

# HIGH COURT OF AUSTRALIA

BEECH-JONES J

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IN THE MATTER OF AN APPLICATION BY  
MICHAEL RUSSELL MARK BROADBENT FOR  
LEAVE TO ISSUE OR FILE

[2024] HCASJ 19  
*Date of Judgment: 22 May 2024*  
B25 of 2024

## ORDER

- The application for leave to issue or file the document entitled "Application for Special Leave to Appeal" dated 16 April 2024 is dismissed without an oral hearing.*

## Representation

The applicant is unrepresented



1 BEECH-JONES J. This is an ex parte application for leave to issue or file an application for special leave to appeal from a decision of the Court of Appeal of the Supreme Court of Queensland.<sup>1</sup> For the reasons that follow, leave should be refused.

2 On or about 16 April 2024, the applicant, Michael Russell Mark Broadbent, sought to file an application for special leave to appeal in this Court. On 23 April 2024, Jagot J directed the Registrar of this Court to refuse to issue or file that document without the leave of a Justice first had and obtained by the party seeking to issue or file it.<sup>2</sup> Mr Broadbent now seeks that leave. He relies on an affidavit that he affirmed on 7 May 2024.

3 The applicant was previously a medical practitioner. The respondent to the proposed application is the Medical Board of Australia ("the MBA"). According to the Court of Appeal, the MBA is a statutory successor to the Medical Board of Queensland ("the MBQ").<sup>3</sup> In 2007 and 2008, the MBQ commenced disciplinary proceedings against the applicant arising out of the deaths of two of his patients following medical procedures he had performed on them.<sup>4</sup> This resulted in the Queensland Civil and Administrative Tribunal ("QCAT") making adverse findings and a costs order against the applicant.<sup>5</sup>

4 According to the primary judge, QCAT's decision gave rise to extensive litigation between the applicant and the MBA, which broadly fell into three categories, namely: various challenges by the applicant to QCAT's decision; proceedings associated with the MBA's attempts to recover the costs ordered by QCAT; and the MBA's attempts to recover costs ordered in its favour by the Federal Circuit Court and Federal Court of Australia.<sup>6</sup>

5 The proceedings the subject of this application involved the applicant seeking an order that the MBA be declared a vexatious litigant under s 5 of the *Vexatious Proceedings Act 2005* (Qld).<sup>7</sup> These proceedings were summarily dismissed by the primary judge on the basis that they revealed no basis upon which,

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1 *Broadbent v Medical Board of Australia* [2024] QCA 37.

2 *High Court Rules 2004* (Cth), r 6.07.2.

3 *Broadbent v Medical Board of Australia* [2024] QCA 37 at [15].

4 *Medical Board of Queensland v Broadbent* [2010] QCAT 280.

5 *Medical Board of Queensland v Broadbent* [2010] QCAT 280 at [210]-[211]; *Broadbent v Medical Board of Australia* [2024] QCA 37 at [15].

6 *Broadbent v Medical Board of Australia* [2024] QCA 37 at [16]-[19].

7 *Broadbent v Medical Board of Australia* [2024] QCA 37 at [1].

if the matter proceeded to trial, the Court could be satisfied that the MBA had instituted or conducted any vexatious proceedings, much less that it had done so with the frequency necessary to satisfy s 6(1)(a) of the *Vexatious Proceedings Act*.<sup>8</sup> The Court of Appeal dismissed the applicant's appeal from the primary judge's decision on the basis that no error of fact or law by the primary judge had been identified.<sup>9</sup>

6       The discretion conferred by r 6.07.2 of the *High Court Rules 2004* (Cth) to refuse leave to issue or file a document will ordinarily be exercised where the document appears "on its face" to be "an abuse of the process of the Court, to be frivolous or vexatious or to fall outside the jurisdiction of the Court".<sup>10</sup> The concept of abuse of process includes "an attempt to invoke the original or appellate jurisdiction of the High Court on a basis that is confused or manifestly untenable".<sup>11</sup> The exercise of the discretion to refuse leave "is appropriate only in the clearest of cases".<sup>12</sup>

7       Neither the application for special leave to appeal nor the affidavit filed in support attempt to identify any relevant form of error on the part of the Court of Appeal in dismissing the applicant's appeal from the primary judge's decision. Instead, the material is directed towards reagitating the applicant's complaints about the disciplinary findings made against him, including by alleging that the deaths of the two patients "occurred and [were] initiated by the conduct [of] each of the deceased".<sup>13</sup> The application is "manifestly untenable".<sup>14</sup>

8       The application for leave to issue or file the document entitled "Application for Special Leave to Appeal" dated 16 April 2024 is dismissed without an oral hearing.

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8     *Broadbent v Medical Board of Australia* [2024] QCA 37 at [20].

9     *Broadbent v Medical Board of Australia* [2024] QCA 37 at [30].

10    *High Court Rules* (Cth), r 6.07.1.

11    *Re Young* (2020) 94 ALJR 448 at 451 [13]; 376 ALR 567 at 570.

12    *Re Young* (2020) 94 ALJR 448 at 451 [13]; 376 ALR 567 at 570.

13    Applicant's submissions at [12(1)].

14    *Re Young* (2020) 94 ALJR 448 at 451 [13]; 376 ALR 567 at 570.