

IN THE NEW ZEALAND COURT OF APPEAL
Wellington Registry

CA /2015

UNDER The Judicature Act 1908, the Supreme Court Act 2003 and the proposed Court modernisation Act

IN THE MATTER OF An Application for Judicial Review under the Judicature Amendment Act 1978 and s 27(2) of the New Zealand Bill of Rights Act 1990

BETWEEN

**MALCOLM EDWARD
RABSON**
New Zealand citizen
173 Wellington Road
Paekakariki
Appellant

AND

NEW ZEALAND ATTORNEY GENERAL
Invited to join in the public interest
Parliament Building
Proposed co-Appellant

AND

**REGISTRAR of the SUPREME
COURT**
Lambton Quay at Ballance St
Wellington
First Respondent

AND

MINISTRY OF JUSTICE
PO Box 2940
Wellington 6140
Second Respondent

NOTICE OF APPEAL

28 April 2015

Filed by the Applicant in person, whose service address is
173 Wellington Road
Paekakariki, email: bluescape@xtra.co.nz

I, **Malcolm Edward Rabson**, the proposed appellant, give notice that I am appealing against the strike out judgment in the judicial review, *Rabson v Registrar of the Supreme Court [2015] NZHC 709*, by Collins J on 15 April 2015 in the Wellington High Court (“**the judgment**”).

The grounds for appeal are:

1. The Judge erred in law in concluding **administrative** decisions of Registrars “under the supervision of the Judges who comprise the Court”¹ are not judicially reviewable.
2. The Judge erred in fact in concluding the Registrar in this judicial review was acting ‘under the supervision of judges’ as there was no evidence to support this material position, thereby breaching *Couch*² in striking out facts which were clearly “arguable”.
3. Irrespective of whether the Registrar was acting “under supervision”, there is no authority which states such ministerial actions are not judicially reviewable, least of all the sole judgment authority the High Court Judge relied upon.³
4. The Judge fatally failed to consider the plain relevance of **section 27(2) of the New Zealand Bill of Rights Act 1990** in his analysis, and this failure was compounded by:
 - 4.1 **Section 6 of the New Zealand Bill of Rights Act 1990** which required “preference” to the Act be given by judges when interpreting legal rights,
 - 4.2 Recognition by the Judge that no alternative remedy exists to s 27(2) judicial review of unlawful administrative decisions by the Registrar.

Malcolm Edward Rabson, Applicant

¹ Reliance at paragraph [4] of the Judgment

² *Couch v Attorney-General* [2008] NZSC 45, [2008] 3 NZLR 725

³ *Mafart v Television New Zealand Ltd* [2006] NZSC 33, [2006] 3 NZLR 18. CONFIRMED in the first paragraph as the sole issue before the Court, “[1] *Does the Court of Appeal have jurisdiction to hear an appeal from a High Court determination of an application under the Criminal Proceedings (Search of Court Records) Rules 1974? That is the single question addressed on the present appeal.*”