

HIGH COURT OF AUSTRALIA

JAGOT J

IN THE MATTER OF AN APPLICATION BY
HAZEL HONEY F LIM FOR LEAVE TO ISSUE OR
FILE

[2025] HCASJ 39

Date of Judgment: 24 October 2025

A21 of 2025

ORDERS

- 1. The ex parte application filed on 11 September 2025 for leave to issue or file an application for a constitutional or other writ is dismissed.*
- 2. Direct the Principal Registrar of the High Court of Australia to provide a copy of these reasons for judgment to the Chief Executive Officer of the Federal Circuit and Family Court of Australia (Division 2).*

Representation

The applicant is unrepresented

1 JAGOT J. On 4 September 2025, Gordon J made a direction under r 6.07.2 of the
High Court Rules 2004 (Cth) that the Registrar refuse to issue or file an application
by the applicant for a constitutional or other writ without leave of a Justice first
had and obtained. By ex parte application filed on 11 September under r 6.07.3 of
the *High Court Rules* the applicant seeks such leave. The application is supported
by an affidavit sworn by the applicant on 8 September 2025.

2 For the following reasons, leave to issue or file the proposed application for
a constitutional or other writ should be refused.

Relevant principles

3 The criteria governing the exercise of the discretion to refuse leave to issue
or file a document under r 6.07.3 of the *High Court Rules* are the same as those
which inform the decision of the Registrar to seek direction from a Justice under
r 6.07.1. That is, leave to issue or file the document will ordinarily be refused
where it "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

Consideration

4 By the application for a constitutional or other writ dated 2 September 2025,
the applicant seeks constitutional writs and other relief against the Federal Court
of Australia, Judge Heffernan (a former judge of the Federal Circuit Court of
Australia) and Charlesworth J (a justice of the Federal Court of Australia).

5 The genesis of the application lies in the proceedings the applicant brought
against her former employer for alleged contraventions of the *Fair Work Act
2009* (Cth). On 31 March 2021, Judge Heffernan dismissed those proceedings.²
On 27 October 2022, Charlesworth J dismissed the applicant's application for an
extension of time to appeal from those orders.³ On 2 March 2023, Charlesworth J
ordered that the applicant pay the respondents' costs incurred from 19 October
2021.⁴ As the parties could not agree on the quantum payable as the respondents'
costs, on 30 October 2024, a Registrar of the Federal Court made an order fixing
the respondents' costs.⁵ By interlocutory application the applicant sought a review

1 *Re Young* (2020) 94 ALJR 448 at 451 [11]; 376 ALR 567 at 570, referring to r 6.07.1
of the *High Court Rules*.

2 *Lim v Flinders University of South Australia (No 2)* [2021] FCCA 614.

3 *Lim v Flinders University of South Australia* [2022] FCA 1361.

4 *Lim v Flinders University of South Australia (No 2)* [2023] FCA 147.

5 *Lim v Flinders University of South Australia (No 3)* [2025] FCA 294 at [4].

of the Registrar's decision. On 17 March 2025, Charlesworth J set aside the order of the Registrar and fixed the respondents' costs in a lesser amount.⁶

6 In the current application, the applicant contends that the order of Judge Heffernan dismissing her proceedings and the orders of Charlesworth J dismissing her application for an extension of time to appeal and for costs should be set aside as they involved, by reason of the conduct of the Judge or Justice (as relevant) and Registry officers of the Courts, one or all of breaches of "constitutional duties of impartiality, independence and institutional integrity", other errors, "systemic bias", denials of procedural fairness, failures to provide adequate reasons, and failures to consider relevant matters.

