

IN THE SUPREME COURT OF NEW ZEALAND

SC 2/2013
[2013] NZSC 11

BETWEEN VINCENT ROSS SIEMER
 Applicant

AND MICHAEL STIASSNY
 First Respondent

AND KORDA MENTHA
 Second Respondent

Court: McGrath, William Young and Glazebrook JJ

Counsel: Applicant in person
 D Salmon and D Nilsson for Respondents

Judgment: 7 March 2013

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B The applicant is to pay to the respondents costs of \$2,500 plus reasonable disbursements.**
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REASONS

[1] Mr Siemer seeks leave to appeal against a judgment of Wild J of 5 September 2012¹ declining to review a decision by the Registrar of the Court of Appeal. The Registrar had dismissed Mr Siemer's application for a waiver of the requirement to pay security for costs in relation to an appeal against a decision of Andrews J in the High Court on 18 May 2012.²

¹ *Siemer v Stiassny* CA 362/2012, 5 September 2012.

² *Siemer v Stiassny* [2012] NZHC 1074.

[2] Following Wild J's decision, Mr Siemer says that he applied to the Court of Appeal for a review of Wild J's decision. That review has not taken place. Mr Siemer also seeks leave to appeal against the alleged failure of the Court of Appeal to conduct the review.

[3] To the extent that the proposed appeal seeks to review the Court of Appeal's failure to action Mr Siemer's application for review of Wild J's decision, this Court has no jurisdiction to entertain it. As the respondents point out, this Court is limited to decisions by the Court of Appeal, not any alleged failure to entertain applications.³

[4] In any event, the Court of Appeal itself has no jurisdiction to entertain an application for review in these circumstances. The power for a single judge to review the decision of the Registrar arises under s 61A(3) of the Judicature Act 1908. The Court of Appeal's powers under s 61A(2) to review decisions made by a single judge of that Court are expressly limited to the review of interlocutory and incidental orders made by a single judge in chambers pursuant to s 61A(1). There is no power for the Court to review decisions made under s 61A(3).

[5] We also accept the respondents' submission that it is not necessary in the interests of justice for this Court to hear and determine the proposed appeal to this Court against Wild J's decision. It concerns a procedural matter, and the law in relation to security for costs is well settled.⁴ No issues of public importance arise.

[6] Further, none of the matters raised by Mr Siemer point to the risk that a miscarriage of justice has occurred or will occur. As pointed out by the respondents, Wild J's decision does not prevent Mr Siemer from bringing his substantive appeal in the Court of Appeal. It simply imposes the same conditions on him as on any other litigant, that he provide reasonable security for the respondents' costs.

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

³ Supreme Court Act 2003, s7.

⁴ *Muir v Commissioner of Inland Revenue* (2004) 17 PRNZ 376 (SC); *Berryman v New Zealand Defence Force* (2006) 18 PRNZ 405 (SC); *Fay v Chirnside* (2004) 17 PRNZ 382 (SC).

[8] The applicant is to pay to the respondents costs of \$2,500 plus reasonable disbursements.

Solicitors:
LeeSalmonLong, Solicitors for the Respondents