

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC UR 5/2026
SC UR 8/2026
[2026] NZSC 128

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 93) is dismissed.**

REASONS

Introduction

[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 5/2026, and a Deputy Registrar's decision not to accept an application for leave to appeal for filing in SC UR 8/2026.¹

Background

[2] The background is set out in the judgment of Miller J.² The underlying claim relates to a decision declining Mr Rafiq's application for a credit card. He said the

¹ *Re Rafiq* [2026] NZSC 93. Miller J having retired, the application for a recall is being dealt with by a panel of three Judges.

² At [2]–[7] and [9].

application was incorrectly declined due to his credit history as recorded by the proposed respondents. Mr Rafiq did not pay security for costs or a later costs order in relation to his first set of High Court proceedings.³ As Miller J said, Mr Rafiq “then twice filed new but materially identical proceedings which were struck out in the High Court.”⁴

[3] Mr Rafiq subsequently sought an extension of time in the Court of Appeal to appeal the costs decisions and filed an appeal against the decision to strike out the later claims (we refer to the latter decision as the substantive decision).⁵ The Court of Appeal struck out both proceedings under rr 26C and 44A of the Court of Appeal (Civil) Rules 2005. Miller J summarised the Court of Appeal decision in this way:⁶

[5] The reasoning of the Court of Appeal in respect of the substantive appeal was that Mr Rafiq had conducted the appeal as an abusive matter by wasting court time and resources on an unjustified application to stay his own appeal. It added that the High Court proceedings were vexatious because they were indisputably duplicative. In respect of the costs decision, the Court of Appeal reasoned that Mr Rafiq continued to flout the Rules by failing to pay the filing fee; he was not prosecuting the application with due diligence; and the prospects of success were remote.

[4] Mr Rafiq then filed applications for leave to appeal to this Court and for fee waivers.

[5] In relation to the application for leave to appeal the costs decision, a Deputy Registrar declined to accept the application for leave for filing on the basis the Court had no jurisdiction to consider Court of Appeal decisions striking out applications for an extension of time.⁷ The Deputy Registrar said if necessary, the fee waiver application would be declined on the basis a reasonable solvent litigant would not bring the proceeding.

[6] Mr Rafiq’s review application of the Deputy Registrar’s decision was directed to the fee waiver. Miller J noted there was in fact no decision about that. But, in any event, Miller J said the Deputy Registrar was right that the Court lacked jurisdiction.

³ See *Rafiq v Secretary for Internal Affairs* [2025] NZCA 662 (Mallon and Ellis JJ) at [7].

⁴ At [2] citing *Rafiq*, above n 3, at [8]–[9].

⁵ *Rafiq*, above n 3, at [8]–[9].

⁶ Footnotes omitted.

⁷ Senior Courts Act 2016, s 68(b).

If necessary, Miller J would also have agreed with the decision to decline the fee waiver as the proceeding was “plainly” an abuse of process.⁸

[7] In terms of the substantive appeal, 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 waiver would not promote access to justice as the proposed appeal would not be pursued by a reasonable solvent litigant.⁹ Rather, the proceedings formed part of a wider pattern of proceedings brought without merit. The application for fee waiver was declined. On the review of this decision, Miller J agreed with the Registrar, stating that the underlying proceeding was “plainly an abuse of process because of its duplicative nature”.¹⁰ Its prospects of success were accordingly so low that no reasonable litigant would pursue it.

The application for recall

[8] In support of the application for recall as it relates to the costs decisions, Mr Rafiq submits amongst other things that the case has merit as there was no loan, contrary to the credit record; a panel of five judges should have dealt with his application for review; and a miscarriage of justice has resulted. In terms of the substantive decision, the recall application is based on what he says are the merits of his case and the failures of the Courts below in the various proceedings. He also says demanding payment of fees will result in financial hardship.

[9] Nothing advanced by Mr Rafiq provides a very special reason warranting a recall.¹¹ His application for recall is primarily directed to what are attempts to relitigate the merits of the Court of Appeal and High Court decisions. In terms of the decision of Miller J, nothing of any merit is raised by Mr Rafiq that might provide a basis for recall. As to jurisdiction, s 82(3)(a) of the Senior Courts Act 2016 gives a

⁸ At [10].

⁹ Citing *Duncan v The Royal New Zealand Society for the Prevention of Cruelty to Animals Inc* [2024] NZCA 628 at [26].

¹⁰ *Re Rafiq*, above n 1, at [8].

¹¹ *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.

permanent Judge of this Court the jurisdiction to review the Registrar's decision in this case.

[10] The application for recall is dismissed.