

HIGH COURT OF AUSTRALIA

GLEESON J

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

[2024] HCASJ 34
Date of Judgment: 26 August 2024
M59 of 2024

ORDER

- The ex parte application for leave to issue or file the writ of summons is refused.*

Representation

The applicant is unrepresented.

1 GLEESON J. By application filed on 17 July 2024, the applicant ("Ms Peers") seeks leave to issue or file a writ of summons dated 10 July 2024, which names the Supreme Court of Victoria as the defendant ("the writ of summons"). On 12 July 2024, Beech-Jones J made a direction pursuant to r 6.07.2 of the *High Court Rules 2004* (Cth) to the Registrar to refuse to file or issue the writ of summons without the leave of a Justice first had and obtained by the party seeking to issue or file it.

2 The current application complies with r 6.07.3 and is supported by a sworn affidavit dated 12 July 2024.

3 For the following reasons, leave to file the proposed writ of summons should be refused without listing the application for a hearing.

Principles to be applied

4 The discretion to refuse the leave sought is to be exercised by reference to the criteria set out in r 6.07.1, namely whether the proposed application "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".¹ Implicit in the requirement that a document the subject of an application under r 6.07.3 be considered "on its face" is that such an application falls to be determined on the papers.² While there are no "closed categories" of what amounts to an abuse of process, that concept captures attempts to invoke the jurisdiction of the Court on bases that are confused or untenable.³

Consideration

5 The proposed application does not identify a matter within the jurisdiction of the Court. The applicant seeks constitutional writs of prohibition and mandamus against judicial officers of the Supreme Court of Victoria pursuant to section 75(v) of the *Constitution*, which provides:

"In all matters: in which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth; the High Court shall have original jurisdiction."

6 Ms Peers invites the Court "to adopt a new juridical understanding of the operation of section 75(v)" based on the exercise or purported exercise by judges of the Supreme Court of Victoria of the judicial powers of the Commonwealth,

¹ *Re Young* (2020) 94 ALJR 448 at 451 [11].

² *Re Young* (2020) 94 ALJR 448 at 451 [12]; *Re Simmonds* [2020] HCA Trans 34.

³ *Re Young* (2020) 94 ALJR 448 at 451 [13].

2.

together with an asserted requirement upon the Commonwealth to remunerate state judicial officers in the exercise of the judicial power of the Commonwealth.

7 The text of s 75(v) makes clear that the provision is only enlivened where a writ of mandamus or prohibition, or an injunction, is sought against an officer of the Commonwealth. As judicial officers of the Supreme Court of Victoria are not officers of the Commonwealth, this Court lacks jurisdiction to hear the matter. Further, Ms Peers has not identified an arguable basis for her contentions that the Commonwealth is required to pay state judicial officers in certain circumstances.

8 It follows that this Court's original jurisdiction does not extend to granting the relief sought by the applicant. The proposed application therefore appears on its face to be an abuse of process.

9 The application filed on 17 July 2024 for leave to issue or file the writ of summons is refused.