

HIGH COURT OF AUSTRALIA

GAGELER J

AWI16

PLAINTIFF

AND

MINISTER FOR IMMIGRATION, CITIZENSHIP
AND MULTICULTURAL AFFAIRS & ORS

DEFENDANTS

AWI16 v Minister for Immigration, Citizenship and Multicultural Affairs

[2019] HCA 43

Date of Judgment: 25 June 2019

S81/2019

ORDER

Application dismissed with costs.

Notice: This copy of the Court's Reasons for Judgment is subject to formal revision prior to publication in the Commonwealth Law Reports.

CATCHWORDS

AWI16 v Minister for Immigration, Citizenship and Multicultural Affairs

Immigration – Refugees – Where plaintiff sought intervention of Minister under s 48B or s 417 of the *Migration Act 1958* (Cth) – Where request for intervention finalised without referral to the Minister – Whether arguable basis disclosed for relief sought.

Words and phrases – "finalised without referral", "Ministerial intervention", "request for intervention".

High Court Rules 2004 (Cth), r 25.09.1.

Migration Act 1958 (Cth), ss 48B, 417.

1 GAGELER J. Before me is an application for a constitutional or other writ filed by the plaintiff in the original jurisdiction of this Court on 20 March 2019. By it the plaintiff seeks relief directed to the Minister for Immigration, Citizenship and Multicultural Affairs, the Secretary of the Department of Home Affairs and a departmental officer in relation to the handling within that Department of his requests for Ministerial intervention under ss 48B and 417 of the *Migration Act 1958* (Cth) ("the Act").

2 In the background to those requests is a series of events which has come to form the standard background to applications of this kind. The plaintiff applied for a protection visa in July 2013. The application was refused by a delegate of the Minister in a decision which the Administrative Appeals Tribunal affirmed in February 2016. The plaintiff was then unsuccessful in seeking judicial review of the Tribunal's decision in the Federal Circuit Court and in seeking to appeal the Circuit Court's decision in the Federal Court. In June 2018, the plaintiff was refused special leave to appeal from the Federal Court's decision to this Court¹.

3 By letter dated 5 January 2019, the plaintiff wrote to the Minister for Home Affairs seeking his intervention under s 48B or s 417 of the Act. By letter dated 20 February 2019, a departmental officer informed the plaintiff that his request for intervention under s 417 did not meet departmental guidelines for such requests and was therefore finalised without referral to the Minister. By letter dated 22 February 2019, another departmental officer informed the plaintiff that his request for intervention under s 48B also did not meet departmental guidelines and was finalised without referral to the Minister.

4 The four grounds on which the plaintiff seeks relief substantially reflect those raised in many applications of this kind and repeatedly rejected. The most recent rejection of them is in *Plaintiff S53/2019 v Minister for Immigration, Citizenship and Multicultural Affairs*², which, along with the present application, I have decided today. The reasons just given by me in summary form in that case apply equally as reasons for rejecting those same contentions in this case.

5 The systemic reasons why doomed applications of this sort continue to be filed by litigants in person lie beyond the province of this Court to investigate. It is important to record, however, that it is to be expected that persons having professional and ethical obligations in the provision of advice on migration law are not the source of the outdated templates that continue to be used.

6 The application discloses no arguable basis for the relief sought. It must be dismissed with costs under r 25.09.1 of the *High Court Rules 2004* (Cth).

1 *AWI16 v Minister for Immigration and Border Protection* [2018] HCASL 151.

2 [2019] HCA 42.