

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 6/2025
[2025] NZSC 63

BETWEEN

RAZDAN RAFIQ
Applicant

AND

AUCKLAND TRANSPORT
Respondent

Counsel: Applicant in person

Judgment: 11 June 2025

JUDGMENT OF ELLEN FRANCE J

**The application for review of the decision of the Registrar
declining to waive the filing fee is dismissed.**

REASONS

Introduction

[1] The applicant has applied for a review of the decision of the Registrar of 19 May 2025 to refuse to waive the filing fee in respect of an application for recall of the judgment of this Court of 26 March 2025 dismissing his leave application.¹

Background

[2] In the leave application, the applicant sought leave to appeal from a decision of the Court of Appeal declining an application for review of a decision of the Deputy Registrar in that Court refusing to waive a filing fee.² The underlying

¹ *Rafiq v Auckland Transport* [2025] NZSC 19 (Glazebrook, Ellen France and Miller JJ) [SC leave judgment].

² *Rafiq v Auckland Transport* [2024] NZCA 696 (Goddard J) [CA judgment].

proceeding, which was commenced in the High Court, arose out of two infringement notices issued by Auckland Transport and referred to a debt collection agency.

[3] This Court in declining leave to appeal considered the proposed appeal related to the particular circumstances of the applicant's case and so raised no questions of general or public importance and that nothing raised by the applicant pointed to any risk of a miscarriage of justice.³

The application for review

[4] In support of the application for review of the Registrar's decision not to waive the filing fee, amongst other matters, the applicant emphasises his impecuniosity, the substantial merits of the case and the resultant miscarriage of justice. He says that unless the fee is waived, the case is unlikely to be continued.⁴

[5] In declining to waive the fee, the Registrar noted that under reg 5(2)(a) of the Supreme Court Fees Regulations 2003, the Registrar may waive a filing fee if satisfied that the applicant is unable to pay the fee. The Registrar accepted that the applicant was unable to pay the fee on the basis of the criteria in reg 5(3)(b)(i). However, the Registrar concluded that the recall application to which the fee related was meritless, "plainly frivolous or vexatious, and would not be pursued by a reasonable solvent litigant". Further, there was nothing to suggest a proper basis for recall in the application and there was "a pattern of bringing unmeritorious applications". The Registrar also said that the Court of Appeal found the underlying proceeding to be "wholly devoid of merit".

[6] Accordingly, after considering the purpose of the relevant fees and the principles relating to the exercise of discretion to waive the filing fee, the application was declined.⁵

³ SC leave judgment, above n 1, at [3]; and see Senior Courts Act 2016, s 74(2)(a) and (b).

⁴ The applicant also says the Registrar did not adjudicate that there is "a right to apply for a recall" but that is subject to payment of the filing fee, unless the fee is waived.

⁵ Citing *Duncan v The Royal New Zealand Society for the Prevention of Cruelty to Animals Inc* [2024] NZCA 628 at [17] and CA judgment, above n 2, at [7].

[7] The application for review is to be evaluated in terms of reg 5(2) of the Supreme Court Fees Regulations. Relevantly, the Regulations provide that the Registrar may waive the fee “if satisfied” that the appeal “concerns a matter of genuine public interest” and “is unlikely to be commenced or continued unless the fee is waived”. Having considered the material filed in this Court by the applicant, I agree with the Registrar’s assessment. The application for recall simply seeks to relitigate the decision of the Court dismissing the application for leave. In these circumstances, particularly given the basis on which leave was declined, no matter of genuine public interest arises.

[8] I consider the decision of the Registrar not to waive the filing fee was correct and I dismiss the application for review.