

[2021] NZSSAA 7

Reference No. SSA 057/19

IN THE MATTER of the Social Security Act 2018

AND

IN THE MATTER of an appeal by **XXXX** of Auckland against a decision of the Chief Executive that has been confirmed or varied by a Benefits Review Committee

BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY

S Pezaro - Deputy Chair

C Joe - Member

Hearing at AUCKLAND on 22 July 2020

Appearances

The appellant in person

S Prasad, counsel, and P Siueva, appeals officer, for the Ministry of Social Development

DECISION

Jurisdiction

- [1] When this appeal was filed, there was a question as to whether it was within the jurisdiction of the Authority. We determined this as a preliminary issue after setting a timetable for the parties to file submissions and conducting two in person hearings. At those hearings, we allowed the appellant to have as a McKenzie friend, Mr Bioletti who is a lawyer.
- [2] On 30 April 2020 we issued our decision that the Authority had no jurisdiction to determine this appeal because none of the issues raised by the appellant met the

requirements in the Social Security Act 2018 for bringing an appeal to the Authority.

- [3] However, we set the appeal down for hearing to provide the appellant with a further opportunity to identify any live issues that are within jurisdiction. In our decision of 30 April 2020, we confirmed that we would not hear evidence or consider issues relating to the process whereby the appellant was prosecuted in the District Court and pleaded guilty to the charges, or whether the appellant received income or benefit payments that she was not entitled to receive. In directions issued on 26 May 2020 we set a timetable for the appellant to identify any other matters that the Authority could or should consider and file submissions.
- [4] The appellant did not file any further evidence or submissions before the hearing. At the hearing she confirmed that she had no further submissions and had provided all relevant information.

The quantum of the debt

- [5] The only issue the appellant raised at the hearing was the quantum of her debt to the Ministry. She questioned whether she had to pay the reparation ordered by the District Court on 25 May 2016 in addition to the overpayment that the Ministry seeks to recover.
- [6] Ms Prasad confirmed that the Ministry has deferred collection of the overpayment to it of \$84,845.88 until the appellant has paid the Court ordered reparation. The amount sought by the Ministry results from the failure by the appellant to declare excess income and a relationship in the nature of marriage.
- [7] The only issue the appellant raised with the sum sought by the Ministry was to question, as she had done at the hearing on jurisdiction, why the Ministry disestablished some \$40,000 of the debt whether this affected the sentence imposed by the District Court. We understand the appellant to be saying that if this sum had been disestablished earlier her sentence would have been reduced.
- [8] The Authority has no power to review a sentence imposed by the District Court. However it is apparent from the Ministry's submission on 22 November 2019, that the portion of the debt disestablished related to payments made between 22 September 2003 and 19 February 2009. As this period was outside the

prosecution period, the Ministry's decision to disestablish this sum would have no impact on sentencing.

Conclusion

[9] The appellant failed to identify any issue within the jurisdiction of the Authority. For the reasons given on 30 April 2020, we have no power to consider this appeal.

Order

[10] The appeal is struck out.

Dated at Wellington this 8th day of March 2021

S Pezaro
Deputy Chair

C Joe
Member