

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC UR 3/2026
SC UR 4/2026
[2026] NZSC 127

RE

RAZDAN RAFIQ
Applicant

Court: Ellen France, Williams and Campbell JJ

Counsel: Applicant in person

Judgment: 11 September 2026

JUDGMENT OF THE COURT

**The application for recall of the judgment of Miller J of
9 July 2026 (*Re Rafiq* [2026] NZSC 92) is dismissed.**

REASONS

[1] Mr Rafiq seeks a recall of the judgment of Miller J dismissing applications for review of the decisions of the Registrar declining to waive the filing fee in SC UR 3/2026 and SC UR 4/2026.¹

[2] The background is set out in the judgment of Miller J.² Relevantly, Mr Rafiq sought waiver of payment of the filing fees in relation to two applications for leave to appeal against a Court of Appeal decision striking out several appeals as an abuse of process. The Registrar was satisfied that Mr Rafiq could not pay the filing fees and that as a result, the discretion under reg 5(2)(a) of the Supreme Court Fees Regulations 2003 to waive the fees was engaged. However, the Registrar considered

¹ *Re Rafiq* [2026] NZSC 92. Miller J having retired, the application for a recall is being dealt with by a panel of three Judges.

² At [2]–[4].

waiver would not promote access to justice as the proposed appeals would not be pursued by a reasonable solvent litigant.³

[3] In dismissing the applications for review, Miller J said he agreed with the Registrar as the proceedings:⁴

... plainly duplicate previous proceedings and for that reason are a clear abuse of process. Nor is it seriously arguable that the Court of Appeal could not find the conduct of the appeals in that Court an abuse of process.

[4] In support of the application for recall, Mr Rafiq says his case has substantial merits. He submits that undue financial hardship and a miscarriage of justice will result if there is no waiver. He also challenges the power to demand payment here, the Court's jurisdiction to refuse the fee waiver, and says that the decision should have been made by a panel of five Judges. Finally, he notes he has previously been granted a fee waiver.

[5] Nothing advanced by Mr Rafiq provides a very special reason warranting a recall.⁵ As the Registrar noted, the Supreme Court Fees Regulations provide that the Registrar has a discretion to waive fees when reg 5(2)(a) applies. The application for recall is in substance an attempt to relitigate the merits of the decision to decline to exercise that discretion. The fact a fee waiver has been granted in the past does not prevent the Registrar, having taken into account relevant matters, from refusing waiver on another occasion.

[6] As to jurisdiction, s 82(3)(a) of the Senior Courts Act 2016 gives a permanent Judge of this Court the jurisdiction to review the Registrar's decision in this case.

[7] The application for recall is dismissed.

³ Citing *Duncan v The Royal New Zealand Society for the Prevention of Cruelty to Animals Inc* [2024] NZCA 628 at [26].

⁴ At [6].

⁵ *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd (No 2)* [2009] NZSC 122, [2010] 1 NZLR 76 at [2] citing *Horowhenua County v Nash (No 2)* [1968] NZLR 632 (SC) at 633.