

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 119/2023
[2024] NZSC 85

BETWEEN JOHN HOWARD CARTER
Applicant

AND CAPITAL AND COAST DISTRICT
HEALTH BOARD
First Respondent

AND HUTT VALLEY DISTRICT HEALTH
BOARD
Second Respondent

AND ATTORNEY-GENERAL
Third Respondent

Court: Glazebrook, Ellen France and Williams JJ

Counsel: Applicant in person
I H V Reuvecamp for First and Second Respondents
S M Kinsler and C E Sinclair for Third Respondent

Judgment: 29 July 2024

JUDGMENT OF THE COURT

- A The application for an extension of time to file an application for leave to appeal is granted.**
- B The application for leave to appeal is dismissed.**
- C The applicant must pay the third respondent costs of \$1,000.**
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REASONS

Background

[1] Mr Carter's son, Christopher, tragically took his own life. At the time, on 25 May 2010, Christopher was a compulsory inpatient under s 30 of the Mental Health (Compulsory Assessment and Treatment) Act 1992. Mr Carter believes that his son's death is attributable to mismanagement by mental health professionals, including a misdiagnosis of him as having schizophrenia and the administering of "a toxic cocktail of useless psychiatric drugs". Mr Carter says that his son was not informed of a known side effect, akathisia, or compulsive restlessness, which patients can commit suicide to escape.

[2] On 26 April 2022, Mr Carter filed a proceeding in the High Court, seeking declarations that psychiatry is quackery, that Parliament may not make quackery lawful and that the treatment and care of his son breached his common law rights affirmed in the New Zealand Bill of Rights Act 1990 (Bill of Rights). Mr Carter also sought damages.

[3] The respondents' application to strike out the claim was granted by Churchman J on 17 November 2022.¹

[4] Mr Carter's application for an extension of time to appeal against the High Court decision was declined on 26 September 2023 by the Court of Appeal.² He now applies for leave to appeal that decision to this Court. His application was filed eight working days out of time. Mr Carter applies for an extension of time.

Decisions below

High Court decision

[5] The High Court held that Mr Carter's claim did not rely on any known cause of action and that there was no legal yardstick against which the Court could assess

¹ *Carter v Capital and Coast District Health Board* [2022] NZHC 3018 (Churchman J) [HC judgment].

² *Carter v Capital and Coast District Health Board* [2023] NZCA 466 (Brown and Goddard JJ) [CA judgment].

whether psychiatry is “quackery”.³ The Court also noted that Parliament is sovereign and that therefore the courts do not have the jurisdiction to declare what Parliament may or may not make lawful.⁴

[6] With regard to the Bill of Rights claim, the Court said that the claim appeared to rest on the assertions related to the scientific merits of psychiatry as a discipline. It therefore rested on matters the Court cannot consider. The same applied to the damages claim.⁵ The Court also expressed doubts as to Mr Carter’s standing with regard to any breaches of his deceased son’s rights.⁶

[7] The High Court therefore held that Mr Carter’s statement of claim disclosed no reasonably arguable cause of action and that the application for strike out must succeed.⁷

Court of Appeal decision

[8] The Court of Appeal considered the reasoning of Churchman J on the justiciability of Mr Carter’s claim to be unimpeachable and therefore held that the proposed appeal was hopeless.⁸ The application for an extension of time was therefore declined, as was Mr Carter’s application for the appointment of counsel.

Extension of time

[9] Mr Carter is a litigant-in-person and is not well. The delay was short and it caused no prejudice to the respondents. The application for an extension of time to file this application for leave to appeal is granted.

³ HC judgment, above n 1, at [23].

⁴ At [24].

⁵ At [25].

⁶ At [26]. We are not to be taken as making any comment in this judgment on standing.

⁷ At [27].

⁸ CA judgment, above n 2, at [12].

Application for leave to appeal

[10] Nothing raised by Mr Carter throws doubt on the reasoning in the judgments of the Courts below.⁹ In these circumstances it is not in the interests of justice to grant his application for leave to appeal.¹⁰

Costs

[11] The third respondent filed submissions and the first and second respondents adopted those submissions. The submissions filed by the third respondent were relatively short and simple given that Mr Carter essentially raised the same issues as in the Courts below. We therefore make a reduced costs award of \$1,000 to the third respondent.

Result

[12] The application for an extension of time to file the application for leave to appeal is granted.

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

[14] The applicant must pay the third respondent costs of \$1,000.

Solicitors:
Vida Law, Wellington for First and Second Respondents
Meredith Connell, Wellington for Third Respondent

⁹ Mr Carter essentially raises the same issues in his submissions as in the Courts below.
¹⁰ Senior Courts Act 2016, s 74(1).