

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 40/2024
[2024] NZSC 82

BETWEEN ABDULLAH ROBERT BOYD
Applicant

AND AUSTRALIAN FEDERAL POLICE
First Respondent

NEW SOUTH WALES LEGAL AID
Second Respondent

NEW ZEALAND DEFENCE FORCE
Third Respondent

NEW ZEALAND POLICE
Fourth Respondent

ATTORNEY-GENERAL
Fifth Respondent

OFFICE OF THE INSPECTORATE
Sixth Respondent

CANTERBURY INTELLIGENCE TEAM
Seventh Respondent

MINISTRY OF HEALTH
Eighth Respondent

Court: Glazebrook, Ellen France and Miller JJ

Counsel: Applicant in person
No appearance for Respondents

Judgment: 30 July 2024

JUDGMENT OF THE COURT

A The application for an extension of time to apply for leave to appeal is granted.

- B The application for leave to adduce further evidence is dismissed.**
- C The application for leave to appeal is dismissed.**
- D There is no order as to costs.**
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REASONS

[1] Mr Boyd has sought leave to appeal a judgment of the Court of Appeal in which his appeal to that Court was struck out as an abuse of process.¹

[2] The High Court had struck out the proceeding in which the appeal was brought under r 5.35B of the High Court Rules 2016 on the same ground.²

[3] The proceeding was struck out at inception in the High Court, and the appeal was struck out on the Court of Appeal's own motion, without hearing from the respondents. They have not been required to file submissions in this Court either.

[4] We record that this Court has previously declined an earlier application for leave to appeal a decision of Mallon J in which she declined Mr Boyd's request to appoint amicus curiae and stay his appeal.³

[5] In its strike-out decision the Court of Appeal pointed to fundamental deficiencies in Mr Boyd's pleading on a number of grounds.⁴ So far as the first and second respondents are concerned, it noted that New Zealand courts have no jurisdiction over actions taken by them in Australia.⁵ So far as the claim seeks money, it appears to be out of time.⁶ The Court held that these objections might not justify striking out if the claim was otherwise properly pleaded, but it was not.⁷ Mr Boyd

¹ *Boyd v Australia Federal Police* [2024] NZCA 79 (Gilbert, Ellis and Wylie JJ) [CA judgment] at [18].

² *Boyd v Australia Federal Police* [2023] NZHC 2358 (Churchman J) at [25].

³ *Boyd v Australian Federal Police* [2024] NZSC 4. See *Boyd v Australian Federal Police* [2023] NZCA 517.

⁴ CA judgment, above n 1, at [13].

⁵ At [14].

⁶ At [15].

⁷ At [16].

pleaded no facts that could support any known cause of action against any of the defendants. And so far as Mr Boyd wants an interim order that he must continue to be detained in Christchurch, where he is serving a long sentence for serious sexual offending, this civil proceeding could not supply any legal basis for such an order.⁸

[6] The notice of application for leave to appeal to this Court says that a substantial miscarriage of justice may occur unless the appeal is heard.⁹ It says that Mr Boyd has been subjected to torture on Māori land and denied legal redress and rehabilitation. We note that the application was filed slightly out of time but we will extend time because the applicant has given a reasonable explanation for the delay.¹⁰

[7] Mr Boyd sought and was granted an extension of time to file submissions in support of his application. Instead he made an application for leave to adduce further evidence and asked that parts of that application be treated as his submissions on the leave application.

[8] The proposed appeal raises no question of general or public importance.¹¹ Nor does it appear to present a possible miscarriage of justice.¹² We see that Mr Boyd believes he has been mistreated by the authorities. He believes that this amounts to psychological torture. But he does not explain who has done what to him, when and where they did it, or why these things justify the relief he apparently seeks. Until he gives these details to the relevant courts, there is nothing to which the respondents can be asked to respond. Expressed in legal terms, he does not plead facts that may give rise to a recognisable cause of action. The proposed new evidence cannot resolve this problem.

Result

[9] The application for an extension of time to apply for leave to appeal is granted.

[10] The application for leave to adduce further evidence is dismissed.

⁸ At [1] and [17].

⁹ See Senior Courts Act 2016, s 74(2)(b).

¹⁰ *Almond v Read* [2017] NZSC 80, [2017] 1 NZLR 801 at [38].

¹¹ Senior Courts Act, s 74(2)(a).

¹² Section 74(2)(b).

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

[12] There is no order as to costs.