

IN THE SUPREME COURT OF NEW ZEALAND

SC 62/2016
[2016] NZSC 141

BETWEEN LEIDEN CHEYNE O’SULLIVAN
Applicant
AND THE QUEEN
Respondent

Court: William Young, Arnold and Ellen France JJ
Counsel: Applicant in person
M L Wong for Respondent
Judgment: 27 October 2016

JUDGMENT OF THE COURT

The application for recall is dismissed.

REASONS

[1] In a judgment delivered on 2 September 2016, the Court dismissed two applications made in the alternative by the applicant, Mr O’Sullivan.¹ The first application was for leave to appeal against the Court of Appeal’s decision refusing his application to extend time to appeal against his conviction on two counts of arson, to which he had entered guilty pleas in May 2008. The second application was for a “leap-frog” appeal against the decision of the High Court following his guilty pleas.² Mr O’Sullivan now applies for a recall of the Court’s judgment.

[2] Mr O’Sullivan argues that the Court’s judgment failed:

(a) to address or record the grounds on which leave was sought;

¹ *O’Sullivan v R* [2016] NZSC 116.

² *R v O’Sullivan* HC Whangarei CRI-2007-088-5182, 19 August 2008 (Harrison J).

- (b) to provide reasons why the grounds raised did not meet the test for leave;
- (c) to meet the minimum standards for a lawful judgment.

[3] In its earlier judgment, the Court gave lack of jurisdiction as its reason for refusing Mr O’Sullivan’s application for leave to appeal against the Court of Appeal’s decision refusing to extend time to appeal. Nothing in the recall application affects that reason.

[4] In relation to the application for a leapfrog appeal, the Court pointed out that there must be “exceptional circumstances” before such an application is granted. The Court also stated that it was satisfied that there was no issue of general or public importance involved in the proposed appeal, nor was there a risk of a substantial miscarriage of justice. The Court agreed with the Court of Appeal’s assessment that the merits of Mr O’Sullivan’s appeal were weak, even taking into account the points raised by counsel in written submissions.

[5] The Court is obliged to give reasons for refusing leave but may do so “briefly” and “in general terms only”.³ The Court is not required to deal specifically with each individual ground raised by an applicant, providing it states its reasons in general terms. This the Court did in its earlier judgment. Moreover, even if a leave judgment does not accurately capture an argument made by the applicant, a recall application will not be granted if the right result was reached on the leave application.⁴

[6] There is nothing raised in the present application that justifies recall of the Court’s earlier judgment. The application for recall is accordingly dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent

³ Supreme Court Act 2003, s 16(2).

⁴ See *Fong v Wong* [2010] NZSC 152, (2010) 20 PRNZ 250.