IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

CA176/2024
[2024] NZCA 399

BETWEEN	DAVINA VALERIE REID Applicant
AND	NEW ZEALAND LAW SOCIETY Respondent

Court: Thomas and Hinton JJ

Counsel: J Mason for Applicant
P N Collins for Respondent

Judgment: (On the papers) 22 August 2024 at 10.30 am

JUDGMENT OF THE COURT

A The application for leave to appeal is declined.

B The applicant must pay the respondent costs for a standard application on a band A basis, together with usual disbursements.

REASONS OF THE COURT

(Given by Thomas J)

[1] Davina Reid seeks leave to appeal against a decision of the High Court dismissing her appeal from a decision of the New Zealand Lawyers and Conveyancers Disciplinary Tribunal.[1] The Tribunal had refused Ms Reid's application for restoration

[1] *Reid v New Zealand Law Society* [2023] NZHC 2370 [High Court decision].

to the Roll of Barristers and Solicitors.[2] The High Court declined to grant Ms Reid leave to appeal.[3]

[2] The New Zealand Law Society | Te Kāhui Ture o Aotearoa (NZLS) opposes the application for leave.

Background

[3] Ms Reid is a former criminal barrister who was struck off the Roll in 2015 following conviction for having delivered contraband to a prisoner, in breach of s 141 of the Corrections Act 2004.[4]

[4] At the time of her offending, Ms Reid acted for Liam Reid, a prisoner convicted of rape, murder and attempted murder. She had, and retains, a firm personal belief in his innocence.[5]

[5] The following summary of the facts and circumstances relating to her offending is taken from the High Court judgment dismissing her appeal against the District Court's refusal to discharge her without conviction:[6]

> [4] On 7 October 2011 the legal visits supervising officer at Mount Eden Correctional Facility (MECF), Ms Cooper, took possession of an Apple iPhone, a packet of Marlboro cigarettes and a Bic cigarette lighter. The prosecution asserted that they had been introduced to MECF by Ms Murray and given to an inmate, Mr Liam Reid.
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> [5] Ms Murray was Mr Reid's legal adviser. As his counsel she had access to M[r] Reid on numerous occasions over a period of years.
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> [6] Ms Murray denied that she had delivered the contraband to Mr Reid. Her trial took place over seven days. Ms Murray represented herself, although she was assisted by Mr B J Hart as a McKenzie friend and Mr Hirschfeld acted as amicus curiae. Although Ms Murray did not give evidence at her trial, Mr Reid did. Judge Collins recorded that the defence advanced was that a Corrections Officer, Noel Purcell, had conspired with another Corrections Officer, Maurice Stanley to falsely accuse Mr Reid of possession of the items and Mr Purcell or someone known to him had introduced those items into the Corrections Facility. Ultimately Judge Collins was satisfied beyond reasonable doubt that Ms Murray had introduced the items. My review of the

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2 *Reid v New Zealand Law Society* [2023] NZLCDT 7 [Tribunal decision].
3 *Reid v New Zealand Law Society* [2024] NZHC 411 [leave decision].
4 Ms Reid delivered an iPhone, cigarettes and a lighter.
5 Ms Reid and Mr Reid are now married.
6 *Murray v Police* [2014] NZHC 337. Ms Reid was formerly Ms Murray.

> evidence and the judgment confirms the case against Ms Murray was overwhelming.

[6] At sentencing in October 2013, Judge Collins described Ms Reid's offending as "if not the most serious of its type, very close to that".[7] Nevertheless, although the offence attracted a maximum penalty of three months' imprisonment, he imposed a sentence of 50 hours' community work.[8]

[7] On appeal in February 2014, Venning J concluded that Judge Collins:[9]

> [43] … was right to find that Ms Murray's offending was serious offending of its type so that, even taking into account the mitigating factors referred to, the gravity of the offending in this case was high.

