NOTE: PURSUANT TO S 139 OF THE CARE OF CHILDREN ACT 2004, ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B, 11C AND 11D OF THE FAMILY COURT ACT 1980.

IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

CA545/2022 [2023] NZCA 360

BETWEEN ROBERTS

Appellant

AND CRESSWELL

Respondent

Counsel: Applicant (T F Dunstan) in person

V A Crawshaw KC and S M Wilson for Appellant

S N van Bohemen, A J Summerlee and E S M L B Gawar Kohistani for Respondent

Judgment:

11 August 2023 at 10.30 am

(On the papers)

JUDGMENT OF THE COURT

The application for recall of [2023] NZCA 168 is declined.

REASONS OF THE COURT

(Given by Brown J)

[1] In a judgment dated 12 May 2023 I declined Ms Dunstan's application under the Senior Courts (Access to Court Documents) Rules 2017 seeking copies of various documents in this appeal.¹

¹ Roberts v Cresswell [2023] NZCA 168.

[2] Ms Dunstan has applied under r 8A of the Court of Appeal (Civil) Rules 2005

for an order that my decision be "rescinded". Her application is based on two grounds:

(a) that I am the subject of an unresolved recusal application;

(b) that the statement in my judgment that the judgment in Roberts v

Cresswell² was published and available to Ms Dunstan in any event was

in error.

[3] I am unaware of any extant recusal application.

[4] Contrary to my then understanding, at the date of my 12 May 2023 decision

the judgment in Roberts v Cresswell had not been published by the Judicial Libraries

of the Ministry of Justice. However I am advised by Judicial Libraries that the

judgment was published on 7 June 2023 and is now available for access by

Ms Dunstan.

[5] In her application for recall Ms Dunstan further suggests that I acted in breach

of the statutory suppression of the names of the parties in Roberts v Cresswell.

However the names in the judgment are not the parties' real names but fictious names.

[6] For these reasons I am satisfied there are no grounds warranting the recall of

my judgment. Ms Dunstan's application for recall is declined.

Solicitors:

Glaister Ennor, Auckland for Appellant

Parry Field Lawyers, Christchurch for Respondent

² Roberts v Cresswell [2023] NZCA 36.