

# HIGH COURT OF AUSTRALIA

BEECH-JONES J

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IN THE MATTER OF AN APPLICATION BY  
VALERIE PEERS FOR LEAVE TO ISSUE OR FILE

[2024] HCASJ 29  
*Date of Judgment: 16 July 2024*  
M57 of 2024

## ORDER

- The application for leave to issue or file the document entitled "Application for a constitutional or other writ" dated 26 June 2024 is dismissed without an oral hearing.*

## Representation

The applicant is unrepresented.



1 BEECH-JONES J. This is an application for leave to issue or file an application  
for a constitutional or other writ. For the reasons that follow, leave should be  
refused.

2 On or about 26 June 2024, the applicant, Valerie Peers, sought to file an  
application for a constitutional or other writ. On 4 July 2024, Edelman A-CJ  
directed a 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>1</sup>  
On the same day, Ms Peers sought leave and filed an affidavit in support of that  
application.

3 The discretion 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>2</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>3</sup> The exercise of the discretion to refuse leave is appropriate  
"only in the clearest of cases".<sup>4</sup>

4 Ms Peers' affidavit reveals that she has been charged with an offence under  
s 116 of the Health Practitioner Regulation National Law, which has been given  
force of law in Victoria by s 4 of the *Health Practitioner Regulation National Law  
(Victoria) Act 2009* (Vic). Proceedings in respect of that offence are currently  
before the Magistrates' Court of Victoria. In proceedings M41/2024, Ms Peers  
applied under s 40 of the *Judiciary Act 1903* (Cth) for the removal of all or part of  
the proceedings before the Magistrates' Court to this Court. Her application for  
removal has not yet been determined.

5 Rule 26.05.3(a) of the *High Court Rules 2004* (Cth) provides that any reply  
concerning an application for removal must not exceed five pages. According to  
her affidavit, on 13 June 2024 Ms Peers attempted to file her reply in this Court  
but could not comply with the five-page limit. Ms Peers states that she requested  
a Deputy Registrar to exercise a discretion to dispense with compliance with  
r 26.05.3(a), but the Deputy Registrar rejected the document that was sought to be  
filed.

6 Ms Peers now seeks leave to file an application for a constitutional or other  
writ against the Deputy Registrar. Ms Peers contends that the Deputy Registrar

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<sup>1</sup> *High Court Rules 2004* (Cth), r 6.07.2.

<sup>2</sup> *High Court Rules* (Cth), r 6.07.1.

<sup>3</sup> *Re Young* (2020) 94 ALJR 448 at 451 [13]; 376 ALR 567 at 570.

<sup>4</sup> *Re Young* (2020) 94 ALJR 448 at 451 [13]; 376 ALR 567 at 570.

3.

committed a jurisdictional error by failing to consider the exercise of the discretion conferred by r 2.02 of the *High Court Rules* to dispense with the page limit requirement in r 26.05.3(a).

7 Rule 2.02 of the *High Court Rules* provides that "[t]he Court or a Justice may dispense with compliance with any requirements of [the High Court] Rules, either before or after the occasion for compliance arises". A Deputy Registrar has such duties (and powers) in respect of proceedings in this Court as are assigned to them by the *High Court Rules*, by an order of the Court, or by the Chief Executive and Principal Registrar.<sup>5</sup> The *High Court Rules* do not confer the power referred to in r 2.02 on Deputy Registrars and no order to that effect has been made by the Court (or is purported to have been made by the Chief Executive and Principal Registrar). As the Deputy Registrar is not a Justice and is not otherwise the "Court", it follows that the Deputy Registrar could not exercise the power conferred by r 2.02.

8 As the Deputy Registrar could not exercise the power conferred by r 2.02, they did not commit jurisdictional error in failing to consider its exercise. Ms Peers' application is therefore "manifestly untenable".<sup>6</sup>

9 The application for leave to issue or file the document entitled "Application for a constitutional or other writ" dated 26 June 2024 is dismissed without an oral hearing.

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<sup>5</sup> *High Court of Australia Act 1979* (Cth), s 26(7).

<sup>6</sup> *Re Young* (2020) 94 ALJR 448 at 451 [13]; 376 ALR 567 at 570.