[8] In December 2014, the Tribunal found Ms Murray had been convicted of an offence punishable by imprisonment and that the conviction reflected on her fitness to practise and/or tended to bring the profession into disrepute.[10] In February 2015, the Tribunal ordered that Ms Murray's name be removed from the Roll.[11] The Tribunal described Ms Reid's offence as one that "goes directly to the heart of the standing of the profession in the community", and found that "[t]he breach of trust and abuse of professional privilege most certainly reflect on fitness to practice [sic]."[12]

[9] In April 2022, approximately seven years after her striking off, Ms Reid applied for her name to be restored to the Roll.[13] The essence of her case, as summarised by the Tribunal, was that:[14]

> (a) her conviction for delivering contraband to Mr Reid was minor and had been expunged from Ms Reid's record by operation of the Criminal Records (Clean Slate) Act 2004;

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7 *Police v Murray* DC Auckland CRI-2013-004-003095, 1 October 2013 at [40].
8 At [42].
9 *Murray v Police*, above n 6.
10 *Auckland Standards Committee No 1 v Murray* [2014] NZLCDT 88 [Tribunal charge decision].
11 *Auckland Standards Committee No 1 v Murray* [2015] NZLCDT 6 [Tribunal strike off decision].
12 Tribunal charge decision, above n 10, at [41] and [42].
13 Pursuant to the Lawyers and Conveyancers Act 2006, s 246(1).
14 Tribunal decision, above n 2, at [10].

(b) responses to her offending by the courts, NZLS and the Tribunal had been disproportionate and discriminatory and she should be treated similarly to others who had been restored to the Roll;

(c) the force of the precipitating event had now been spent, she had not offended since, she was older and more mature, she had recovered from her whakamā (loosely, a feeling akin to shame, inadequacy or dishonour) and her mana (loosely, her sense of prestige, authority, reputation and power) was now restored;

(d) her restoration to the Roll would serve sound social purposes given her ability, experience and desire to advocate for the underprivileged, and a need for more wāhine Māori lawyers generally; and

(e) restoration would see her skills put more fully to use for the benefit of her employer, Te Whānau o Waipareira Trust, which has provided her with considerable rehabilitative support.

Tribunal decision

[10] On 24 March 2023, the Tribunal declined Ms Reid's application for restoration to the Roll.[15]

[11] The Tribunal began by acknowledging the test for restoration, namely whether an applicant is "fit and proper", as set out in s 55 of the Lawyers and Conveyancers Act 2006 (LCA).[16] The Tribunal noted that the assessment is forward looking,[17] and the onus was on Ms Reid to show she could be entrusted to meet the duties and obligations imposed on lawyers.[18] It referred to the most recent and relevant Supreme Court decision, *New Zealand Law Society v Stanley*,[19] and then said:

> [8] … We must disregard irrelevant matters. A lawyer need not be popular, nor need a lawyer hold conventional views on social or political

15 At [71].
16 At [5].
17 At [2] and [8].
18 At [9].
19 At [6] and [7], citing *New Zealand Law Society v Stanley* [2020] NZSC 83, [2020] 1 NZLR 50.

> matters. In the present case, Ms Reid's marriage to a notorious prisoner convicted of rape and murder has attracted adverse comment in the press. Her marriage, and that comment, are irrelevant to our evaluation.

[12] The Tribunal found Ms Reid had not discharged her burden.[20] The original offending was "a gross breach of trust",[21] and her subsequent behaviour in falsely accusing two Corrections officers was "egregious".[22]

[13] Amongst the Tribunal's concerns was Ms Reid's "pattern of failure to observe professional boundaries".[23] Prior to her being struck off, there had been three previous disciplinary findings against Ms Reid. The Tribunal noted Ms Reid "did not address this disturbing pattern at all" and that there was "no information on what insight she may have into this pattern, what steps she has taken to recognise triggers and how to avoid repetition".[24] The Tribunal said Ms Reid's continued "lack of candour" was another troubling theme.[25] Ms Reid, the Tribunal found, was "devoid of compassion for those whom she had hurt", contrary to the genuine remorse expected of people who had achieved insight into the wrongness of their actions.[26]

[14] The Tribunal rejected Ms Reid's assertion that she had received differential treatment from that which others in her position had received.[27] The Tribunal considered two cases, *Hesketh* and *Leary*, which involved restoration applications following a "significant" fall from grace,[28] but concluded Ms Reid's behaviour and subsequent defence of it "demonstrates a defect of character incongruent with the integrity required in a person admitted to the considerable privileges of being a lawyer".[29]

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20 The decision first gave lengthy consideration as to whether it was appropriate to use the term "smuggled" to describe Ms Reid's offending.
21 Tribunal decision, above n 2, at [28].
22 At [47].
23 At [32].
24 At [32].
25 At [36].
26 At [38].
27 At [42].
28 At [44], citing *Re Hesketh* New Zealand Law Practitioners Disciplinary Tribunal, 25 May 1999; and *Leary v New Zealand Law Practitioners Disciplinary Tribunal* [2008] NZAR 57 (HC).
29 Tribunal decision, above n 2, at [47].

