

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC UR 1/2020
[2020] NZSC 28

BETWEEN JOHN KENNETH SLAVICH
 Applicant

AND ATTORNEY-GENERAL
 Respondent

Counsel: Applicant in person

Judgment: 3 April 2020

JUDGMENT OF O'REGAN J

The application for review of the decision of the Deputy Registrar declining to waive the filing fee is dismissed.

REASONS

[1] The applicant wishes to file an application for leave to appeal to this Court against a judgment of the Court of Appeal dismissing his application for an extension of time to file an appeal in that Court.¹

[2] The applicant filed an application for leave to appeal to this Court, accompanied by an application for a fee waiver. The application for a fee waiver was determined by the Deputy Registrar. She declined the application and advised the applicant that the filing fee of \$1,100 was payable.² The applicant then applied for a review of the Deputy Registrar's decision under s 160 of the Senior Courts Act 2016. That application has been referred to me for decision.

¹ *Slavich v Attorney-General* [2020] NZCA 32 (French, Brown and Goddard JJ) [CA judgment].

² Supreme Court Fees Regulations 2003, sch.

[3] The background to the decision of the Court of Appeal is conveniently summarised in the Court’s judgment as follows:

[2] In March 2013, the High Court issued a judgment granting an application to make Mr Slavich a vexatious litigant under s 88B of the Judicature Act 1908.³ The judgment relied on a series of proceedings initiated by Mr Slavich which the Court considered vexatious. Most of the proceedings in question had their genesis in persistent and unsuccessful attempts by Mr Slavich to overturn his 2006 convictions for fraud and forgery.

[3] Mr Slavich applied to have the judgment making him a vexatious litigant recalled. That application was dismissed in a formal minute by Toogood J. Mr Slavich then sought recall of the minute on the grounds that Toogood J had a conflict of interest and should have recused himself. Toogood J then directed the High Court Registry not to accept for filing any further application by Mr Slavich in the proceeding. Mr Slavich did not file a further application but he sent correspondence to the Court seeking recall of the order declaring him a vexatious litigant.

[4] The matter was referred to the then Chief High Court Judge, Winkelmann J, who issued a minute dated 24 March 2015. The minute set out a brief background and stated:

The Court does not receive applications of this nature by way of correspondence. The application is in any case misconceived. The proceeding is at an end. No further applications or correspondence are to be received in respect of it. Any further correspondence received by the Court from Mr Slavich on this file will not be responded to.

[4] The Court of Appeal noted the delay involved was three years and eight months and the explanation for the delay was “inadvertence”.⁴ It described the applicant’s proposed appeal to that Court as “futile”⁵ and “clearly hopeless”⁶ and declined the extension of time sought by the applicant.

[5] In his application for review, the applicant does not address the point that was at issue in the Court of Appeal, namely whether the extension of time to appeal should have been granted. Rather, he complains that he was led to believe that the Court of Appeal Judges would consider certain material handed up during the Court of Appeal hearing. He argues that they did not, in fact, do this, which he says means they did not “abide by an irrevocable undertaking”.

³ *Attorney-General v Slavich* [2013] NZHC 627.

⁴ CA judgment, above n 1, at [6].

⁵ At [9].

⁶ At [6].

[6] However, the issue that would be before this Court if the application for leave to appeal were filed would be a consideration of whether leave should be given to allow the applicant to appeal against the Court of Appeal's decision refusing to grant an extension of time to appeal to that Court against the statement made by the Chief High Court Judge described above.

[7] The applicant based his application for waiver of the fee on reg 5(2)(b) of the Supreme Court Fees Regulations 2003. That provision provides that the Registrar may waive the application fee if satisfied that the appeal concerns a matter of genuine public interest and is unlikely to be commenced or continued unless the fee is waived. Notably, the applicant does not suggest that he is unable to pay the fee (the ground for waiver under reg 5(2)(a)). I agree with the Deputy Registrar that the Court of Appeal's decision involved a straightforward decision to decline an extension of time to appeal based on the specific facts of the case. Given the procedural history, the application was founded on a very inauspicious background. There was nothing in the decision that involved any matter of genuine public interest.

[8] The application for review of the decision of the Deputy Registrar declining to waive the filing fee is dismissed.