

IN THE SUPREME COURT OF NEW ZEALAND

SC 104/2014
[2014] NZSC 191

BETWEEN MALCOLM EDWARD RABSON
Applicant

AND REGISTRAR OF THE SUPREME
COURT
First Respondent

MINISTRY OF JUSTICE
Second Respondent

Court: William Young, Arnold and O'Regan JJ

Counsel: Applicant in person
K Laurensen for Respondents

Judgment: 23 December 2014

JUDGMENT OF THE COURT

The application to recall the judgment of 2 December 2014 and the second application for leave to appeal against the judgment of French J are dismissed.

REASONS

[1] The applicant has applied for the recall of the judgment of 2 December 2014¹ dismissing his application for leave to appeal against a judgment French J delivered on 2 October 2014.² There is nothing in the material submitted which warrants a recall and the application is accordingly dismissed.

[2] On 8 December 2014, the applicant filed a second application for leave to appeal against the same judgment of French J. The basis of the proposed appeal rests on the assumption that French J made an order requiring him to pay security for

¹ *Rabson v Registrar of the Supreme Court* [2014] NZSC 175.

² *Rabson v Registrar of the Supreme Court* [2014] NZCA 481.

costs and that her order (which directed that his appeal be accepted for filing) operated retrospectively. The applicant also complains that the Court of Appeal has not addressed his applications for a stay of the “order” and review of French J’s judgment under s 61A(2) of the Judicature Act 1908.

[3] Leaving aside the fact that this is a second application, there is nothing of substance in it.

- (a) In her judgment, the Judge said that she was extending time to pay security for costs to ensure that the applicant was not disadvantaged by the delay.³ She then said, “Mr Rabson must pay security for costs or apply to the Registrar for dispensation of security within 20 working days ...”.⁴ In the context, this was not an order that the applicant pay security for costs but rather a description of the practical effect of the extension of time she granted.
- (b) There being no order, there was nothing to stay and there is, in this respect, nothing to challenge on appeal.
- (c) There is no jurisdiction under s 61A(2) to review the order of the Judge.⁵

[4] The second application for leave to appeal is accordingly dismissed.

Solicitors:
Crown Law Office, Wellington for Respondents

³ At [9].

⁴ At [9].

⁵ See *Reekie v Attorney-General* [2014] NZSC 63, [2014] 1 NZLR 737 at [24]–[26].