

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 96/2020
[2021] NZSC 5

BETWEEN JOHN CHARLES STRINGER
Applicant

AND COLIN GRAEME CRAIG
First Respondent

HELEN RUTH CRAIG
Second Respondent

ANGELA MARIA STORR
Third Respondent

KEVIN ERIC STITT
Fourth Respondent

STEPHEN DYLAN TAYLOR
Fifth Respondent

Court: O'Regan, Ellen France and Williams JJ

Counsel: Applicant in person
J W J Graham and T F Cleary for First Respondent

Judgment: 16 February 2021

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 appeal is dismissed.**
- C The applicant must pay the first respondent costs of \$2,500.**

REASONS

Background

[1] The first respondent, Mr Craig, is a former leader of the Conservative Party. In 2014, his then press secretary, Ms MacGregor, resigned and privately alleged that Mr Craig had sexually harassed her during the time she worked for him. Subsequently, various other people involved with the Conservative Party published statements about Mr Craig's behaviour, including further allegations of sexual harassment. Among them was the applicant, Mr Stringer. Mr Craig responded by distributing a booklet to some 1.6 million New Zealand households, alleging that Mr Stringer and others had mounted a defamatory campaign against him.

[2] These events gave rise to six separate defamation proceedings between the various parties. Among them are a proceeding filed by Mr Craig in September 2015 (the *Craig v Stringer* proceeding), and a proceeding filed by Mr Stringer in October 2015 (the *Stringer v Craig* proceeding).

[3] In June 2019, the High Court stayed indefinitely the *Craig v Stringer* proceeding and part of the *Stringer v Craig* proceeding, on the ground that they were an abuse of process.¹ By that point, three of the other four defamation proceedings had been tried, and Ms MacGregor had given evidence at all three trials. The Court considered that allowing the proceedings at issue to continue would either be oppressive to Ms MacGregor (if she had to be cross-examined a fourth time) or significantly disadvantage Mr Stringer (if Ms MacGregor did not give evidence).²

[4] The Court of Appeal allowed Mr Craig's appeal and set aside the High Court's order staying the *Craig v Stringer* proceeding.³ It considered that Mr Craig could not have realistically avoided the situation which the High Court considered problematic: it would have been extremely complex and unwieldy to sue all parties in one

¹ *Craig v Stringer* [2019] NZHC 1363 (Palmer J).

² At [2].

³ *Craig v Stringer* [2020] NZCA 260 (Kós P, Gilbert and Goddard JJ).

proceeding, and the three trials could not have been combined into one.⁴ Nor could he be criticised for failing to consolidate the proceedings, as he had attempted to consolidate the *Craig v Stringer* and *Stringer v Craig* proceedings but was met with opposition from Mr Stringer.⁵ The Court awarded costs against Mr Stringer.⁶

This application

[5] Mr Stringer applies for leave to appeal against the Court of Appeal’s decision as to costs. His application is out of time,⁷ but it appears Mr Stringer (who is unrepresented) has assumed that time only commenced when the Court of Appeal’s judgment was sealed. In the circumstances, we grant an extension of time.

[6] The thrust of Mr Stringer’s submissions is that the Court of Appeal should not have awarded costs against him because he did not make the stay application in the High Court, and was not awarded costs there. He says that it is unjust he should be liable for costs for losing on an appeal against an order he “specifically oppose[d]”.

Our assessment

[7] The application does not meet the heightened standard for the miscarriage ground in civil cases.⁸ While Mr Stringer is correct that he did not apply for a stay in the High Court, he first raised the matter of issue estoppel in that Court, and submitted that Mr Craig was abusing the Court’s processes. Consequently, no question of general or public importance arises either.⁹

⁴ At [26]–[29].

⁵ At [30].

⁶ At [42].

⁷ Supreme Court Rules 2004, r 11.

⁸ Senior Courts Act 2016, s 74(2)(b); and *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, 18 PRNZ 369 at [4]–[5].

⁹ Senior Courts Act, s 74(2)(a).

Result

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

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

[10] The applicant must pay the first respondent costs of \$2,500.

Solicitors:

Chapman Tripp, Auckland for First Respondent