

# HIGH COURT OF AUSTRALIA

STEWARD J

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IN THE MATTER OF AN APPLICATION BY  
ROBERT HEATH SALMONI FOR LEAVE TO ISSUE  
OR FILE

[2024] HCASJ 2  
*Date of Judgment: 23 January 2024*  
B63 of 2023

## ORDER

- 1. Application for leave to issue or file the proposed writ of summons dated 12 October 2023 dismissed.*

### Representation

The applicant is self-represented.



1 STEWARD J. The applicant sought to file an application dated 12 October 2023 for a constitutional or other writ. On 19 October 2023, Gleeson J directed the Registrar pursuant to r 6.07.2 of the *High Court Rules 2004* (Cth) to refuse to issue or file the writ without the leave of a Justice of the Court first had and obtained. The applicant now applies for that leave. The facts and legal claims underlying the applicant's proposed writ of summons can be stated briefly.

2 The applicant seeks to commence proceedings against the State of South Australia in the original jurisdiction of this Court for, amongst other things, orders for compensation, general damages, aggravated damages, exemplary damages and costs in the sum of \$68,640,025.25. The applicant alleges that claim arises from South Australia's "libel torts, libel actions, libel permanent defamation of character, libel false arrest, libel wrongful, unjustified imprisonment, libel abuse of process and for 572 days of sustained libel deprivation of liberty" (footnotes omitted) and makes a claim for malicious prosecution. The applicant relies on the International Covenant on Civil and Political Rights, alleging that a litany of his rights and freedoms have been violated. According to the applicant, those allegations are grounded in his arrest and imprisonment on 17 May 2020 for charges of unlawfully choking, suffocating or strangling another and aggravated assault. The writ of summons describes multiple unsuccessful bail applications, though the applicant was ultimately released on bail on 8 December 2021. The writ also asserts that the applicant was acquitted of the charges by a jury on 11 September 2023.

3 The applicant also seeks a range of other remedies in connection with, amongst other things, a "long-term parental order"; a "pending interim intervention order application"; various civil proceedings; his marriage; and an unfair dismissal application.

4 Globally, the applicant submits that "these causes of action lie in the abuse of the process of the system of justice by wrongfully setting the law in motion and that they are designed to discourage the perversion of the machinery of justice for an improper purpose".

5 As intimated above, Gleeson J directed the Registrar to refuse to issue or file the writ without the leave of a Justice of the Court first had and obtained. The grounds of the application for leave to issue or file appear in an affidavit affirmed by the applicant on 15 November 2023 as follows:

"The document is founded upon the fundamental domestic legal principles of natural justice, due process, the rule of law, human rights and international public law.

I hereby submit the fundamental grounds of the application for leave to issue or file the refused document in the High Court of Australia are the following three key principles of fairness, equality and access to justice."

6 Beyond that set out immediately above, no further argument is advanced by  
the applicant as to why leave to issue or file should be granted.

7 The principles governing the discretion to refuse leave were set out by  
Gageler J (as his Honour then was) in *Re Young*:<sup>1</sup>

"The direction of a Justice pursuant to r 6.07.2 of the *High Court Rules* is available to be sought by the Registrar under r 6.07.1 of the *High Court Rules* in respect of a document which 'appears' to the Registrar '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'.

The discretion to refuse leave on an application made under r 6.07.3 of the *High Court Rules* falls to be exercised by a Justice by reference to the same criteria as those which inform the action of the Registrar under r 6.07.1. The discretion will ordinarily be exercised to refuse leave to issue or file a document where the document appears to the Justice determining the application '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.

As Edelman J has recently emphasised, it is implicit in the requirement that a document the subject of an application under r 6.07.3 be considered 'on its face' that the application falls to be determined without an oral hearing. Unlike an interlocutory application governed by Pt 13 of the *High Court Rules*, in respect of which r 13.03.1 provides that the Court or a Justice may direct that the application is to be determined without listing it for hearing, no direction of a Justice is needed for an application under r 6.07.3 to be determined without listing it for hearing.

The concept of abuse of process cannot be confined within closed categories. Sufficiently for present purposes, it encompasses an attempt to invoke the original or appellate jurisdiction of the High Court on a basis that is confused or manifestly untenable. Needless to say, exercise of the discretion to nip a proceeding in the bud is appropriate only in the clearest of cases."

8 It is plain from the face of the application and its supporting materials that the applicant's proposed causes of action are misconceived. The application attempts to invoke this Court's jurisdiction "on a basis that is confused or manifestly untenable", and is properly regarded as an abuse of process.<sup>2</sup> I am

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1 (2020) 94 ALJR 448 at 451 [10]-[13]; 376 ALR 567 at 570 (footnote omitted).

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

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therefore satisfied that this is one of the "clearest of cases"<sup>3</sup> in which it is appropriate to exercise my discretion to refuse leave to issue or file the proposed application.

9           That the application is an abuse of process is confirmed by the applicant's writ of summons which records as follows (footnotes omitted):

"The [applicant] submits this claim was electronically submitted to the South Australian Court Administration Authority for listing in the Supreme Court of South Australia Civil Jurisdiction on October 2, 2023. The [applicant] made attempts to enquire with the Court Administration Authority Higher Court Registry with regard to the status of the application. The authorised staff member advised the [applicant] that the claim had been forwarded to Chambers for deliberation and a decision on whether the claim may proceed was pending. On the basis the [applicant's] claim seeking remedy and justice has been further delayed, the [applicant] has concerns and chooses to file this Writ in the High Court of Australia where the original jurisdiction is conferred and your Honour's decision will be binding."

10           For these reasons, the application for leave to issue or file is dismissed without an oral hearing.

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