

IN THE HIGH COURT OF AUSTRALIA

CANBERRA REGISTRY

No. C6 of 2020

BETWEEN:

**UD**

Applicant

and

**THE QUEEN**

Respondent



**ORDER**

**JUSTICE:**

Gordon J

**DATE GIVEN:**

30 April 2020

**INITIATING PROCESS:**

Application for removal

**APPEARANCES:**

Mr J S Stellios with Ms A E Morrisroe, counsel for the Applicant

Mr NS Drumgold SC with Ms KL McCann, counsel for the Respondent

Mr PJF Garrisson SC, Solicitor-General for the Australian Capital Territory, counsel for the Attorney-General for the Australian Capital Territory intervening

1. The hearing of the applicant's application for removal pursuant to s 40 of the *Judiciary Act 1903* (Cth) is expedited and, in relation to that application, the parties need not comply with rr 26.03–26.06 of the *High Court Rules 2004* (Cth).
2. Pursuant to s 40 of the *Judiciary Act 1903* (Cth), there be removed into this Court that part of the cause pending in the Supreme Court of the Australian Capital Territory in proceeding No SCC 282 of 2019, concerning the validity of s 68BA of the *Supreme Court Act 1933* (ACT).
3. In the removed matter:
  - (a) questions be reserved, in the form of Annexure A, for the opinion of the Full Court;

- (b) on or before 30 April 2020, the applicant file and serve a notice of constitutional issue in accordance with rr 5.01 and 5.02 of the *High Court Rules 2004* (Cth);
- (c) on or before 6 May 2020, the applicant file and serve a core appeal book in accordance with r 42.13 of the *High Court Rules 2004* (Cth);
- (d) Part 44 of the *High Court Rules 2004* (Cth) relating to written and oral submissions shall apply with the following variations:
  - (i) on or before 11 May 2020 the applicant file and serve annotated written submissions and a chronology;
  - (ii) on or before 18 May 2020, any intervener in support of the applicant file and serve written submissions;
  - (iii) on or before 25 May 2020, the Attorney-General for the Australian Capital Territory file and serve written submissions;
  - (iv) on or before 5 June 2020, any intervener in support of the validity of s 68BA of the *Supreme Court Act 1933* (ACT) file and serve written submissions;
  - (v) on or before 12 June 2020, the applicant file and serve any written submissions in reply;
  - (vi) on or before 15 June 2020, the applicant file and serve an electronic copy of the Joint Book of Authorities prepared in accordance with the requirements of Practice Direction No 1 of 2019.

DATE AUTHENTICATED: 30 April 2020





## ANNEXURE A

### Questions Reserved for the Opinion of the Full Court

1. Is s 68BA of the *Supreme Court Act 1933* (ACT) invalid by reason of its incompatibility with the constitutional limitation deriving from *Kable v Director of Public Prosecutions (NSW)* (1996) 189 CLR 51?
2. Is s 68BA of the *Supreme Court Act 1933* (ACT) beyond the power of the Legislative Assembly for the Australian Capital Territory under s 22 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) and/or by reason of s 48A of the *Australian Capital Territory (Self-Government) Act 1988* (Cth)?
3. Is s 68BA of the *Supreme Court Act 1933* (ACT) invalid by reason of s 80 of the Constitution?