

IN THE SUPREME COURT OF NEW ZEALAND

SC 127/2017
[2017] NZSC 189

BETWEEN TE TANGATA WHENUA (AS THIRD
PARTY AND PERSONAL
REPRESENTATIVE OF RHYS
RICHARD (NGAHIWI) WARREN)
Applicant

AND THE CHIEF EXECUTIVE OF THE
DEPARTMENT OF CORRECTIONS
Respondent

Court: Elias CJ, William Young and O'Regan JJ

Counsel: Applicant in person
V McCall for Respondent

Judgment: 13 December 2017

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant is serving a sentence of preventive detention. He seeks leave to appeal against a decision of the High Court dismissing his application for habeas corpus.¹ He unsuccessfully sought leave (under his then name Rhys Warren) to appeal a similar decision of the High Court dismissing a similar application for habeas corpus earlier this year.² Last year, his application for leave to appeal against

¹ *Te Tangata Whenua (Warren) v Chief Executive of Department of Corrections* [2017] NZHC 2832 (Williams J).

² *Warren v Chief Executive of Department of Corrections* [2017] NZSC 20 [*Warren* (SC 2017)]; and *Warren v Chief Executive of Department of Corrections* [2017] NZHC 12 (Toogood J).

a High Court decision dismissing his protest to the jurisdiction of the High Court to try him for the offences with which he was charged was dismissed.³

[2] The applicant does not seek to challenge the warrant under which he was sentenced to preventive detention. Rather, he wishes to challenge the authority of the courts on jurisdictional grounds based on Maori sovereignty. He also wishes to claim he is “Te Tangata Whenua, in council (sic) with Te Tangata Whenua ... 3rd party to the Corporate title, the juristic person a legal fiction the deceased estate Rhys WARREN”.

[3] The proposed jurisdictional argument based on Maori sovereignty was also made in his application for leave to appeal against the earlier High Court judgment and was described by this Court as having no prospect of success.⁴ Nothing has changed in the nine months since that decision was delivered to change the argument’s prospects of success. A similar argument was rejected by this Court in the 2016 case: the Court recorded that similar arguments have been considered and rejected by the courts on numerous occasions.⁵ The applicant’s repetition of this argument despite its previous rejection amounts to an abuse of the Court’s process.

[4] The proposed argument that as Te Tangata Whenua he is not the same person as Rhys Warren also has no prospect of success.

[5] The applicant claims he was prevented from taking part in the proposed hearing of his application in the High Court. This is disputed and, in any event, does not provide any basis for concern about the legality of the applicant’s detention.

[6] Section 75 of the Senior Courts Act 2016 provides that the Court must not give leave to appeal directly to this Court from a decision made in a Court other than the Court of Appeal unless the leave criteria in s 74 are made out and there are exceptional circumstances justifying taking the proposed appeal directly to this Court. In this case, neither of these requirements is met. The application does not meet the criteria for leave to appeal in s 74 of the Senior Courts Act. It raises no matter of public

³ *Warren v R* [2016] NZSC 156 [*Warren* (SC 2016)]; and *R v Warren* [2016] NZHC 2401 (Brewer J).

⁴ *Warren* (SC 2017), above n 2, at [7].

⁵ *Warren* (SC 2016), above n 3, at [4].

importance and there is no appearance of a miscarriage of justice. In addition, there is nothing about the proposed appeal that suggests any exceptional circumstances arise.

[7] The application is dismissed.

Solicitors:
Crown Law Office, Wellington for Respondent