[15] The Tribunal also considered Ms Reid's progress in overcoming her whakamā and restoring her mana.[30] While the Tribunal accepted consideration of those concepts and the inclusion of a tikanga Māori process was "well overdue", it was premature in Ms Reid's case. Ms Reid, the Tribunal found, was a long way off the redemption that tikanga would require.[31]

[16] In summarising its findings, the Tribunal said:

> [68] Although several years have elapsed since she was struck off, our evaluation, looking to the future, is that Ms Reid continues to lack genuine insight into those features that led to her plight. Her record of blurring professional boundaries, becoming over-involved with clients, blatantly disregarding the law, advancing untruth or obscuring the truth: blight her ability to satisfy us that she is now a fit and proper person to be re-enrolled. She has no real insight into her wrong-doing, continues to downplay it, and lacks compassion for those she has harmed through her shortcomings of character. We do not find that she has genuine remorse for what she did. Instead she demonstrates self-interest and regret for the damage she has caused herself and those near her.
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> [69] Although she has no new convictions, her 2017 failure to alert her Australian employer to her conviction is a subsequent act that casts doubt on her probity and candour.
>
> [70] Her relevant character defects are still profound, in our view. We do not regard Ms Reid as being safe to practise. These deficits cannot be managed by conditions related to supervision or oversight.
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> [71] Unanimously, we are far from satisfied that Ms Reid is a fit and proper person to be re-enrolled as a lawyer. We wish her well in her future endeavours but her application is unsuccessful and we dismiss it.

[17] Ms Reid appealed.[32]

High Court decision

[18] Muir J in the High Court dismissed Ms Reid's appeal.

[19] Ms Reid submitted to the High Court that the Tribunal failed to apply or misapplied the threshold test set out by the Supreme Court in *Stanley* by focusing

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30 At [58].
31 At [61].
32 Pursuant to Lawyers and Conveyancers Act, s 253.

disproportionately on her past wrongdoing when the evidence "in the round" was that she was now neither an actual nor apparent risk to either the profession or the public.[33]

[20] The Judge explained that the "forward looking exercise" mandated by *Stanley* was because of the public interest and interests of the profession in encouraging rehabilitation of those who have undergone many years of training.[34] However, he said, the nature of any past disqualifying conduct did need to be considered if it "remains relevant".[35] This fact-specific enquiry involved consideration of all the evidence in the round, including how the applicant had by then responded to their previous behaviour.[36]

[21] The Judge agreed with the Tribunal that the evidence indicated "a lack of insight into [Ms Reid's] wrongdoing, an attempt to downplay it, and a preoccupation with self-interest and regret for the damage she had caused to herself and those near her."[37] The Judge agreed with the Tribunal that Ms Reid's view of her offending is "a barrier to genuine remorse, without which it is difficult to be confident about lasting change".[38]

[22] The Judge also rejected Ms Reid's submission that the Tribunal did not engage with tikanga concepts in its assessment of her character.[39] He noted that the Tribunal held that, in tikanga terms, Ms Reid's "journey of redemption is, at best, in early stages and currently falls far short of what tikanga would require".[40] The Tribunal referred to the tikanga concept of muru, which involves acts of redress, reciprocity and restorative justice, but considered that muru had neither been understood nor undertaken by Ms Reid.[41] The Judge referred to the exchanges which occurred between Ms Reid and the Tribunal member, Hector Matthews, the Executive Director

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33 High Court decision, above n 1, at [35], citing *New Zealand Law Society v Stanley*, above n 19.
34 High Court decision, above n 1, at [30].
35 At [31].
36 At [32].
37 At [54].
38 At [55].
39 At [70].
40 At [69], citing Tribunal decision, above n 2, at [61].
41 Tribunal decision, above n 2, at [61].

of Māori and Pacific Health at the Canterbury District Health Board, described as having a high level of competency in te ao Māori and fluency in te reo.[42]

[23] The Judge addressed Ms Reid's submission that te Tiriti o Waitangi meant the Tribunal should have placed greater emphasis on the need for more wāhine Māori in the legal profession. The Judge said the importance of those matters "cannot be overstated", but also could not be a substitute for the proper application of the fit and proper test.[43]

[24] In dismissing the appeal, Muir J concluded by saying:[44]

> [74] I wish Ms Reid well in terms of any future application, noting that she has obvious ability which could be of significant benefit to her employers, Māori and the profession generally. When, by reference to the issues addressed by the Tribunal and summarised in para [68] of its decision, she is capable of discharging the onus of showing that her past wrongdoing no longer remains relevant, she can, in my view, legitimately look forward to re-enrolment.

