IN THE SUPREME COURT OF NEW ZEALAND

SC 58/2015
[2015] NZSC 113

BETWEEN	MALCOLM EDWARD RABSON Applicant
AND	REGISTRAR OF THE SUPREME COURT First Respondent
	MINISTRY OF JUSTICE Second Respondent

Court:	Glazebrook, Arnold and O'Regan JJ
Counsel:	Applicant in person K Laurenson for the Respondents
Judgment:	24 July 2015

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

B The applicant must pay costs of $2,500 to the respondents.

REASONS

Background

[1] Mr Rabson applies for leave to appeal to this Court against a decision of Randerson J.[1] In that decision, Randerson J upheld the decision of the Registrar of the Court of Appeal refusing to dispense with security for costs for Mr Rabson's appeal.

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1 *Rabson v Registrar of the Supreme Court* [2015] NZCA 129.

[2] The underlying appeal concerns a minute in which Dobson J, in his capacity as Executive Judge, directed the Registrar of the High Court not to accept for filing an application by Mr Rabson and Mr Siemer for judicial review of a decision of the Registrar of the Supreme Court.[2] This was on the basis that Mr Siemer is subject to orders under s 88B of the Judicature Act 1908 which prevent him from taking steps in proceedings without first seeking the Court's leave in relation to proceedings of specified types.[3] Dobson J noted that the application fell within one of those as it related, either directly or indirectly, to Mr Siemer's dispute with Mr Stiassny.[4]

Application for Leave to Appeal

[3] Mr Rabson seeks leave to appeal on three grounds. First, that Randerson J's decision was contrary to this Court's decision in *Attorney-General v Reekie*.[5] In particular Mr Rabson submits that did not correctly deal with the issue of "matters of reputation" in relation to dispensing with security for costs. In this regard, in the Court of Appeal, Mr Rabson pointed to a publication on 10 March 2015 by the New Zealand Herald. In the Court of Appeal, he submitted that this article wrongly suggested he was obtuse and vexatious. Secondly, he submits that the criteria applied by Randerson J are "vague discretions, arbitrary and incapable of prediction" and violate the "Rule of Law". Thirdly, he submits that Randerson J erred in not undertaking a "genuine assessment" of the merits of his underlying grievance.

Our Assessment

[4] As to the first ground, in dismissing the application for review of the Registrar's decision, Randerson J applied the principles set out in *Reekie v Attorney-General*.[6] With regard to the reputation submission, Mr Rabson argued that the following statement by this Court in *Reekie v Attorney-General* supported his case: "considerations which are personal to an appellant (for instance, considerations affecting reputation) may legitimately fall to be considered as a part of the

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2 *Siemer v Registrar of the Supreme Court* HC Wellington CIV-2014-485-10918, 25 August 2014.
3 See *Attorney-General v Siemer* [2014] NZHC 859 at [204].
4 *Siemer v Registrar of the Supreme Court*, above n 2, at [4].
5 *Reekie v Attorney-General* [2014] NZSC 63, [2014] 1 NZLR 737.
6 *Reekie v Attorney-General*, above n 5.

cost/benefit assessment" in deciding whether a reasonable and solvent litigant would proceed with an appeal.[7] In dealing with this, Randerson J said:[8]

> I am satisfied that the reference by the Supreme Court in *Reekie* to proceedings affecting the reputation of an appellant is intended to refer to proceedings in which the judgment under appeal is one where the appellant's reputation is at issue. Here, Mr Rabson's concern is effectively about publicity suggesting that the judicial review proceedings were without merit. The judicial proceeding itself did not raise issues of Mr Rabson's reputation as such. I am not persuaded that publicity about the court proceeding in question is the kind of reputational issue that the Supreme Court had in mind in *Reekie*.

[5] We agree with Randerson J's approach. This ground is therefore without merit.

[6] As to the second ground, this is, in effect, a challenge to the principles set down by this Court in *Reekie v Attorney-General* as properly applied by Randerson J. Given that those principles are settled and were applied correctly, they do not justify the granting of leave to appeal to this Court.

[7] Thirdly, as to Mr Rabson's argument that Randerson J failed to take into account the underlying merits of appeal, this is incorrect. After setting out the history of the underlying issues giving rise to appeal,[9] and the reasons given by the Registrar for refusing to dispense with security for costs,[10] Randerson J held Mr Rabson's appeal was not one that a reasonable and solvent litigant would be justified in pursuing.[11] This ground too is without merit.

Result

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

[9] The applicant must pay costs of $2,500 to the respondents.

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7 At [41].
8 *Rabson v Registrar of the Supreme Court*, above n 1, at [11].
9 At [2]–[5].
10 At [6].
11 At [12].

Solicitors:
Crown Law Office, Wellington for Respondents