

TRANSCRIPT

High Court Conference

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8:57 HC Connection

9:19 DS Good morning your honour. Is that you speaking to me?

9:55 HC ... What's your position ... ?

9:58 DS Your Honour I wish to seek leave of the High Court to lodge the appeal out of time. My application (I'm presuming that you have read it) but if you haven't, it basically says I didn't receive the published document until three months after the verbal, the oral judge and I have advised all parties many times since that it is my intention to appeal

10:33 HC But you didn't appeal. You've only just appealed now.

10:38 DS That's correct your honour. In my application I have detailed the words that were said and of particular is point 6 which says that Harrison adjourned the matter because Judge Sharp's decision was not yet available so the court has told me more than once and the judge has acknowledged that the decision was not yet available. I filed the appeal within two weeks of the decision being available.

11:17 HC Yes, well we are not dealing with your application ... today. It's more about the central matters that we're dealing with today security for costs ... payment of the fees for the application for leave to appeal time, and so on and so forth.

11:56 DS Your Honour the Appeal includes an application obviously for any award of costs to be recinded or returned or waived (I'm not sure the exact legal terms) but in moral law I'm not sure about your law but certainly in common sense if the matter has not been finalised, in other words if I have indicated that I wish to appeal then those matters should be stayed or held aside or left. Now I have no issue with anyone objecting to (as the other parties lawyer has done, virtually on everything) that's no problem but as long as the matter is heard. If I have not followed a legal requirement procedurally then I would seek opportunity to correct that matter please, your honour. I believe that I have followed what I have been asked to do at all times. If I haven't I'm sorry, I'm not a lawyer.

13:04 HC Yes, well let's work through the various things. Have you paid a fee for the filing of your application?

13:13 DS No sir I have not paid any fees at all and the court has accepted all applications for fees waiver to date. There has not been any situation (up until this one) where there has ever been an objection. So on this matter, all the way through the court has accepted fees waiver as reasonable. I have proven my capacity to, sorry, I have proven my income to the satisfaction of the legal system regularly – that I am a beneficiary, which I am – and on that basis the court has approved. This is the first time anyone has ever complained and I would say, “Well, on what basis?” and there is no complaint other than she just doesn't want me to pay, or she wants me to pay something. That's fine,

she can but I say ... I'm sorry your Honour I hear people speaking. I'm not sure what I'm supposed to do.

14:20 HC Yes, well you go on, and on for quite a long time. Please just limit your answers to the question.

14:31 DS Yes, sir.

14:34 HC There are other matters that I have to deal with. All I asked was, "Did you pay the filing fee?" I'm just [looking] through the files to see if there has been a formal waiver. I cannot at this stage find any indication of it. The second issue that - I'll investigate that issue with the Registry to see whether there has been a formal waiver. The second issue though is that Ms Andrews has sought security for costs. That is different to a fee waiver. And the presumption in this court is that it is required to be paid within 10 days of this conference. And depending on how long the hearing is, that will affect the amount of the security that is payable, so - have - I take it from your previous answer that you consider that you shouldn't have to pay security for costs on your appeal. You said that courts have accepted that before – what is the basis for not paying security for costs in this case? Is it because you say that you do not have any money or is there some other reason?

16:33 DS Your Honour I believe that the District Court waived that requirement for – because there was no validation of it. I'm not sure your Honour of the High Court situation. If it is normal, then I am happy to provide security, as the other party has said, I have access to substantial amounts of gold and silver. I'm happy to produce, if it is normal, if it is normal. I don't wish to plead poverty, I am not in poverty, what I am wanting is the normal situation to occur. I don't ask for any exceptions or any – I'm sorry your honour I'm lost for words – I just saying I don't know. It's new to me. If you want me to provide security. I'm happy to provide security if that is normal practice in the High Court. I'm sorry I don't know what's your norms.

17:40 HC It is normal practice and if you've got the wherewithall to pay fees then you should be paying the filing fee as well.

17:48 DS No Sir, I don't have access to cash. I do have access to silver which is security and I am happy to walk down to the local Taumarunui Court and provide as much security as you want in terms of silver but in terms of cash I do not have any.

18:06 HC OK well unfortunately the ability of the High Court to accept silver is fairly non-existent and actually going down to the District Court in Taumarunui isn't going to help either because it is payable in the High Court in Auckland. So I'll deal with that in due course

[procedural discussion]

22:43 DS In my application I seek Relief, A, B, C and D and the only thing missing is Judge Harrison's most recent Strike Out application. If I had time, or if I am permitted or instructed to I would add the last ruling to strike out into my relief. So it occurred inbetween (Judge Harrison's ruling to strike out occurred inbetween) the date of my application and now.

23:21 HC Well I mean ... If you are wanting to appeal that I'm not quite sure on the basis because the - automatically striking out because you hadn't obeyed an order of the court – so that will have to be its own discrete application to appeal or leave to appeal depending on what the requirements are. At the moment what we've got before us is your application to appeal Judge Sharp's decision out of time.

24:10 DS Yes

24.:12 HC That's what we are dealing with today. You haven't made an application to appeal the Strike Out. You'll have to file something separate to deal with that in due course if that's something you decide to do. Obviously that will have its own filing fees and other ... probably another call in this court.

22:39 DS Yes Sir

22:43 HC OK So what I am going to do ... I'll issue a minute following this conference and require the payment of both the filing fee and the security for costs ... and require you to pay both of those within 10 days of this conference. In addition I will be specify the filing of submissions by you on the application for extension of time ... then I'll set it down for a hearing.

[procedural discussion]

27:36 DS Thank you. Can I please confirm what is happening is that you are requiring - you are rejecting the application for fees waiver and that you are requiring a cash payment of \$2300.00 or something within 10 days. Can I please understand that ? Is that correct?

27:57 HC No, I said that on the basis of what you've told me is that you do have means. There seems to be no basis for a fee waiver and that security is payable based on a half day hearing. That will mean security of \$1195.00 payable within 10 days of this conference.

28:20 DS No, sir, There appears to be a misunderstanding. I have told you – I thought I made it clear that I do NOT have access to cash, that I am a beneficiary and that all fees waivers have been accepted by the court thus far so that it is the opposite of what you have just said. I do NOT have access to cash. I can control assets to provide (which are not mine – they are owned by a trust) which is the silver and I can provide assets. You have told me that the court cannot accept silver by way of security.

28:57 HC Yes, well, I'll put that into the minutes but that is my determination and you can - if you don't like the decision you can obviously challenge it in due course.