

*QYFM*  
v  
*MINISTER FOR IMMIGRATION, CITIZENSHIP AND MULTICULTURAL  
AFFAIRS & ANOR*  
[2024] HCASL 94  
M99/2023

- 1       The applicant seeks special leave to appeal from a judgment of the Full Court of the Federal Court of Australia (Katzmann, O'Callaghan and McEvoy JJ) dismissing an application for leave to amend the notice of appeal and dismissing the appeal remitted to the Full Court following this Court's decision in *QYFM v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2023] HCA 15. Before the Full Court, the applicant abandoned reliance on appeal grounds previously raised, seeking instead to proceed on the basis of an amended notice of appeal raising six new grounds.
- 2       The appeal to this Court concerns three of the proposed grounds which the applicant sought to raise before the Full Court. By s 33(4B)(a) of the *Federal Court of Australia Act 1976* (Cth), an appeal must not be brought to the High Court from a judgment of the Federal Court (whether constituted by a Full Court or a single Judge) in the exercise of its appellate jurisdiction if the judgment is of a kind described in s 25(2) of the Act, where s 25(2)(c) refers to an application for leave to amend the grounds of an appeal. As such, the appeal, as it relates to the grounds in the application to amend, is incompetent. Further, even if competent, the application does not enjoy sufficient prospects of success to justify a grant of special leave to appeal and the interests of the administration of justice weigh against a grant of special leave to an application seeking to appeal against a discretionary decision of practice and procedure to refuse the applicant leave to amend the notice of appeal.
- 3       Special leave to appeal is refused with costs.

Gageler CJ  
Gordon J  
Edelman J  
Steward J  
Gleeson J  
Jagot J  
Beech-Jones J

11 April 2024