

In the Court of Appeal of New Zealand

CA461/2014

BETWEEN **NR**
Appellant

AND **DISTRICT COURT AT AUCKLAND & ANOR**

CA522/2014

BETWEEN **NR**
Appellant

AND **MR**
Respondent

CA460/2014

BETWEEN **NR**
Appellant

AND **DISTRICT COURT AT AUCKLAND & ORS**

APPELLANT'S APPLICATION FOR RECALL OF [2015] NZCA 426

Dated 12 September 2015

This document is filed by the Appellant in person.

MAY IT PLEASE THE COURT:

1. This is an application for recall of the entire judgment [2015] NZCA 426. I rely on the recall categories recognized in *Man O'War Station Limited v Auckland City Council (No 1)* [2002] NZPC 6; *SAXMERE COMPANY LIMITED AND ORS V WOOL BOARD DISESTABLISHMENT COMPANY LIMITED* [2009] NZSC 72; *BELL v BDO SPICERS MANAWATU LIMITED* [2013] NZHC 1287; *Horowhenua County v Nash (No 2)* [1968] NZLR 632 (SC), being apparent bias (which includes *inter alia* actual bias and appearance of fraudulent or otherwise malicious conduct), and/or failures to determine issues that were properly put before the court, and/or misapprehension of a party's submissions. The grounds are as follows.

2. The judgment contains repeated **false** statements to the effect that:

(a) Duffy J's decision was "**not to set aside** each of the restraining order and the costs order", and that I appeal the decision "**not to set aside**"¹. As per the judgment [2014] NZHC 1767 of Honourable Justice Duffy, both the restraining and costs orders have been set aside:

[174] ...there is no basis for an award of indemnity costs... [175] The restraining order made in the District Court **is set aside**.

(b) Duffy J "**dismissed** the application for judicial review as moot"². In fact, nowhere in her judgment has Duffy J said that the judicial review was dismissed. On the contrary, she expressly denied relief, which is fundamentally distinct from dismissal:

[178] The **relief** sought in the judicial review proceedings is declined on the ground those proceedings are moot.

(c) The judicial review concerned only **four interlocutory** decisions and that I appealed it only in respect of those four interlocutory decisions³. The falsity of that is obvious from my notice of appeal and Duffy J's judgment:

[3](c) A judicial review against four interlocutory decisions of the District Court, **as well as** the decisions made on 9 May 2013 in relation to the making of **the restraining order and the costs order** by Judge Sharp.

For brevity's sake, I will not expand here on the other falsehoods contained in the judgment; paraphrasing a saying, once an unscrupulous judge, always an unscrupulous judge.

¹ At [8] and [10](a).

² At [7].

³ At [6](c) and [8].

3. France, Wild and Cooper JJ have failed to determine the issue that the prostitute's cross-appeal is an abuse process on various grounds, including her failure to appeal the findings made in the judicial review, and including the incontrovertible evidence of ulterior purpose, being the prostitute's threat, made at the outset of the litigation, to "absolutely crucify the fucker in civil court"⁴, in the circumstances where the prostitute was an [Redacted] and was apparently in a close relationship with [Redacted] in these proceedings.
4. Given that France, Wild and Cooper JJ failed to even mention that I opposed the prostitute's application, let alone to give full and fair consideration to my arguments, they acted maliciously, fraudulently concealing the unlawful nature of their judgment from public scrutiny. The falsehoods as to the substance of my appeal and Duffy J's judgment mentioned in paragraph 2 above are calculated to facilitate malicious misrepresentations of my legal position.
5. France, Wild and Cooper JJ's finding at [26] that "There is no proper basis to allege the affidavit [of the prostitute] is a sham or contains inadmissible evidence" is yet another example of judicial corruption, being a judgment that omits entirely both the material facts and the law, thus allowing to "hide decisions that are contrary to law"⁵. Unscrupulous judges went as far as to imply that the affidavit, filed in support of the **application for leave**, will be used at the **substantive appeal**, notwithstanding that the prostitute has not sought leave to adduce further evidence!
6. At [35] and [45], the President of the Court of Appeal France J (as well as Wild and Cooper JJ) stated that as far as she aware, my affidavit dated 22 September 2014 "has not been filed" and was not before her. I record that a copy of the affidavit was included in CASE ON APPEAL CA522/2014 dated 31 October 2014, and my submissions on the issue mentioned, **in bold**, the exact page of the affidavit (**CA522-2/027**)⁶. Moreover, the affidavit was filed simultaneously in three proceedings, *inter alia* in support of the application for leave to appeal CA532/2014,

⁴ APPELLANT'S SYNOPSIS OF SUBMISSIONS FOR THE HEARING ON 24 AUGUST 2015 CA522/2014 dated 14 July 2015, para 8; APPELLANT'S SUBMISSIONS ON THE 2nd RESPONDENT'S APPLICATION FOR LEAVE TO APPEAL CA461/2014 dated 1 October 2014.

⁵ Resource Guide on Strengthening Judicial Integrity and Capacity, United Nations Office on Drugs and Crime, V.11-85709-December 2011.

⁶ APPELLANT'S SYNOPSIS OF SUBMISSIONS FOR THE HEARING ON 24 AUGUST 2015 CA522/2014 dated 14 July 2015, para 12.

and was included in the case and referred to in my submissions on that application⁷. The latter was dismissed by a panel presided by France J, in the judgment [2015] NZCA 81 which fails to mention any of the four (!) affidavits I relied upon. If the affidavit in question was indeed not filed, why did France J not raise the alarm then, in March 2015? The answer is simple: actual bias. France J did not care what was in that affidavit or in the three others. She and the other unscrupulous judges of the Court of Appeal were going to rig the game to nail me regardless of the law, the facts, the evidence, precedents, the truth, or anything else.

7. Finally, I record that France, Wild and Cooper JJ have also lied in MINUTE OF THE COURT dated 21 August 2015, in which they refused to recuse saying that I sought their recusal “on the basis each has given judgments or decisions unfavourable to the appellant”, while failing to cite my allegations. The true basis on which I sought recusal was the consistent fraudulent conduct on the part of the Judges similar to what I have outlined above.

12 September 2015

[Redacted]

Appellant

⁷ APPELLANT’S SUBMISSIONS ON APPLICATION FOR LEAVE TO APPEAL CA532/2014 dated 19 October 2014, paragraph 8.