

[3] Mr Collier initially attempted to file a notice of appeal in this Court from the Broadcasting Standards Authority. I released a minute of 14 May 2013, however, advising him that he was not entitled to simply file a notice of appeal. He needed to file an application for leave to appeal given my view, then expressed, that his appeal was a civil proceeding covered by the orders made that he was a vexatious litigant.

[4] I advised Mr Collier in my minute of 14 May that I must be satisfied that the appeal was not an abuse of process of the Court and that there were *prima facie* grounds to bring the proceeding. I gave Mr Collier 21 days to file any submissions he wanted to establish the above points. In particular I asked him to identify why the appeal was not an abuse of process and secondly, to identify the exact grounds of appeal so some assessment could be made of whether there were *prima facie* grounds to bring the proceedings.

[5] Mr Collier's original notice of appeal simply said that the decision of the Broadcasting Standards Authority was "erroneous in fact and in law". Subsequently, Mr Collier filed submissions.

[6] In these submissions Mr Collier makes the same point that he made in his original notice of appeal. In his view he did not need leave to bring this appeal because he has a right to do so pursuant to s 18(1) of the Broadcasting Act 1989.

[7] To repeat my view expressed in my minute of 14 May, I am satisfied that Mr Collier does need leave. His proposed notice of appeal is a civil proceeding. It is clearly not a criminal matter and is a proceeding governed by the High Court Rules which deal with civil processes.

[8] To understand Mr Collier's application for leave it is necessary to give some background relating to Mr Collier's complaint to the Broadcasting Standards Authority.

[9] The *Close Up* item reported on a controversy with respect to the establishment of an abortion clinic in Invercargill. It interviewed those who strongly opposed the clinic and those who supported it. Mr Collier and a Mr John Fong of

Hamilton complained about the item. Mr Collier complained about a breach of the accuracy standard, the fairness standard and the discrimination and denigration standard.

[10] In its decision of the 2 April the Broadcasting Standards Authority set out the background to the complaint and then identified the three questions raised by the complainants:

- (a) Was any person or organisation taking part or referred to in the broadcast treated unfairly?
- (b) Was the item inaccurate or misleading?
- (c) Did the item encourage discrimination against or the denigration of any section of the community?

[11] The Authority held that there was no unfair treatment, nor any inaccurate or misleading information, nor was any section of the community discriminated against or denigrated.

[12] Mr Collier's proposed appeal alleges:

- (a) that he did not get a fair hearing before the Authority;
- (b) that the Authority made a number of errors of fact; and
- (c) there were other errors made relating to discrimination.

[13] As to a fair hearing, Mr Collier says he did not get a fair hearing because a letter he had sent to TVNZ and the Broadcasting Standards Authority, was not "in the papers placed before the Authority".

[14] I have read Mr Collier's letter. It contains a series of accusations which for the most part were part of his case before the Broadcasting Standards Authority.

[15] Among other matters he asks Television New Zealand Limited to give information about who told the television reporter particular things she reported on in the item. He asks a series of rhetorical questions essentially alleging inaccuracy of the item and bias against Television One.

[16] I am satisfied that all relevant matters in the letter of 11 December were canvassed before the Broadcasting Standards Authority and it is, therefore, unlikely Mr Collier has been treated unfairly. No *prima facie* case for an appeal has been established here.

Errors of fact

[17] The appellant identifies in his proposed appeal three errors of fact made by Television One and the Broadcasting Standards Authority. They are:

- (a) the statement in the *Close Up* programme and by the Broadcasting Standards Authority that “prolife groups murdered persons in America”. Mr Collier says this is not true and there is no proof of such. The Broadcasting Standards Authority referred Mr Collier to the source of the statement. There is no information from Mr Collier other than his assertion that this is not true;
- (b) Mr Collier says “other incidents were also untrue”. It is not entirely clear what incidents he refers to. Other than his assertion, there is nothing to support what he has said.
- (c) Mr Collier says that the programme said that “Southlanders for life wish to name and shame abortion workers”. Mr Collier said there was no evidence of this. The Broadcasting Standards Authority dealt with this complaint and identified why it was not relevant.

[18] The rest of the appeal contains a series of assertions by Mr Collier such as “Television New Zealand does not have a licence in law to alter the facts to suit its hidden agenda”. These allegations have no basis other than Mr Collier’s assertion.

They are not established facts on which a potentially successful appeal could be mounted.

[19] In my view, this appeal does amount to what is essentially an abuse of process. No adequate grounds of appeal by way of errors of law or fact are identified. Mr Collier's approach is essentially based on the proposition that he does not agree with the Broadcasting Standards Authority dismissing his complaint. Nor could it be said that there are *prima facie* grounds to bring this appeal. None of the grounds are, in my view, likely to succeed.

[20] In assessing the matter, overall, I am satisfied that leave should not be given for Mr Collier to bring this appeal. The application is, therefore, refused.

Ronald Young J