siemer's strike out appeal was "without any apparent merit".⁶ He said that Toogood J was "plainly correct" to dismiss his application as a collateral challenge to this Court's earlier decisions.⁷ Harrison J further noted that

² *Siemer v Attorney-General* [2013] NZSC 116 at [2]–[18].

³ In regards to the strike out appeal, the Registrar declined to dispense with security for costs on 18 June 2013. With respect to the recusal appeal, the Registrar declined to dispense with security for costs on 9 August 2013.

⁴ *Siemer v Attorney General* [2013] NZCA 391; *Siemer v Attorney-General*, above n 1.

⁵ *Siemer v Attorney-General*, above n 2.

⁶ *Siemer v Attorney-General*, above n 1, at [6].

⁷ At [6].

Mr Siemer's underlying appeal did not raise any important issues.⁸ Nor is there any public interest arising.⁹ He concluded that the Registrar was correct not to grant Mr Siemer's application for dispensation.

Our assessment of Mr Siemer's application

[7] Mr Siemer's first submission is that the approach taken by Harrison J was incorrect. This appears to be on the basis that the Registrar had accepted that he was the impecunious¹⁰ and that she was unable to assess the merits of the appeal. Even if that is the case, however, Harrison J could assess the merits and did so.

[8] As to whether the underlying appeal has any merit, Mr Siemer complains that Harrison J's conclusion was "unfounded". However, in his submissions in support of his application for leave, Mr Siemer does not put forward any arguments to justify why the underlying strike out appeal has merit. Instead, Mr Siemer's submissions relate almost solely to the issue of judicial bias and Toogood J's refusal to recuse himself. Leave has already been refused with regard to the security for costs decision in the recusal appeal.

Result

[9] Mr Siemer's application does not meet the test for the grant of leave to appeal to this Court. There is no issue of public or general importance. Nor is there any risk of a miscarriage of justice. It is dismissed accordingly.

[10] Mr Siemer is to pay to the respondent costs of \$2,500 plus all reasonable disbursements to be fixed if necessary by the Registrar.

Solicitors:
Crown Law Office, Wellington for the Respondent

⁸ At [7].

⁹ At [7].

¹⁰ We do not accept that this was the Registrar's finding (see the Registrar's decision as set out at [4] of Harrison J's decision).