

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 file a 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.