

IN THE HIGH COURT OF AUSTRALIA
PERTH REGISTRY

No. P22 of 2019

IN THE MATTER OF:

Jerrod James Conomy

APPELLANT'S INTERIM REPLY (14/8/2019)



10 **Part I:**

1. This document is suitable for publication on the internet.

Part II:

2. I object to the submissions of the Attorney General of the Commonwealth (AG) and a summons was filed 7 August 2019 in relation to this objection. It is impractical for me to reply other than to present the actual questions obviated (to an ethical person) by my Further Amended Notice of Appeal and Amended Submissions both filed 10 July 2019 and to note generally that the facts and claims contended by the AG are partially disputed, and most of the AG's submissions are irrelevant to how I have and will continue to prosecute the proceeding, and the AG has evaded responding to the majority of questions obviated by further amended notice of appeal and written submissions filed 10 July 2019.

Preliminary questions raised

3. Re paras 13-16 of my further amended submissions filed 10 July 2019 (AS), whether the contradictor and judiciary must apply the definitions 'parent contention'; and 'child contention'; and 'Cumulative';, as I have defined those terms and apply them as per the associated legal statement at para 16.
4. Re para 21 of AS, In relation to the documents presented in the Core Appeal Book and Further Materials Book, whether my affidavit filed 11 July 2019 has the effect of making all said documents evidence.
5. Re para 22 of AS, In relation to the determination of Keane and Edelman JJ on 20 March 2019, as published and certified by the Justices on said date, whether section 77RN(2a) of the Judiciary Act was exercised: (a) in dismissing my summons(es) filed 22 February 2019; and (b) in dismissing my summons(es) filed 27 February 2019; and (c) in dismissing my amended special leave applications filed 22 February 2019; and (d) in dismissing my unamended special leave applications in P22 of 2019.

6. Re para 23 of AS, Whether I have raised grounds which allow for 2 different scenarios which otherwise would not have been required if the decision was less infected with ambiguities – whether, in the circumstances, my request for a 5 page extension should be granted in the best interests of justice.
7. Re para 24 of AS, In the circumstances, whether my application in my initial summons in this proceeding for leave to file documents by 10 July 2019 left it unnecessary for me to lodge another summons for; my further amended notice of appeal and amended written submissions both filed on 10 July 2019; to be applied.
8. Re para 25 of AS, whether all arguments raised by me must be understood to be raised in the overall context of s77RN unless otherwise indicated.
9. Re para 30 of AS, whether the Judiciary must first determine all interlocutory applications so as to avoid a breach of procedural fairness or natural justice.
10. Re para 32 of AS, whether the signed and sealed orders for P22 of 2019 do not align with the orders published and certified by the Justices on 20 March 2019 – whether I have applied for such to be corrected - whether the signed and sealed orders must replicate what the Justices actually published – whether only a Registrar is involved in the authentication of signed and sealed orders.
11. Re paras 31, 42, 33 and 34 of AS, whether the proposed amendment would result in my appeal notice sent (by me) by post on the due date being deemed filed on time if the request for lodgment by post is granted as requested in my initial summons in this proceeding – whether it was open in the circumstances, or unreasonable (or both) for the Principal Registrar to inform me that my file-by-post arrangement had been exhausted – in the circumstances whether file-by-post privileges should be granted to me.
12. Re para 35-39 of AS, in relation only to my subsequent in person lodgment of the same notice of appeal (previously sent by post on the due date) approximately 45 minutes after the due date, whether there is a reasonable explanation for the 45 minute delay and whether recent decisions in High Court Proceedings have granted longer extensions of time prior to the hearing of the appeal - Whether it was open in the circumstances for Ms Musolino to refuse my initial lodgment of my summons (12/4/2019) as lodged on 12 or 13 April 2019.
13. Re para 40 of AS, whether, my further amended notice of appeal and amended submissions both lodged 10 July 2019 should be applied.
Re para 41 of the AS, whether *Agius* and *JL Holdings* are relevant legal precedents in relation to my various applications for amendment.

Questions raised by my Ground 1

14. In the event that the Judiciary of this appeal find that my proposed amended special leave applications did not officially impact the Justices decision to dismiss my latest special leave applications, whether the Justices refusal to grant and apply the said proposed amendments before performing any further considerations: **(a)** was unreasonable or unjust or both; or **(b)** occasioned a breach of the rules of natural justice or procedural fairness in that a significant part of my interim submissions in defence of a vexatious finding was rendered a nullity in
10 circumstances where a practical alternative existed; or **(c)** was a breach of the rules of equality; or **(d)** was a breach of my fundamental right to be heard in defence of the vexatious finding by way of the said content unnecessarily rendered a nullity; or **(e)** a,b,c,d applied cumulatively¹?

