

IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

CA297/2025
[2026] NZCA 153

BETWEEN LUANA MAREE NOBLE
Applicant

AND COMMISSIONER OF POLICE
Respondent

CA310/2025

BETWEEN HIRA CYRIL NOBLE
Applicant

AND COMMISSIONER OF POLICE
Respondent

Court: Ellis and Collins JJ

Counsel: Applicants in person
R W Jenson for Respondent

Judgment: 4 May 2026 at 10.30 am
(On the papers)

JUDGMENT OF THE COURT

- A The applications for an extension of time are granted. Mr and Ms Noble are to file the case on appeal on or before 15 May 2026.**
- B Security for costs must be paid on or before 22 May 2026.**
- C No further applications for an extension of time to file the case on appeal are to be accepted for filing.**
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REASONS OF THE COURT

(Given by Collins J)

Introduction

[1] Mr and Ms Noble wish to appeal asset and profit forfeiture orders made against them in the High Court under the Criminal Proceeds (Recovery) Act 2009 (the Act). They have failed to file a case on appeal within the three-month time limit prescribed by r 43 of the Court of Appeal (Civil) Rules 2005 (the Rules) and now apply under that rule to extend time to enable them to file the case on appeal.

[2] The forfeiture orders were made after Mr Noble pleaded guilty to possessing and selling synthetic cannabis and after Ms Noble pleaded guilty to money laundering for her role in laundering the proceeds of her husband's synthetic cannabis enterprise. Lang J made orders authorising the sale of seized assets including a motor vehicle, a motorcycle, a jet ski and the Nobles' family home in Tauranga. The Judge also made a profit forfeiture order in the sum of \$392,004.62.¹

[3] Ms Noble filed a notice of appeal on 15 May 2025 seeking to have the order for the sale of the family home set aside. Mr Noble filed a similar notice of appeal on 21 May 2025.

[4] On 15 August 2025, Mr and Ms Noble filed amended notices of appeal. By this time they had chosen not to have legal representation. At the same time, the Nobles applied for an extension of time to file the case on appeal. The Commissioner of Police (the Commissioner) consented to that extension. A Deputy Registrar granted the extension application and, as a consequence, Mr and Ms Noble were given until 21 October 2025 to file a case on appeal.

[5] Mr and Ms Noble failed to comply with the extended timetable to file the case on appeal. Their appeals were therefore deemed to have been abandoned on 22 October 2025.

[6] On 10 November 2025, Mr and Ms Noble applied for the "reinstatement" of their appeals. These have been treated as applications for a further extension of time to file the case on appeal.

¹ *Commissioner of Police v Noble* [2025] NZHC 967 at [70].

[7] The Nobles' submissions in support of the further extension of time applications were due on 8 December 2025. They encountered difficulties with this deadline. An extension to file submissions was granted through to 15 December 2025. However, on 15 December 2025, Ms Noble wrote to the Registrar explaining that she had been admitted to hospital. The Nobles' submissions were ultimately filed on 19 December 2025. Responsibly, the Commissioner takes no issue with the delays in filing the submissions.

Governing principles

[8] Applications to extend time to file a case on appeal are governed by the criteria explained by the Supreme Court in *Almond v Read*.² The Court said the factors which are likely to require consideration include:³

- (a) *The length of the delay.* Clearly, the time period between the expiry of the appeal date and the filing of the application to extend time is relevant. But in a case where there has been a slip-up and the appeal date has been inadvertently missed, how quickly the applicant sought to rectify the mistake after learning of it will also be relevant. Obviously, the longer the delay, the more the applicant will be seeking an "indulgence" from the court and the stronger the case for an extension will need to be.
- (b) *The reasons for the delay.* It will be particularly relevant to know whether the delay resulted from a deliberate decision not to proceed followed by a change of mind, from indecision, or from error or inadvertence. If from a change of mind or from indecision, there is less justification for an extension than where the delay results from error or inadvertence, particularly if understandable.
- (c) *The conduct of the parties, particularly of the applicant.* For example, a history of non-cooperation and/or delay by an applicant may be relevant.
- (d) *Any prejudice or hardship to the respondent or to others with a legitimate interest in the outcome.* Again, the greater the prejudice, the stronger the case will have to be to justify the grant of an extension of time. Where there is significant delay coupled with significant prejudice, then it may well be appropriate to refuse leave even though the appeal appears to be strongly arguable.
- (e) *The significance of the issues raised by the proposed appeal, both to the parties and more generally.* If there is a public interest in the issues, the case for an extension is likely to be stronger than if there is no such interest.

² *Almond v Read* [2017] NZSC 80, [2017] 1 NZLR 801.

³ At [38] (footnotes omitted).

