HIGH COURT OF AUSTRALIA

GORDON J

IN THE MATTER OF AN APPLICATION BY JOHN MURPHY FOR LEAVE TO ISSUE OR FILE

[2024] HCASJ 7

Date of Judgment: 7 February 2024

C15 of 2023

ORDER

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

Representation

The applicant is unrepresented.

1. GORDON J. This is an ex parte application for leave to issue or filea writ of summons dated 22 November 2023. On 23 November 2023, Jagot J directed that, pursuant to r 6.07.2 of the *High Court Rules 2004* (Cth), the writ of summons was not to be issued or filed without the leave of a Justice first had and obtained by the applicant. This ex parte application for leave to issue or file that writ of summons is supported by an affidavit sworn on 8 December 2023.
2. I have read the applicant's affidavit, which also effectively includes the applicant's submissions. The proposed writ of summons lists one defendant: the Commonwealth.
3. The applicant's proposed writ of summons in the original jurisdiction of this Court is directed to the exercise of the immigration power in s 51(xxvii) of the *Constitution*. In substance, the applicant contends that "[t]he Immigration Minister and past Ministers who have occupied the office of Immigration have impermissibly exercised the immigration power pursuant to s51(xxvii) with complete freedom from legal control".
4. The proposed writ of summons does not disclose any arguable basis for the relief sought. The claims described in the proposed writ of summons and supporting affidavit would be an abuse of process if the documents were filed. The proposed writ otherwise does not comply with the requirements of Pt 27 of the *High Court Rules*. The documents should not be issued or filed.
5. Pursuant to r 13.03.1 (read with r 6.07.2) of the *High Court Rules*, I direct that the ex parte application for leave to issue or file the writ of summons be determined without an oral hearing. The ex parte application for leave to issue or file the writ of summons is refused.