[25] The Judge awarded costs in favour of NZLS.[45] Ms Reid applied for leave to appeal.[46]

High Court leave decision

[26] On 1 March 2024, Muir J declined Ms Reid's application for leave to appeal to this Court.[47] The main ground advanced in her leave application was that the Judge did not pay due consideration to the role of tikanga in her case and failed to weigh all relevant considerations in the round.

[27] The Judge said Ms Reid's submissions did not address the relevant legal test and focused on alleged errors that would be more suited to an appeal submission rather

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42 High Court decision, above n 1, at [69].
43 At [72].
44 Footnote omitted.
45 At [76].
46 Pursuant to Lawyers and Conveyancers Act, s 254.
47 Leave decision, above n 3.

than a leave submission.[48] The Judge did not identify an error in his approach to the role of tikanga, and said with respect to this Court:[49]

> [13] … the application of the principles of tikanga and te ao Māori is undoubtedly a matter of public importance. But if the Court of Appeal is to consider such issues in the context of an application for readmission, this is far from being a paradigm case. That is because there was no independent expert evidence led by Ms Reid before the Tribunal about what tikanga principles were potentially applicable and how they might interact with the established jurisprudence in respect of readmission.

[28] The Judge then listed seven issues he said he balanced in making his decision.[50] The Judge ultimately agreed with NZLS that "it is difficult to see any bona fide and serious argument that there was a failure … to weigh these considerations in the round".[51]

[29] The Judge reserved the issue of costs.[52]

Test for leave

[30] Ms Reid's application for leave to bring a second appeal is bought under s 254 of the LCA. Section 254 provides:

> **254 Appeals to Court of Appeal on question of law**
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> (1) Any party to an appeal under section 253(1) who is dissatisfied with any determination of the High Court in the proceedings as being erroneous in point of law may, with the leave of that court, or, if the High Court refuses leave, with the leave of the Court of Appeal, appeal to the Court of Appeal against the determination; and section 56 of the Senior Courts Act 2016 applies to any such appeal.
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> (2) In determining whether to grant leave to appeal under this section, the Court of Appeal must have regard to whether the question of law involved in the appeal is one that, by reason of its general or public importance or for any other reason, ought to be submitted to the Court of Appeal for its decision.
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> …

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48 At [6].
49 Footnote omitted.
50 At [15].
51 At [16].
52 At [19].

[31] The relevant principles when considering an application for leave to bring a second appeal, as correctly identified by the High Court, are:[53]

> (a) Leave to appeal may be granted only where the appeal raises one or more questions of law capable of bona fide and serious argument and the case involves some interest, public or private, of sufficient importance to outweigh the costs and delay of a further appeal.[54] Ultimately the question is whether a grant of leave is in the interests of justice.[55]
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> (b) The applicant must be able to demonstrate that the alleged error or errors of law are sufficiently important to justify a second appeal.[56]

Grounds

[32] Ms Reid says the High Court erred by:

(a) failing to consider and give adequate weight to all the circumstances of the case;

(b) not treating tikanga as an integral part of the legal framework through which to assess Ms Reid's application; and

(c) not rehearing Ms Reid's application afresh, as required by s 253(3)(a) of the LCA.

[33] Ms Reid says the issues are of general or public importance.

[34] Should leave be granted, Ms Reid seeks the quashing of the decisions of the Tribunal and High Court, her reinstatement to the Roll and an award of costs in her favour.

[35] NZLS opposes the application for leave to bring a second appeal and seeks costs on the application.

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53 At [5].
54 *Hong v Auckland Standards Committee No 5* [2020] NZCA 561 at [8].
55 *Deliu v National Standards Committee of New Zealand Law Society* [2015] NZCA 399 at [18(c)].
56 *Waller v Hider* [1998] 1 NZLR 412 (CA) at 413.

Submissions

Errors of law

[36] Ms Mason for Ms Reid says first, that the Judge erred by treating her explanations for her conduct as negating her statements of genuine remorse. Ms Mason submits that Ms Reid has clearly accepted her wrongdoing, saying she has "worn her regret like a cloak of shame". In Ms Mason's submission, viewing Ms Reid's explanations for her offending as indicative of a lack of insight or remorse, as the High Court did, is contrary to the approach in *Stanley*.

