

IN THE SUPREME COURT OF NEW ZEALAND

SC 6/2015
[2015] NZSC 39

BETWEEN VINCENT ROSS SIEMER
 Applicant

AND REGISTRAR OF THE SUPREME
 COURT
 First Respondent

 MINISTRY OF JUSTICE
 Second Responent

Court: Elias CJ, Glazebrook and O'Regan JJ

Counsel: Applicant in Person
 H M Carrad for First and Second Respondents

Judgment: 17 April 2015

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant seeks leave to appeal against a case management order made by a Court of Appeal Judge, White J.¹ The order related to an appeal to that Court from a decision of the Clifford J striking out judicial review proceedings the applicant had commenced in the High Court.² The background is summarised in this Court's decision refusing leave for a leapfrog appeal to this Court from Clifford J's decision and we will not repeat it here.³

¹ *Siemer v Registrar of the Supreme Court* CA318/2014, direction of White J 10 December 2014.

² *Siemer v Registrar, Supreme Court* [2014] NZHC 1179.

³ *Siemer v Registrar of the Supreme Court* [2014] NZSC 100 at [1].

[2] The order made by White J was made on 10 December 2014 and was in the following terms:

In terms of r 5(1) [of the Court of Appeal (Civil) Rules 2005 (the Rules)], I direct that unless security for costs is paid and the correct number of copies of the case on appeal are filed by 18 December 2014, the appeal is to be treated as having been abandoned.

[3] The background to this order was the failure of the applicant to file the required number of copies of the case on appeal within the three month period specified in r 43 of the Rules.⁴ Failure to comply with that rule means the appeal is treated as being abandoned.⁵ That three month period had expired three months after the appeal was accepted for filing, which the applicant says was on 25 June 2014. So that period had expired some time before the order was made. The applicant had filed a single copy of the case on appeal before the expiry of the period but that had not satisfied the requirements of r 40(1)(a) of the Rules, which requires that four copies be filed. The order made by White J gave him a chance to remedy this failure but he did not take that chance.

[4] The requirement in the order made by White J that security be paid reflected the fact that all avenues for challenging the requirement to pay security had been exhausted. In particular:

- The applicant's application for dispensation with that requirement had been dismissed by the Registrar of the Court of Appeal;
- A separate application to a Judge for dispensation had been dismissed;⁶
- An application for leave to appeal to this Court against the Judge's decision had been dismissed;⁷
- An application for review by a Judge of the Registrar's decision to refuse dispensation had been dismissed;⁸

⁴ Not six months, as the applicant stated in his submissions.

⁵ Court of Appeal (Civil) Rules 2005, r 43(1).

⁶ *Siemer v Registrar of the Supreme Court* CA318/2014, minute of French J 28 August 2014.

⁷ *Siemer v Registrar of the Supreme Court* [2014] NZSC 125.

- An application for recall of that decision had been dismissed;⁹ and
- An application for leave to appeal to this Court against the decision dismissing the application for review and the decision refusing to recall that decision had been dismissed.¹⁰

[5] The order made by White J was authorised by r 5 of the Rules. No matter of public importance arises and there is no indication of any miscarriage of justice. The application for leave to appeal is therefore dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent

⁸ *Siemer v Registrar of the Supreme Court* [2014] NZCA 456.

⁹ *Siemer v Registrar of the Supreme Court* [2014] NZCA 491.

¹⁰ *Siemer v Registrar of the Supreme Court* [2014] NZSC 179.