

**IN THE COURT OF APPEAL OF NEW ZEALAND**

**I TE KŌTI PĪRA O AOTEAROA**

**CA132/2021  
[2021] NZCA 423**

BETWEEN

KELLY ALEXANDRA ROE  
Appellant

AND

UNIVERSITY OF AUCKLAND  
Respondent

Counsel: Appellant in person  
I Rosic and Z A Brentnall for Respondent

Judgment: 31 August 2021 at 12.30 pm  
(On the papers)

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

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**The application for review is declined.**

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**REASONS**

[1] Ms Roe seeks review of a Registrar's decision declining her application for a waiver of security for costs.

[2] I approach the application on the basis that Ms Roe is unable to pay the security. She is in receipt of a Supported Living Payment, and the filing fee was waived. I appreciate that insistence on security will likely bring the appeal to an end.

[3] There is no reason to think Ms Roe would escape liability for costs in the event her appeal fails. She is pursuing her appeal for her own advantage, not to advance a real issue of public importance.

[4] The question accordingly is whether the appeal is one which a solvent appellant would reasonably wish to prosecute.<sup>1</sup> I accept that were Ms Roe to succeed she would obtain something of value, the right to study medicine at the University. The argument that, although impecunious, she should be required to post security rests on the proposition that she has minimal if any prospects of success. It is necessary to be circumspect when making such an assessment as a single judge at this pre-hearing stage.

[5] The Registrar concluded that there is no real merit in the appeal. Ms Roe argues that she was entitled to be enrolled in 2019 and 2020; further, that the University was not entitled to enrol teenage applicants in the heavily oversubscribed course except to the extent there were too few adult applicants. The Registrar could see no prospect of the University being required to enrol Ms Roe.

[6] I agree. I do not think the appeal is sufficiently arguable that a solvent appellant would reasonably seek to bring it. Fitzgerald J's reasoning — to the effect that the legislation allows the University to impose entry requirements that all applicants must meet — seems unanswerable, and the consequences of Ms Roe's analysis would be startling to say the least; all adult applicants who meet the recency requirement could enrol as of right regardless of capacity constraints. Further, on the facts Ms Roe did not meet the recency requirement because she had not shown that she had completed her MPhil Degree at the University of Waikato within the past five years. She claims she had met Waikato's requirements but the point is that she failed to prove it. It is no mere slip: it appears that she has separate proceedings against Waikato in connection with its decision to deny her the degree.

[7] The application for review is declined.

Solicitors:  
Gilbert Walker Lawyers, Auckland for Respondent

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<sup>1</sup> *Reekie v Attorney-General* [2014] NZSC 63, [2014] 1 NZLR 737 at [35].