[9] When referring to the merits of an appeal, the Court accepts that in principle, merits may be considered. However, “a decision to refuse an extension of time based substantially on the lack of merit of a proposed appeal should be made only where the appeal is clearly hopeless”.⁴

Grounds for the application

[10] Mr and Ms Noble appear to have relied substantially on material generated by artificial intelligence and in doing so have cited multiple cases, most of which are irrelevant or do not exist.⁵

[11] Their grounds of appeal appear to be:

- (a) The High Court Judge erred in finding that forfeiture of the Tauranga property would not cause undue hardship.
- (b) The Judge’s finding that Mr and Ms Noble had deliberately not paid rates on the property because it was at risk of being forfeited to the Crown, was made without a proper evidential foundation and was, in any event, an irrelevant consideration.
- (c) The Judge failed to give adequate weight to the cultural and whānau housing impacts of forfeiture of a family home occupied by multiple generations including vulnerable children.
- (d) The Judge failed to consider the applicability of the United Nations Declaration on the Rights of Indigenous Peoples,⁶ Te Tiriti o Waitangi | the Treaty of Waitangi, and tikanga Māori property rights and principles recognised by the Supreme Court in *Ellis v R (Continuance)*.⁷

⁴ At [39(c)].

⁵ Self-represented parties should be aware of the Courts of New Zealand | Ngā Kōti o Aotearoa *Guidelines for use of generative artificial intelligence in courts and tribunals: Non-lawyers* (7 December 2023), available from the Courts of New Zealand website <www.courtsofnz.govt.nz>.

⁶ *United Nations Declaration on the Rights of Indigenous Peoples* GA Res 61/295 (2007).

⁷ *Ellis v R (Continuance)* [2022] NZSC 114, [2022] 1 NZLR 239.

- (e) The Judge erred in accepting the Tauranga property rating valuation without seeking or permitting an independent market valuation.

[12] Mr Noble's separate grounds of appeal include:

- (a) The Judge erred in proceeding with the hearing despite Mr Noble's obligations in relation to his father-in-law's tangihanga, which coincided with the hearing.
- (b) The Judge failed to ensure that as a self-represented litigant, Mr Noble had a fair and reasonable opportunity to respond.
- (c) The Judge erred in his assessment of the unlawful benefit.

[13] Both amended notices of appeal also refer to a failure to undertake a "proportionality" analysis under s 24 of the Act and under the New Zealand Bill of Rights Act 1990.

Commissioner's position

[14] The Commissioner focuses upon the criteria in *Almond v Read*. He submits:

- (a) *Length of delay*. The applicants have not said when they would be able to file their case on appeal should an extension be granted. When consenting to the first extension of time, the Commissioner put the Nobles on notice that further extensions would be opposed due to the Commissioner's concerns over the prolonged procedural history of this matter and the costs being incurred by the Commissioner.
- (b) *Reasons for the delay*. The Commissioner submits the applicants' explanation for delays lacks credibility.
- (c) *Conduct of the parties*. The Commissioner refers to the fact that in the High Court Lang J noted Mr Noble had sought numerous adjournments,

not filed a notice of opposition and sought to file documents and make arguments at a late stage. This pattern has continued in this Court.

- (d) *Prejudice or hardship.* The Commissioner submits that given the delays and the conduct of Mr and Ms Noble, the prejudice and hardship that they will suffer does not outweigh the interests of declining their application for a further extension.
- (e) *Significance of the issues raised in the appeal.* The Commissioner submits that whilst the appeal is significant to Mr and Ms Noble, there are no wider issues of public interest.
- (f) *Merits.* The Commissioner says that the proposed appeal lacks merit.

Analysis

[15] The length of the delay in filing the case on appeal is not significant. Of greater concern is the absence of any genuine explanation for the delay, compounded by the failure of Mr and Ms Noble to say when they would be able to file a case on appeal.

[16] We are also concerned that the Nobles' failure to comply with this Court's timetable reflects a similar pattern of conduct to that which occurred in the High Court.

[17] We recognise the importance of the Tauranga home to Mr and Ms Noble and their whānau. The grounds of appeal summarised at [11](c) and (d) might also be capable of constituting issues of wider importance. As the state of the submissions presently stand, however, it is difficult to assess whether they do so. We therefore regard this as a relatively neutral factor.

[18] We cannot, at this juncture, properly assess the merits of the proposed appeal other than to observe that the materials submitted by Mr and Ms Noble to date do not focus clearly on the issues their notices of appeal raise. We therefore cannot say that the proposed appeal is hopeless.

[19] We propose to deal with Mr and Ms Noble’s applications by putting in place a very strict timetable. Mr and Ms Noble are to file the case on appeal by 15 May 2026. Failure to do so will result in their appeal being treated as having been abandoned.

[20] Mr and Ms Noble have unsuccessfully applied for a waiver of the requirement to give security for costs and that decision was upheld on review by Whata J.⁸ In light of the revised timeline, security for costs must be paid on or before 22 May 2026.

Result

[21] The applications for an extension of time are granted. Mr and Ms Noble are to file the case on appeal on or before 15 May 2026.

[22] Security for costs must be paid on or before 22 May 2026.

[23] No further applications for an extension of time to file the case on appeal are to be accepted for filing.

Solicitors:
Pollett Legal Ltd, Tauranga for Respondent

⁸ *Noble v Commissioner of Police* [2025] NZCA 551.