

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU ROHE**

**CIV-2017-404-2890
[2018] NZHC 1650**

BETWEEN DERMOT GREGORY NOTTINGHAM
Applicant

AND THE DISTRICT COURT OF NEW
ZEALAND
First Respondent

THE ATTORNEY-GENERAL
Second Respondent

Hearing: On the papers

Counsel: Applicant in person
J A Eng for Second Respondent

Judgment: 5 July 2018

JUDGMENT OF WHATA J

*This judgment was delivered by me on 5 July 2018 at 4.00 pm,
pursuant to Rule 11.5 of the High Court Rules.*

Registrar/Deputy Registrar

Date:

Solicitors: Crown Law, Wellington

[1] This matter was an application for injunction in relation to District Court criminal proceedings. When the matter came before me, Mr Nottingham advised that he was going to withdraw his proceedings, preferring to pursue his appeal rights in respect of the criminal trial that had in fact now been completed. The only remaining issue was costs. The Crown indicated that costs would be sought and I now have that application before me.

[2] The following submissions are made in support of the application:

- (a) Similar proceedings filed by Mr Nottingham had previously been struck out by Simon France J, emphasising that Mr Nottingham's collateral challenge to the criminal charge was an inappropriate use of judicial review. Scale costs were awarded by the High Court and upheld by the Court of Appeal.
- (b) The present matter was a similar collateral challenge to criminal proceedings and the amended statement of claim included an array of scandalous allegations against judges and officers of the court.
- (c) Mr Nottingham's application for interim orders were listed for hearing on 30 April 2018 and, on the morning of that case, he advised that he was unable to attend for medical reasons.
- (d) In the foregoing circumstances, there is no reason to depart from the fundamental principle that costs should follow the event.
- (e) The second respondent calculates 2B costs at \$13,268.50.

[3] Mr Nottingham responds that costs should lie where they fall because:

- (a) That he had become very ill because of the level of stress at not being able to access the Court for relief;

(b) That the Court effectively denied him an appropriate date to have his application for injunction heard.

[4] I make an order for costs on a 2B basis. The applications, on their face, have little merit, given the clear policy of this Court of non-interference in criminal proceedings by way of collateral challenge. Moreover, the respondent, being the successful party, is entitled to have its costs on a 2B basis.

[5] As the costs in fact incurred by the respondent are only \$10,678.45, there shall be an order accordingly.