[37] Mr Stanley had applied to be admitted as a barrister and solicitor later in life. NZLS declined to give him a certificate of character as it was concerned about his drink driving offending and attitude towards that offending. The High Court also concluded Mr Stanley was not fit and proper,[57] but the Court of Appeal and Supreme Court held he was.[58] The Supreme Court found the test applied by the High Court was too exacting, saying the Judge focused:[59]

> … on the aspect that suggested bad character, being the previous convictions and Mr Stanley's approach to those. The fact that Mr Stanley was otherwise of good character was a part of the equation but, in all of the circumstances, too much weight was given to the one bad feature.

[38] Likewise here, in Ms Mason's submission, the Judge gave too much weight to Ms Reid's contextual explanations for the misconduct and it became a determinative factor in his decision. In doing so, the Judge overlooked the factors that support her being reinstated to the Roll, including her frank acknowledgement and remorse, her subsequent compliance with prison regulations while visiting her husband since the offending, the positive views from John Tamihere from Te Whānau o Waipareira Trust about her employment, and the evidence that Ms Reid had shed her cloak of whakamā and replaced it with a cloak of mana.

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57 *Stanley v New Zealand Law Society* [2018] NZHC 1154, [2018] NZAR 1210.

58 *Stanley v New Zealand Law Society* [2019] NZCA 119, [2019] NZAR 1001; and *New Zealand Law Society v Stanley*, above n 19.

59 *New Zealand Law Society v Stanley*, above n 19, at [76] (footnote omitted).

[39] NZLS submits the proposed appeal does not give rise to any questions of law capable of bona fide and serious argument, saying the Tribunal and High Court were both thorough, careful and balanced in their weighting of issues.

[40] Secondly, Ms Mason submits the Judge erred in law because he did not treat tikanga as an integral part of the legal framework through which to assess Ms Reid's application. Tikanga was not mentioned until the end of the decision. Ms Mason contends that the Tribunal failed to analyse or assess the exchanges between Ms Reid and Tribunal Member Mr Matthews in a manner which demonstrated either an acceptance or an understanding of the tikanga evidence given by Ms Reid and Mr Tamihere. Furthermore, the tikanga evidence provided by both Ms Reid and Mr Tamihere was disregarded and not given its due "substantial weighting". Mr Tamihere is one of Aotearoa's most respected Māori leaders and his evidence should not be treated as it if were coming from a lay witness.

[41] NZLS submits the Tribunal and the High Court were both properly informed about the relevance of tikanga and te ao Māori. They both considered the evidence from Mr Tamihere (which was not independent as it was evidence in support of Ms Reid from her intended employer) and from the expert engaged by NZLS, Professor Rawinia Higgins. The findings of both the Tribunal and High Court were sensitive, correct and a proportionate response to the tikanga dimension in this case.

[42] Thirdly, in Ms Mason's submission, the Judge erred by not rehearing Ms Reid's application afresh, as he was required to do under s 253(3)(a) of the LCA. While the Judge did reference that requirement, he did not do so in fact. His focus was instead on whether the Tribunal had erred in its application of tikanga principles. Ms Mason submits this was an overall error of law because it resulted in a narrowing of focus, which meant important principles in *Stanley* were overlooked. Had a rehearing been conducted, independent tikanga evidence could have been requested so that Mr Tamihere was not considered conflicted and all the relevant tikanga evidence he gave, discarded.

[43] The NZLS submits the High Court's approach was consistent with the standards of appellate oversight for an appeal in this category. It refers to the Judge's

comment, "I accept but am not blinded by the Tribunal's specialist competency in assessing character and the range of life experiences which its members brought to that task."[60]

Why leave should be granted

[44] In Ms Mason's submission, Ms Reid's case is one of general or public importance because the issue of the status of tikanga as part of the law of Aotearoa, and in particular the tikanga of rehabilitating people with past infractions, is a novel one. The approach taken in the Tribunal and High Court was overly punitive and contrary to both existing case law and tikanga. This is a paradigm case in which this Court can consider these issues.

[45] Furthermore, an "obvious" and substantial miscarriage of justice will occur unless the appeal is heard because it is unfair Ms Reid continues to be disbarred from her chosen profession. Her criminal record has been "clean slated". It was a one-off "crime of passion", and denying her application is inconsistent with other instances of offenders being later deemed to be fit and proper.[61]

[46] NZLS submits that there is no matter of public or private interest that means granting leave to appeal is in the interests of justice.

