

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 69/2024
[2024] NZSC 162

BETWEEN CHRISTOPHER JOSEPH O'NEILL
Applicant

AND THE PRIVACY COMMISSIONER
Respondent

SC 70/2024

BETWEEN CHRISTOPHER JOSEPH O'NEILL
Applicant

AND REGISTRAR OF THE SUPREME COURT
Respondent

Court: Glazebrook, Ellen France and Kós JJ

Counsel: Applicant in person
J M Hayward for Respondent in SC 69/2024
No appearance for Respondent in SC 70/2024

Judgment: 28 November 2024

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

B There is no order as to costs.

REASONS

[1] Mr O'Neill applies for leave to appeal against a judgment of the Court of Appeal striking out two appeals.¹

¹ *O'Neill v Registrar of the Supreme Court* [2024] NZCA 272 (French and Courtney JJ) [CA judgment].

Background

High Court judgments

[2] On 14 September 2023, the High Court (Walker J) struck out two separate applications for judicial review brought by Mr O’Neill, on the ground that the proceedings were abuses of the court process.

[3] The first proceeding was brought against the Privacy Commissioner and was described by the High Court Judge as follows:²

[7] I discern, although not without difficulty, that the genesis of this intended judicial review is some form of communication which Mr O’Neill contends took place between judges of the Court of Appeal and/or Supreme Court and the Solicitor-General. He pleads that this was an attempted incitement to bring proceedings against him.

[8] Mr O’Neill requested a copy of these communications from the Office of the Solicitor-General under the Privacy Act 2020. He pleads that his request was declined on the grounds of “client privilege”. Mr O’Neill complained to the Privacy Commissioner. The core complaint as pleaded is that the second respondent [the Manager, Investigations and Dispute Resolution] and not the Privacy Commissioner responded. However, Mr O’Neill also challenges the decision not to proceed with his complaint.

[4] The Judge “looked beyond the language and extravagant allegations” but could find no “semblance of a permissible or justiciable claim”. The claim was struck out on the basis that it was “transparently a vehicle for Mr O’Neill’s persistent attacks on the judicial system and judges”. The Judge concluded:³

The purported “evidence” which Mr O’Neill attaches to the application, far from supporting any ground for review, actively tells against it. The unconnected regurgitation of complaints against the judiciary have no relationship to the matters which Mr O’Neill purports to challenge, much of which goes well beyond anything the Court can address. Moreover, the statutory scheme anticipates appeals to the [Human Rights Review Tribunal] rather than judicial review.

[5] The second proceeding was brought against the Registrar of the Supreme Court and described by the Judge in the following terms:⁴

² *O’Neill v Webster* [2023] NZHC 2570 (Walker J).

³ At [16].

⁴ *O’Neill v Leaupepe* [2023] NZHC 2574 (Walker J).

[5] The genesis of this application appears to be that Registry officers at the Supreme Court did not accept a leave application presented by Mr O’Neill for filing because it did not conform with the Supreme Court Rules 2004. The pleading states that Mr O’Neill wrote to the Chief Justice about the action or inaction by Registry officers. The Registrar responded to his complaint in her capacity as the manager of the officers of the Registry. Therein lies the rub according to Mr O’Neill.

[6] Mr O’Neill pleads that this response offends against case law dealing with the Court’s supervisory jurisdiction in respect of the Registry. It thereby usurps the authority of the courts. The pleading goes on to make unsupported allegations of corruption and criminality.

[6] The Judge pointed out that, while courts have the power to supervise and review the exercise of powers by registrars, such that the decision to reject documents tendered for filing was reviewable, once the non-conformity was addressed and the documents re-presented and accepted by court officers, the reviewable decision was moot or spent.⁵ The Judge did not consider the Registrar’s decision to respond to Mr O’Neill’s complaint to be reviewable or to have usurped any supervisory function of the Court.⁶

[7] The proceeding, the Judge considered, was “misdirected and misconceived”. It sought relief that the Court could not provide and was undertaken to “launch further attacks on the judicial system which Mr O’Neill perceives has not served him”.⁷

Court of Appeal judgment

[8] Mr O’Neill filed a notice of appeal against both of the High Court judgments. In its judgment, the Court of Appeal noted that Mr O’Neill made allegations against the High Court Judge of “criminal and/or corrupt conduct”. The Court held that those allegations were sufficient in themselves to constitute an abuse of process and justified the appeals being struck out.⁸ Mr O’Neill also made a number of specific complaints.⁹ The Court of Appeal held that none of those asserted grounds were capable of sustaining an appeal.¹⁰

⁵ At [22].

⁶ At [23].

⁷ At [25].

⁸ CA judgment, above n 1, at [13].

⁹ Outlined at [14].

¹⁰ At [15].

[9] The Court of Appeal was satisfied that both appeals were an abuse of the court process and should be struck out as such.¹¹

Our assessment

[10] Nothing raised by Mr O'Neill suggests that the Court of Appeal was wrong in its assessment that the appeals were an abuse of process. In the circumstances it is not in the interests of justice to grant his application for leave to appeal.¹²

Result

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

[12] As the respondents did not file substantive submissions, there is no order for costs.

¹¹ At [16].

¹² Senior Courts Act 2016, s 74(1).