

**IN THE COURT OF APPEAL OF NEW ZEALAND**

**CA136/2016  
[2016] NZCA 317**

BETWEEN                      PETER ANTHONY WILLIAMS  
   Applicant  
  
AND                              TREVOR NELSON CAMERON AND  
   OTHERS  
   Respondents

Hearing:                      4 July 2016  
  
Court:                              Harrison, French and Cooper JJ  
  
Counsel:                      Applicant in person  
   S Galbreath for Respondents  
  
Judgment:                      7 July 2016 at 11 am

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**JUDGMENT OF THE COURT**

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- A     The application for an extension of time to appeal is declined.**
- B     The applicant must pay the respondents costs for a standard application for leave to appeal on a band A basis and usual disbursements.**
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**REASONS OF THE COURT**

(Given by Harrison J)

[1] Peter Williams has applied for an extension<sup>1</sup> of time to appeal against a decision of the High Court declining three substantive applications for leave.<sup>2</sup>

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<sup>1</sup> Court of Appeal (Civil) Rules 2005, r 29A.

<sup>2</sup> *Williams v Cameron* [2016] NZHC 264 [HC decision].

His appeal was filed in this Court just three days out of time.<sup>3</sup> Nevertheless the respondents, Trevor Cameron and others, oppose on the grounds that the substantive appeal has no merit; and that they will suffer ongoing prejudice if leave is granted.

[2] The brief background is this. In 2009 Mr Williams and an associate company sued his former accountants, Mr Cameron and his firm. Mr Williams alleged that they had acted negligently, causing loss on the sale of his business. His claim was struck out in the District Court. However, it was reinstated on appeal to the High Court.<sup>4</sup>

[3] In October 2012 the District Court held that Mr Williams had in fact settled his claim against Mr Cameron and his firm. As a result, it dismissed Mr Williams' claim. Costs were awarded against him.<sup>5</sup> His application to recall the judgment was unsuccessful.<sup>6</sup> So too was an appeal to the High Court against the District Court's refusal to recall its judgment.<sup>7</sup> In the result costs were awarded against Mr Williams. He failed to pay. In November 2013 he was adjudicated bankrupt on Mr Cameron's application.

[4] Mr Williams then decided to follow a new path. In December 2014 he applied to the High Court for an extension of time to appeal against the District Court's October 2012 decision. By then his appeal was two years out of time. In September 2015 the Official Assignee notified Mr Williams that he was disclaiming his right to challenge the District Court decision. As well as applying to the High Court for leave to appeal, Mr Williams applied for orders: (1) that the disclaimed property be vested in him; and (2) granting leave to adduce further evidence. In the judgment under appeal Mallon J dismissed all three applications on the ground that they were without merit and it would be contrary to the interests of justice to grant leave.

[5] In support of his application to this Court for an extension of time Mr Williams advises that the delay was caused by a misunderstanding based on the

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<sup>3</sup> Court of Appeal (Civil) Rules, r 29.

<sup>4</sup> *Williams v Cameron* HC Nelson CIV-2010-442-222, 22 September 2010.

<sup>5</sup> *Williams v Cameron* DC Nelson CIV-2009-042-544, 26 October 2012.

<sup>6</sup> *Williams v Cameron* DC Nelson CIV-2009-042-544, 15 April 2013.

<sup>7</sup> *Williams v Cameron* [2013] NZHC 1794.

erroneous advice of his former counsel. His substantive arguments address what he says are errors in the District Court's judgments.

[6] In determining whether to grant Mr Williams' application for an extension of time we are guided by the interests of justice. A number of factors are relevant to the exercise of our discretion. One is that the appeal was filed only three days out of time. However, against that are the merits of Mr Williams' proposed appeal and the prejudice resulting to Mr Cameron and his firm. We are in no doubt that those two factors are decisive against Mr Williams' application.

[7] Mr Williams is essentially seeking to relitigate the merits of an issue which was determined finally some years ago. His wide ranging arguments have failed to address Mallon J's reasoning in dismissing his application for leave to appeal. The Judge's conclusion that his proposed substantive argument was without merit cannot be impeached.<sup>8</sup> Nor can there be any arguable challenge to her conclusion that Mr Cameron and his firm are entitled to finality eight years after they had agreed terms on a full and final settlement of Mr Williams' claim.<sup>9</sup>

[8] Moreover, we accept that this ongoing litigation is operating to Mr Cameron's prejudice. In March 2014, in reliance on the fact that he and Mr Williams had settled the litigation, Mr Cameron and his firm entered into an agreement with their insurer to settle their dispute about the latter's ability to indemnify them for substantial legal fees already incurred in defending Mr Williams' litigation. As a result, Mr Cameron is now having to incur all the costs of defending Mr Williams' various applications from his own resources.

[9] In summary, while the period of delay is short, we are satisfied that the interests of justice require that Mr Williams' unmeritorious litigation be brought to an end.

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<sup>8</sup> HC decision, above n 2, at [25].

<sup>9</sup> At [27].

[10] Accordingly, the application for leave to appeal is declined. Mr Williams is ordered to pay costs to Mr Cameron and his firm on a standard application for leave on a band A basis together with usual disbursements.

Solicitors:  
Duncan Cotterill, Nelson for Respondents