Analysis

[47] The first of Ms Reid's complaints concern the Judge's findings of fact, namely the extent and genuineness of Ms Reid's insight into her misconduct and her subsequent remorse, and the weight given to those factors. The Judge weighed a number of factors, with reference to the considerations in *Stanley*, in declining Ms Reid's appeal. As discussed above, he regarded Ms Reid's attitude towards the offending as relevant to the forward-looking assessment as to whether she was fit and proper.[62] The Judge considered the evidence before the Tribunal on this point, quoting

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60 High Court decision, above n 1, at [43].

61 The applicant referred to various news articles and the following cases: *Leary v New Zealand Law Practitioners Disciplinary Tribunal*, above n 28; *Guest v New Zealand Law Society* [2009] NZLCDT 12; *New Zealand Law Society v Stanley*, above n 19.

62 High Court decision, above n 1, at [49].

passages of Ms Reid's evidence and then made factual findings which were open to him.[63] There is no apparent error giving rise to a question of law in respect of the High Court's assessment and weighting of the evidence.

[48] In respect of Ms Reid's second complaint, we consider the Judge appropriately acknowledged the significance of tikanga, stating that "tikanga has potential application not only in terms of 'process' but in assessment of the threshold character issue."[64] Ultimately, however, the Judge concluded it was issues in the way Ms Reid presented her claim, primarily the absence of expert evidence called (and noting the expert evidence called by NZLS), that prevented the Tribunal (and the High Court) from being able to find that, in tikanga terms, her road to redemption was anything other than "in early stages".[65] That was also a finding of fact available to him on the evidence and, as such, does not give rise to a question of law.

[49] The role of tikanga in our law is of significant public importance. Tikanga continues to be recognised in cases where it is relevant,[66] and is to be applied contextually, on a case-by-case basis.[67] The Judge appropriately recognised that:[68]

> [Tikanga] may, in this case … inform the decision maker about a person's insight into their past transgression and the appropriate steps to achieve redress and restorative justice. However, … it does not create a new or different fit and proper person test or a new or different standard for restoration to the roll.

[50] The third complaint, that the Judge did not approach the appeal by way of rehearing, is also unfounded. A rehearing means the appeal court considers the issues that had to be determined in the proceeding below on the basis of the evidence appearing in the lower court's record and does not mean there has to be a complete rehearing of the evidence, as is the case for example in a new trial.[69] The appellant bears an onus of satisfying the appellate court that it should differ from the decision

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63 At [50]–[53].
64 At [67].
65 At [71].
66 *Ellis v R (Continuance)* [2022] NZSC 114, [2022] 1 NZLR 239 at [19].
67 At [121], [125] and [127] per Glazebrook J, [181] per Winkelmann CJ and [261]–[267] and [273] per Williams J.
68 Leave decision, above n 3, at [11].
69 *Pratt v Wanganui Education Board* [1977] 1 NZLR 476 (SC) at 490.

under appeal and, in discharging that onus, the appellant must identify the respects in which the judgment under appeal is said to be in error.[70]

[51] It is clear from the High Court judgment that the correct approach was taken. At numerous points in the decision, the Judge quoted from the evidence before the Tribunal.[71]

[52] In light of these considerations, this is not a case where the public interest more generally falls in favour of granting leave. On the material provided, this Court would have little if anything to add in terms of clarity as to the legal approach in respect of tikanga and its application to those seeking to be reinstated to the Roll, and would instead be considering findings of fact.

[53] Likewise, no miscarriage of justice would occur if leave were declined. Ms Reid's application was given due consideration and she was advised reenrolment was possible once she is able to discharge the onus placed upon her.[72]

[54] We conclude that Ms Reid has not raised questions of law capable of bona fide and serious argument. Hearing the appeal is not in the public interest or the interests of justice.

Result

[55] The application for leave to appeal is declined.

[56] The applicant must pay the respondent costs for a standard application on a band A basis, together with usual disbursements.

Solicitors:
Phoenix Law Ltd, Wellington for Applicant
New Zealand Law Society | Te Kāhui Ture o Aotearoa, Wellington for Respondent

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70 *Austin, Nichols & Co Inc v Stichting Lodestar* [2007] NZSC 103, [2008] 2 NZLR 141 at [4]; and *Green v Green* [2016] NZCA 486, [2017] 2 NZLR 321 at [30].
71 See High Court decision, above n 1, at [60]–[63], [65] and [70].
72 At [74].