

HIGH COURT OF AUSTRALIA

JAGOT J

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

[2024] HCASJ 8

Date of Judgment: 8 February 2024
C18 of 2023

ORDER

- 1. The application for leave to file or issue the document entitled "Application for A Constitutional or Other Writ" dated 1 December 2023 be dismissed without an oral hearing.*

Representation

The applicant is unrepresented.

1 JAGOT J. These reasons for judgment explain why the applicant's ex parte application for leave to issue a constitutional writ under r 6.07.3 of the *High Court Rules 2004* (Cth), filed on 13 December 2023, is refused.

2 According to the application and supporting affidavit, the applicant was charged with an offence against s 116 ("Claims by persons as to registration as health practitioner") of the *Health Practitioner Regulation National Law (Victoria) Act 2009* (Vic) ("the HPR Regulation Act"). The writ seeks the following orders against the Magistrates' Court of Victoria and the Chief Executive Officer of the Australian Health Practitioner Regulation Agency ("the CEO of AHPRA"), the latter being the informant in respect of the criminal charge under the HPR Regulation Act:

- "1. Urgent writ of prohibition against the Magistrates' Court of Victoria from proceeding in the matter P11451549 for hearing dated 5 December, 2023.
2. The Magistrates' Court of Victoria to be ousted from office and order the matter be recommenced in the Supreme Court of Victoria before a justice experienced and competent in Constitutional law."

3 When the writ was first sought to be filed on 1 December 2023, a Registrar sought a direction in respect of the writ under r 6.07.1 of the *High Court Rules* which enables a Registrar to seek from a Justice a direction in respect of any application that 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.

4 Also on 1 December 2023, pursuant to r 6.07.2 of the *High Court Rules*, 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.

5 In the proceedings in the Magistrates' Court in respect of the alleged offence, the applicant sought witness summons against four individuals, including the CEO of AHPRA and the Attorney-General of the State of Queensland. The Magistrates' Court issued three of the witness summons, including the witness summons in respect of the CEO of AHPRA, but not the witness summons in respect of the Attorney-General. That witness summons was listed for a determination in a preliminary hearing. Before the scheduled preliminary hearing could occur, the applicant filed an application in the Supreme Court of Victoria against the decision not to issue the witness summons in respect of the Attorney-General. Additionally, in the Magistrates' Court, the applicant contended that the Magistrates' Court was exercising federal jurisdiction, including because the CEO of AHPRA lived in a State other than Victoria, and could not or should not decide the preliminary issues before the Supreme Court of Victoria had determined her application in that Court.

6 Before the scheduled preliminary hearing in the Magistrates' Court, the applicant also sought to file her application for the writ in the High Court. The relief sought in the writ was said to be supported by grounds including the alleged incompetence (in fact, not in law) of the Magistrates' Court to exercise the judicial powers of the Commonwealth.

7 Subsequent to the attempt to file the writ in the High Court, at a hearing in the Magistrates' Court on 5 December 2023, a Magistrate apparently:

- (1) struck out the summons issued to the CEO of AHPRA;
- (2) dismissed the contentions raised by the applicant;
- (3) held that he could only determine whether there had been an abuse of process after he heard the allegations against the applicant; and
- (4) adjourned the matter to a hearing on 26 to 27 March 2024.

8 The writ, on its face, is frivolous and vexatious and thereby involves an abuse of process.

9 Leaving aside the fact that the writ seeks an order to prevent a preliminary hearing which has now already occurred, the writ and supporting affidavit expose no basis upon which the jurisdiction of the Magistrates' Court might be doubted. The essential complaint is that the Magistrates of the Magistrates' Court do not have the necessary experience and expertise to deal with the applicant's constitutional and other arguments. The substantive relief the applicant seeks in the writ is for her matter to instead be heard in the Supreme Court of Victoria and not the Magistrates' Court. This complaint does not involve a justiciable matter.

10 For these reasons, pursuant to 13.03.1 of the *High Court Rules*, I direct that the ex parte application for leave to issue or file the application for a constitutional or other writ be determined without an oral hearing and I order that the ex parte application for leave to issue or file the application for the writ be refused.