

IN THE COURT OF APPEAL OF NEW ZEALAND

CA445/2014  
[2014] NZCA 518

BETWEEN RAZDAN RAFIQ  
Appellant

AND THE SECRETARY FOR THE  
DEPARTMENT OF INTERNAL  
AFFAIRS OF NEW ZEALAND  
First Respondent

AND THE DIRECTOR OF THE CIVIL  
AVIATION AUTHORITY OF NEW  
ZEALAND  
Second Respondent

AND THE CHIEF EXECUTIVE OF THE  
MINISTRY OF BUSINESS  
INNOVATION AND EMPLOYMENT  
Third Respondent

AND THE COMMISSIONER OF NEW  
ZEALAND POLICE  
Fourth Respondent

AND THE ATTORNEY-GENERAL OF NEW  
ZEALAND  
Fifth Respondent

Counsel: Appellant in person  
A R Longdill and O Klaassen for Respondents

Judgment: 29 October 2014 at 10 am  
(On the papers)

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

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**A The application to review the Registrar's decision refusing to dispense with security for costs is dismissed.**

**B The application for stay is dismissed.**

**B The appellant is to pay the sum of \$5,880.00 by way of security for costs on or before 10 November 2014.**

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### REASONS

[1] On 13 August 2014 the appellant, Razdan Rafiq, pre-emptively applied to review a decision made by the Registrar on 6 October, declining his application to dispense with security for costs on this appeal against strike-out in *Rafiq v Secretary for Department of Internal Affairs of New Zealand*.<sup>1</sup> She directed the security be set at \$5,880.00 and be paid on or before 3 November 2014.

[2] Mr Rafiq has no right to apply for a review of the Registrar's decision before that decision has been made, but to avoid further inconvenience to the Registry from the inevitability of a fresh challenge to the decision on the same grounds as now advanced I am prepared to consider the documents filed by Mr Rafiq as an application to review the decision subsequently made.

[3] The Registrar properly considered that security for costs should not be dispensed with 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. She was entitled to consider the sheer volume of unmeritorious proceedings brought by Mr Rafiq as well as an email sent by him and recorded by another Judge presiding over other litigation brought by him, that Mr Rafiq's efforts are an abuse of procedure brought to vex and harass the various respondents. The Registrar properly concluded it would not be right to require the various respondents in this appeal to defend the judgment under challenge without the usual protection as to costs provided by security.<sup>2</sup>

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<sup>1</sup> *Rafiq v Secretary for Department of Internal Affairs of New Zealand* HC Auckland CIV-2014-404-1385, 5 August 2014 (Minute of Venning J).

<sup>2</sup> *Reekie v Attorney-General* [2014] NZSC 63 at [31].

[4] She could have added that there are no exceptional circumstances justifying dispensation in this case. Impecuniosity does not suffice. Furthermore, this appeal does not raise an issue of public importance or significance.

[5] Mr Rafiq also made a pre-emptive application for a stay of the substantive appeal in this Court pending his appeal from the present review decision to the Supreme Court. It is neither practical nor appropriate that three Judges of this Court consider the stay application and so I consider it alone.<sup>3</sup> These well-settled factors are decisive against granting the stay:<sup>4</sup> (a) the appeal will not be rendered nugatory by the lack of a stay; (b) Mr Rafiq's appeal does not appear to be in good faith; (c) the questions involved are not novel or important; (d) there is not any public interest in the proceeding; and (e) the appeal has no apparent merit.

[6] Mr Rafiq's applications to review the Registrar's decision and for a stay are dismissed. Mr Rafiq must pay the sum of \$5,880.00 by way of security for costs on or before 10 November 2014.

Solicitors:  
Meredith Connell, Auckland for Respondent

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<sup>3</sup> Pursuant to rr 7(1) and 12 of the Court of Appeal (Civil) Rules 2005.

<sup>4</sup> Recently summarised in *Yan v Mainzeal Property and Construction Ltd (in rec and liq)* [2014] NZCA 86 at [25].