

IN THE SUPREME COURT OF NEW ZEALAND

SC 80/2015

BETWEEN ALAN GREER
 Applicant

AND RAY SMITH
 First Respondent

 JACK HARRISON
 Second Respondent

Date of Minute: 20 October 2015

**MINUTE OF O'REGAN J
(APPLICATION FOR ACCESS TO COURT DOCUMENT)**

[1] The Registrar has referred to me an informal interlocutory application by M for a copy of the notice of application for leave to appeal filed by the applicant in this matter. The application was made informally in an email from Mr Siemer to the Registrar dated 30 September 2015.

[2] There are no rules governing access to Court documents in this Court. However, court records are under the control of the Court by reason of its processes and practices until disposed of either according to the practice of the Court or by legislation. The Court's inherent supervisory power is regulated by rules in Courts that have access rules. In this Court, the inherent power is not so regulated. But under r 5(2) of the Supreme Court Rules 2004, matters not governed by rules must be disposed of "in the manner that the Court thinks best calculated to promote the ends of justice".

[3] Certain documents associated with court proceedings are freely available. In this Court, judgments are published on the courtsfnz.govt.nz website and are therefore publicly available. In relation to the High Court and Court of Appeal, the rules governing access to court documents are built around a definition of "formal

court record” and public access is generally available to documents which are within that definition. Applications for leave to appeal are not within the definition. An application for access to an application for leave to appeal in those courts would be addressed in terms of criteria stipulated in the rules. These include, among others, the orderly and fair administration of justice, the principle of open justice (that is encouraging fair and accurate reporting on the Court’s decisions), the privacy interests of parties and the freedom to seek and impart information. In the absence of specific rules which apply to documents held by this Court but given r 5(2) of the Supreme Court Rules, I propose to assess the present application by reference to those criteria.

[4] The reason for which M says he seeks access is that he is investigating a story on the case. Access to documents may be appropriate for a representative of an organisation of the kind described in s 198(2) of the Criminal Procedure Act 2011, who is investigating a matter related to an appeal or application for leave to appeal. Such media organisations are subject to standards aimed at promoting fair and accurate reporting of the Court’s proceedings. However, M is not a representative of such an organisation.

[5] In those circumstances and in the absence of any other reason for seeking access, I do not consider that providing him with a copy of the application for leave to appeal, which does not form part of the formal Court record, would be calculated to promote the ends of justice.

[6] I therefore decline M application for a copy of the notice of application for leave to appeal in relation to this matter.