

IN THE SUPREME COURT OF NEW ZEALAND

SC 104/2014
[2015] NZSC 19

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 Laurenson for Respondents

Judgment: 9 March 2015

JUDGMENT OF THE COURT

The recall application is dismissed.

REASONS

[1] The applicant's application for leave to appeal against a judgment of French J¹ was dismissed in a judgment of this Court delivered on 2 December 2014.² In a judgment delivered on 23 December 2014, an application for recall of that judgment and a second application for leave to appeal against the same judgment of French J were also dismissed.³ The applicant has now sought a recall of the 23 December judgment.

¹ *Rabson v Registrar of the Supreme Court* [2014] NZCA 481.

² *Rabson v Registrar of the Supreme Court* [2014] NZSC 175 [2 December judgment].

³ *Rabson v Registrar of the Supreme Court* [2014] NZSC 191 [23 December judgment]

[2] This is a second application in relation to the judgment of 2 December and the applicant has raised nothing which warrants its recall or the recall of the 23 December judgment to the extent that it denied recall of the earlier judgment.

[3] The second application for leave was primarily addressed⁴ to the question whether the applicant had a right of review under s 61A(2) of the Judicature Act 1908 in respect of the judgment of French J, a proposition which was rejected in the 23 December judgment.⁵ That judgment did not expressly refer to judgment of French J as having been made under s 61A(3) but that this was the case was made clear by reference in the judgment to *Reekie v Attorney-General*.⁶ That French J was acting under s 61A(3) is apparent in the judgment she gave (which refers to r 7(2) of the Court of Appeal (Civil) Rules 2005⁷ and is described as being a review of the Deputy Registrar's decision).⁸ Contrary to the contention of the applicant, the Court was not mistaken as to the exercise carried out by French J (which is accurately described in the both the original leave judgment of 2 December and more succinctly in the first recall judgment of 23 December). And as explained in the 23 December judgment the reference to payment of security for costs was not in the nature of an order but rather an explanation of the position which resulted from the orders which French J had made.

[4] Accordingly the second application for recall is dismissed.

Solicitors:
Crown Law Office, Wellington for Respondents

⁴ There are other complaints: that the issue whether there was a s 61A(2) review was not before the Court and that a separate file had not been created for the second application for leave. The first complaint is wrong as the applicant's major concern was that the Court of Appeal was not according him what he mistakenly thought was his right to a s 61A(2) review. The second complaint is inconsequential.

⁵ 23 December judgment, above n 3, at [3].

⁶ *Reekie v Attorney-General* [2014] NZSC 63, [2014] 1 NZLR 737 at [24]–[26].

⁷ At [3].

⁸ 2 December judgment, above n 2, at [1].