Questions raised by my Ground 2

15. In the event that the Judiciary in this appeal find that my proposed amendments to my special leave applications P3 and P11 of 2019 were fully applied by the Justices in all considerations relating to the said special leave applications, then in relation to the Justice's deeming that one or both of the proceedings P3 and P11 of 2019 were vexatious,² whether the judgment occasioned: **(a)** error (inferably if not definably) or **(b)** substantial miscarriage of justice or **(c)**
20 both a and b. The particulars follow which must be applied cumulatively:³

(i) In the circumstances, whether the justices finding, that one or both of my amended latest special leave applications were in some capacity vexatious by allegedly defining ground(s) that had already been rejected via the disposition in the prior special leave application P19 of 2016 (CAB 11 line 345 - 348), (a) occasioned error (inferably, if not definably)? or (b) was unjust or unreasonable (or both) or (c) both a and b?;

(ii) In the circumstances, whether the Justices erred (inferably if not definably) in finding that one or both of my amended latest special leave applications were in some capacity vexatious by allegedly defining ground(s) that were raised in the WASCA or could and should have been raised in the WASCA (CAB 11 lines 345 - 348)?;

30 **(iii)** In the circumstances, whether the Justices erred (inferably if not definably) in finding that one or both of my amended latest special leave applications were in some capacity

¹ Cumulative must be interpreted as described in my further amended written submissions

² in similar terms to the definition of vexatious proceeding at s77RL of the Judiciary Act 1903.

³ Cumulative must be interpreted as described in my further amended written submissions

vexatious by allegedly defining ground(s) that ‘could and should’ have been defined in the prior special leave application P19 of 2016 (CAB 11 line 345-348)?;

(iv) In the circumstances, whether error occasioned (inferably if not definably) in relation to the Justices applying a test which considered whether ‘the reasons for the Court of Appeal’s decision’ gave ‘any reason to doubt its correctness’ [CAB 11, lines 340 - 342]?;

(v) In the circumstances, whether error occasioned (inferably if not definably) in relation to the Justices applying a test which considered whether the reasons given for the rejection of my prior special leave application (P19 of 2016) gave ‘any reason to doubt its correctness’ [CAB 11, lines 340 - 342]?;

10 (vi) In the circumstances, whether error occasioned (inferably if not definably) in relation to the Justices applying a test which included a consideration as to whether my amended latest special leave applications had raised ‘any ground’ that ‘would justify a reconsideration of whether special leave’ should have been granted in the appellant’s prior special leave application P19 of 2016 [CAB 11-12, lines 351- 357]?;

(vii) In the circumstances, whether the Justices erred (inferably if not definably) in finding (at CAB 12, lines 359-362) that my amended latest special leave applications demonstrated a refusal to accept the legal effect of the disposition for my prior special leave application P19 of 2016?;

20 (viii-part x) In the circumstances, whether the Justices finding that my interlocutory application by summons dated 27 February 2019 was in some capacity vexatious in that it allegedly placed ‘exorbitant demands on the time and resources of the court’ (CAB 13, lines 441-444), (a) was unreasonable or unjust (or both) or (b) occasioned error (inferably if not definably) or (c) both a and b ?;

(viii-part y) In the circumstances, whether the Justices erred (inferably if not definably) in failing to only dismiss the parts of the summons(es) dated 27 February 2019 which were alleged to be vexatious?.

Questions raised by my Ground 3

16. In relation to the Justice’s, in effect, deeming that I had been afforded a reasonable opportunity to prepare my argument in defence of the vexatious proceedings orders,⁴ whether the judgment occasioned: (a) error (inferably if not definably) or (b) substantial miscarriage of justice or (c) both a and b ?. The particulars follow which must be applied cumulatively:⁵

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⁴ As per the definition of vexatious proceedings order at s 77RL of the Judiciary Act 1903

⁵ Cumulative must be interpreted as described in my further amended written submissions

(i) In the circumstances, whether the Justices erred (inferably if not definably) in failing to find that the correspondence sent to me on 13 February 2019 had limited the scope of vexatious proceedings allegations only to those proceedings relevant to matters the subject of the P3 and P11 of 2019 applications (CAB 4 lines 37-40)?;

(ii) In the circumstances, whether the Justices erred (inferably if not definably) in finding that, at some point prior to the hearing, I was undoubtedly aware that the scope of the vexatious proceedings allegations included all High Court proceedings relating to my breach of restraining order conviction (CAB 13, lines 431-436)?;


10 (iii) Assuming (incorrectly) for the sake of arguing only this question, that I had been properly notified that all of my High Court proceedings were the subject of vexatious proceeding considerations, whether the Justices failed to provide sufficient time for me to prepare my argument?;

(iv) In the circumstances, whether the Justices erred (inferably if not definably) in finding that I had not taken up the opportunity to provide written submissions in relation to the directions the subject of the correspondence on 13 February 2019 (CAB 13, lines 419-421)?;

(v) In the circumstances, whether the Justices erred (inferably if not definably) in finding that, at some point prior to the hearing, I was undoubtedly aware that the scope of the vexatious proceedings allegations included all High Court proceedings relating to my stalking conviction (CAB 13, lines 431-436)?.

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Dated: 14 August 2019


.....(signed).....

Jerrod Conomy (Appellant)