

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC UR 23/2025  
[2026] NZSC 129

RE

RAZDAN RAFIQ  
Applicant

Court: Ellen France, Williams and Campbell JJ

Counsel: Applicant in person

Judgment: 11 September 2026

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JUDGMENT OF THE COURT

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**The application for recall of the judgment of Miller J of  
9 July 2026 (*Re Rafiq* [2026] NZSC 90) is dismissed.**

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REASONS

**Introduction**

[1] Mr Rafiq seeks a recall of the judgment of Miller J dismissing an application for review of the decision of the Registrar declining to accept the application for leave in SC UR 23/2025 for filing.<sup>1</sup>

**Background**

[2] The background is set out in the judgment of Miller J.<sup>2</sup> Relevantly, Mr Rafiq had made at least two applications for leave to appeal to the Court of Appeal. In the first of these, a Deputy Registrar had declined his application for a fee waiver. In the second, another Deputy Registrar rejected the leave application for filing.

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<sup>1</sup> *Re Rafiq* [2026] NZSC 90. Miller J having retired, the application for a recall is being dealt with by a panel of three Judges.

<sup>2</sup> At [1]–[4].

That decision was upheld on review by Palmer J. Mr Rafiq then applied for leave to appeal to this Court in relation to what he described as Palmer J's decision to uphold the Deputy Registrar's refusal of fee waiver. He also made an application for a waiver of filing fees in this Court.

[3] In this Court, the Registrar declined to accept Mr Rafiq's application for leave to appeal for filing on the ground it did not comply with the Supreme Court Rules 2004. That was because the application did not make it clear which of the two decisions made by deputy registrars of the Court of Appeal it related to, and because of non-compliance with rr 11–16 of the Supreme Court Rules. The Registrar accordingly made no decision about the fee waiver application and an application seeking an extension of time as these were no longer live. Mr Rafiq nonetheless sought a review of the Registrar's decision not to grant a fee waiver.

[4] In dismissing the application for review of the Registrar's decision not to accept the application for filing, Miller J noted that there was no decision to decline the fee waiver. He went on to say that, in any event, the Registrar was correct that the application for leave to appeal was unclear. Miller J considered it conflated the two decisions made by deputy registrars of the Court of Appeal.

### **The recall application**

[5] Mr Rafiq raises a number of grounds for his application for recall of the decision of Miller J. They include the submission that his case has substantial merits and that the refusal to grant a fee waiver has resulted in a miscarriage of justice. In addition, he makes various submissions about the jurisdiction of the Court to refuse a fee waiver and contends that the decision should have been made by a panel of five Judges.

[6] Nothing advanced by Mr Rafiq provides a very special reason warranting a recall.<sup>3</sup> Mr Rafiq's application is directed to a decision that is simply a consequence of the decision not to accept the documents for filing to which there has been no

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<sup>3</sup> *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.

formal challenge. Further, none of the matters said to go to jurisdiction have any merit. Section 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] In any event, Mr Rafiq can rectify the position by filing a further application for leave that clearly specifies the decision of the deputy registrar in issue and by providing copies of the relevant decisions on which he relies.

[8] The application for recall is dismissed.