

IN THE COURT OF APPEAL OF NEW ZEALAND

CA669/2014
[2015] NZCA 8

BETWEEN

RAZDAN RAFIQ
Appellant

AND

THE COMMISSIONER OF NEW
ZEALAND POLICE
Respondent

Counsel: Appellant in person
N Whittington and O Klaassen for Respondent

Judgment: 5 February 2015 at 3.30 pm
(On the papers)

**JUDGMENT OF HARRISON J
(Review of Registrar's Decision)**

- A The application to review the Registrar's decision refusing to dispense with security for costs is dismissed.**
- B The appellant is to pay the sum of \$5,880 by way of security for costs on or before 23 February 2015.**
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REASONS OF THE COURT

(Given by Harrison J)

[1] On 2 January 2015 the appellant, Razdan Rafiq, applied to review a decision later made by the Registrar on 17 December 2014, declining his application to dispense with security for costs on this appeal against a judgment delivered by Andrews J in the High Court at Auckland.¹ The Registrar directed the security be set at \$5,880.00 and be paid on or before 30 January 2015.

¹ *Rafiq v The Commissioner of New Zealand Police* [2015] NZHC 2837.

[2] Mr Rafiq is a bankrupt. He relies primarily on his impecuniosity to assert that the Registrar erred. However, she was correct in law in deciding that “impecuniosity alone does not warrant dispensation from the requirement to pay security for costs”.

[3] The Registrar was also correct formulating the test to be applied as follows:

Security for costs will only be dispensed with where I am of the view that it is right to require the respondent to defend the judgment under challenge without the usual protection as to costs provided by security. If a reasonable and solvent litigant would not proceed with the appeal having regard to the benefits of bringing the appeal weighed against the costs of bringing the appeal, then security for costs will not be dispensed with.

[4] The Registrar carefully reviewed all the relevant circumstances including the judgment under appeal before concluding that there were no exceptional circumstances justifying dispensation, and nor did the appeal carry any significant public interest. She correctly concluded that it would not be right to require the Commissioner to defend the appeal without the usual protection for security for costs.

[5] Mr Rafiq has not identified any error of principle or law by the Registrar. Moreover, she was correct to conclude also that the appeal was vexatious. It is also hopeless. Andrews J was right to strike out Mr Rafiq’s proceeding as vexatious and an abuse of process of the Court.

[6] Mr Rafiq’s application to review the Registrar’s decision is dismissed. Accordingly he must pay the sum of \$5,880.00 by way of security for costs on or before 23 February 2015.

Solicitors:
Meredith Connell, Auckland for Respondent