

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 15/2025
[2025] NZSC 64

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 20 May 2025 to refuse to waive the filing fee in respect of an application for recall of the judgment of this Court of 7 May 2025 declining leave to appeal.¹

Background

[2] The applicant had sought leave to appeal to this Court from a decision of the Court of Appeal on a review of a Deputy Registrar's decision to refuse to accept for filing an application for leave to appeal from a judgment of the High Court.² The High Court had declined the applicant's application to vary or rescind an earlier

¹ *Rafiq v Auckland Transport* [2025] NZSC 48 (Ellen France and Miller JJ) [SC leave judgment].

² *Rafiq v Auckland Transport* [2025] NZCA 4 (Ellis J).

judgment which dismissed his application for summary judgment and ordered him to pay security for costs.³ The underlying proceeding in the High Court arose out of two infringement notices issued by Auckland Transport and referred to a debt collection agency. The Court of Appeal agreed with the Deputy Registrar that there was no jurisdiction for that Court to hear the appeal to which the application for review related.

[3] In its leave judgment, this Court said that the application for leave to appeal did not meet the heightened standard set by s 74(4) of the Senior Courts Act 2016 for interlocutory appeals to this Court, and it failed to demonstrate any error in the decision of the Court of Appeal. There was no issue of general or public importance, and no appearance of a miscarriage of justice.⁴

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.⁵

[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 any proper basis for recall in the application. The Registrar also said that this Court found there was no issue of general and public importance and no appearance of a miscarriage of justice.

³ *Rafiq v Auckland Transport* [2024] NZHC 3030 (Associate Judge Taylor). See *Rafiq v Auckland Transport* [2024] NZHC 2236.

⁴ SC leave judgment, above n 1, at [3]; and see Senior Courts Act 2016, s 74(2)(a) and (b).

⁵ 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.

[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.⁶

[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. That does not provide a proper basis for recall. In these circumstances, 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.

⁶ Citing *Duncan v The Royal New Zealand Society for the Prevention of Cruelty to Animals Inc* [2024] NZCA 628 at [17] and *Rafiq v Auckland Transport* [2024] NZCA 696 at [7].