7 Amongst the material filed in support of the application is a contention that Judge Heffernan delivered judgment in *Lim v Flinders University of South Australia (No 2)*⁷ after he had ceased to be a judge of the Federal Circuit Court. The evidence in support of this contention is the recorded date of the judgment (31 March 2021), the date appearing on Judge Heffernan's orders dismissing the application (31 March 2021), and an extract from the website of the Federal Circuit Court of Australia which records the following:

"Timothy Heffernan

Appointment date: 23 November, 2015

Retirement date: 01 April, 2020"

8 If a former judge of a Ch III court purported to make an order or publish reasons for judgment after they ceased to be a judge of the Ch III court (by either attaining the maximum age of 70 years or by resigning their office by writing under their hand delivered to the Governor-General), the order and the reasons would be void ab initio.⁸

9 Other public records "the authority of which cannot reasonably be questioned",⁹ however, indicate that Judge Heffernan's retirement date was later than 1 April 2020, so that the extract from the website of the Federal Circuit Court may be inferred to be wrong. For example, reasons for judgment published by Judge Heffernan on 15 March 2021 record that the hearing before the judge

6 *Lim v Flinders University of South Australia (No 3)* [2025] FCA 294.

7 [2021] FCCA 614.

8 *Constitution*, s 72; *Federal Circuit and Family Court of Australia Act 2021* (Cth), s 120.

9 *Evidence Act 1995* (Cth), s 144(1)(b).

occurred on 13 August 2020,¹⁰ reasons for judgment published by Judge Heffernan on 23 March 2021 record that the hearing before the Judge occurred on 11 and 23 March 2021,¹¹ and reasons for judgment published by Judge Heffernan on 25 March 2021 record that the hearing before the judge occurred on 21 October 2020.¹²

10 In addition, it is not apparent why the applicant would not have raised this issue at an earlier time if it were true. The applicant applied for an extension of time for leave to appeal from Judge Heffernan's orders of 31 March 2021, but it is not apparent from the reasons of Charlesworth J that this application included any suggestion that Judge Heffernan was not a judge of the Federal Circuit Court at the time he made the orders sought to be impugned.¹³ Given that Charlesworth J dismissed this application on 27 October 2022 and the applicant did not attempt to file the current application in this Court until 2 September 2025 the inference is that the applicant added this additional ground in reliance solely on the website extract from the Federal Circuit Court. If that is so, it is not apparent why the applicant did not seek to quash the orders of Judge Heffernan within the period of 6 months after the date of his orders, as required by r 25.02.2(a) of the *High Court Rules*.

11 Otherwise, none of the material filed in support of the application reveals an intelligible basis for the relief sought. Accordingly, the proposed application is "manifestly untenable" and, having regard to the unexplained lapse of time from the date of refusal by Charlesworth J of the application for an extension of time for leave to appeal, the proposed application also would be an "abuse of process" if filed.¹⁴

12 In these circumstances, if there was no evidence "the authority of which cannot reasonably be questioned" indicating that Judge Heffernan was a judge of the Federal Circuit Court after the date of 1 April 2020 contrary to the statement on the website of that Court, I would have granted leave to the applicant to file the current application, that application being confined to the ground that Judge Heffernan made the impugned order after he ceased to be a Judge of the Federal Circuit Court. As there is such evidence "the authority of which cannot reasonably be questioned", it would be inappropriate to grant such leave even on that confined

10 *Bulow & Bulow (No 3)* [2021] FCCA 314.

11 *Dixon v Watpac Ltd* [2021] FCCA 622.

12 *Tran v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2021] FCCA 563.

13 *Lim v Flinders University of South Australia* [2022] FCA 1361.

14 *Re Young* (2020) 94 ALJR 448 at 451 [13]; 376 ALR 567 at 570.

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basis. Rather, the application for leave to file should be dismissed on the basis that, if the applicant can adduce further incontrovertible evidence proving that Judge Heffernan was not a Judge of the Federal Circuit Court when he made the orders on 31 March 2021, that evidence would be a material change of circumstances permitting the applicant to again file the application for leave without that being an obvious abuse of process of this Court despite the long delay in the applicant bringing this matter to this Court. Undoubtedly, the Federal Circuit Court itself is best placed to confirm, one way or another, Judge Heffernan's status on 31 March 2021.

13 For these reasons, the following orders are made:

1. The ex parte application filed on 11 September 2025 for leave to issue or file an application for a constitutional or other writ is dismissed.
2. Direct the Principal Registrar of the High Court of Australia to provide a copy of these reasons for judgment to the Chief Executive Officer of the Federal Circuit and Family Court of Australia (Division 2).