

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

**SC 76/2018
[2018] NZSC 110**

BETWEEN DERMOT GREGORY NOTTINGHAM
 Applicant

AND DISTRICT COURT AT AUCKLAND
 First Respondent

MARTIN RUSSELL HONEY, STEPHANIE
FRANCES HONEY AND HEMI TAKA
Second Respondents

Court: William Young, O'Regan and Ellen France JJ

Counsel: Applicant in person
 D J Perkins and A P Lawson for First Respondent
 D W Grove for Second Respondents

Judgment: 20 November 2018

JUDGMENT OF THE COURT

- A The application for an extension of time to apply for leave to appeal is dismissed.**
- B The applicant is to pay costs of \$2,500 to the second respondents.**
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REASONS

[1] Mr Nottingham wanted to appeal to the Court of Appeal against a decision of the High Court. He did not file his notice of appeal within time so applied for an

extension of time. The Court of Appeal declined to grant an extension of time.¹ Mr Nottingham seeks leave to appeal out of time to this Court against that decision.

[2] The High Court judgment which Mr Nottingham wished to appeal to the Court of Appeal was a decision of Gilbert J.² Gilbert J struck out Mr Nottingham's statement of claim in a judicial review proceeding brought against the District Court at Auckland and the second respondents alleging a criminal conspiracy to pervert the course of justice. Gilbert J found the claim was "replete with scandalous and outrageous allegations" and that no attempt was made to provide factual particulars of the various allegations of dishonesty.³ In addition, the Judge considered much of the relief sought could not be granted on a judicial review.⁴

[3] The Court of Appeal, in declining to grant an extension of time, concluded the delay in filing the notice of appeal was substantial and unexplained. Further, the Court considered the proceeding in the High Court was an abuse of process as a collateral attack on issues finally determined in other proceedings.⁵ In the circumstances, the Court concluded it was not in the interests of justice to extend time for the filing of the notice of appeal.

[4] The principles applicable to the Court of Appeal's decision whether or not to grant an extension of time were set out recently by the Court in *Almond v Read*.⁶ Mr Nottingham does not challenge those principles; rather, he seeks to challenge their application by the Court of Appeal to the particular facts of this case. No point of general or public importance accordingly arises. Nor does anything raised by

¹ *Nottingham v District Court at Auckland* [2018] NZCA 75 (Kós P, Brown and Williams JJ) [*Nottingham* (CA)].

² *Nottingham v District Court at Auckland* [2017] NZHC 777.

³ At [16].

⁴ The claim arose in the context of an unsuccessful private prosecution brought by Mr Nottingham in the District Court against the second respondents. All of the charges were dismissed and acquittals entered. The statement of claim in the High Court sought, amongst other things, that the acquittals be set aside and convictions entered.

⁵ The Court referred to *Hunter v Chief Constable of the West Midlands Police* [1982] AC 529 (HL); *Nottingham* (CA), above n 1, at [10]. Mr Nottingham unsuccessfully sought leave to appeal from the entry of acquittals: *Nottingham v District Court at Auckland* [2017] NZHC 1715 (Paul Davison J). The Court of Appeal subsequently found it had no jurisdiction to hear an appeal from that decision: *Nottingham v District Court at Auckland* [2018] NZCA 345 (Asher, Brown and Clifford JJ). Leave to appeal declined: *Nottingham v Taka* [2018] NZSC 102.

⁶ *Almond v Read* [2017] NZSC 80, [2017] 1 NZLR 801.

Mr Nottingham give rise to the appearance of a miscarriage of justice.⁷ We add that his delay in filing in this Court is unexplained.

[5] For these reasons the application for an extension of time to appeal is dismissed. The applicant is to pay costs of \$2,500 to the second respondents.⁸

Solicitors:
Crown Law Office, Wellington for First Respondent
Foy & Halse, Auckland for Second Respondents

⁷ *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369 at [4]–[5].

⁸ The first respondent abides the decision of the Court on the application for leave.