

HIGH COURT OF AUSTRALIA

STEWARD J

IN THE MATTER OF AN APPLICATION BY
ADRIAN PRALJAK FOR LEAVE TO ISSUE OR
FILE

[2025] HCASJ 1

Date of Judgment: 23 January 2025

M79 of 2024, M83 of 2024, M84 of 2024 & M85 of 2024

ORDERS

1. *In proceeding M79/2024, application for leave to issue or file the proposed application for special leave to appeal dated 25 August 2024 dismissed.*
2. *In proceeding M83/2024, application for leave to issue or file the proposed application for special leave to appeal dated 17 September 2024 dismissed.*
3. *In proceeding M84/2024, application for leave to issue or file the proposed application for special leave to appeal dated 17 September 2024 dismissed.*
4. *In proceeding M85/2024, application for leave to issue or file the proposed application for special leave to appeal dated 17 September 2024 dismissed.*

Representation

The applicant is unrepresented

1 STEWARD J. These proceedings concern a series of applications for leave to
issue or file applications for special leave to appeal, filed by Mr Praljak. The facts
and legal grounds underlying each of those applications are set out below.

2 Mr Praljak is self-represented in each of the proceedings.

Factual and legal background

Proceeding M79/2024

3 In proceeding M79/2024, by application filed 11 September 2024,
Mr Praljak seeks leave to issue or file an application for special leave to appeal
dated 25 August 2024.

4 On 29 August 2024, Jagot J directed the Registrar pursuant to r 6.07.2 of
the *High Court Rules 2004* (Cth) ("the Rules") to refuse to issue or file the
document without the leave of a Justice of the Court first had and obtained.

5 Mr Praljak relies on an affidavit sworn by him on 6 September 2024. In that
affidavit, Mr Praljak asserts that leave to issue or file is necessitated by: a need to
uphold procedural fairness and access to justice; the matter raising "substantial
legal arguments" that "involve critical questions of law that have broader
implications for the development of legal principles in Australia"; the application
having been made in good faith, and with no intent to burden the Court with
frivolous or vexatious claims; the application raising issues with significant public
interest implications; and the application involving issues "that have the potential
to set important legal standards and precedents". Mr Praljak also exhibits a number
of medical records, including records prepared by a clinical psychologist,
Dr Adrian Ashton, which indicate that Mr Praljak is a client of Dr Ashton and has
experienced "further exacerbation of ongoing distress, trauma, frustration, and
stress, due to a complex legal situation".

6 By his application for special leave to appeal, Mr Praljak seeks to appeal
from the whole of the judgment of the Federal Court of Australia in proceeding
VID43/2024 made on 6 May 2024, by which Mortimer CJ refused to grant an
extension of time to file an application for leave to appeal from the orders of
McEvoy J made on 30 November 2022, by which McEvoy J dismissed
Mr Praljak's originating application against Bond University alleging
discrimination under the *Disability Discrimination Act 1992* (Cth), *Racial
Discrimination Act 1975* (Cth) and *Sex Discrimination Act 1984* (Cth), as
vexatious and an abuse of process. "[F]avourably to Mr Praljak", McEvoy J treated
Mr Praljak's application as an application for leave pursuant to the *Australian
Human Rights Commission Act 1986* (Cth), and refused to grant such leave.¹

1 *Praljak v State of Queensland* [2024] FCA 467 at [9].

2.

Mortimer CJ also ordered that Mr Praljak pay the respondent's costs of the proceeding. Mr Praljak also seeks an order that compliance with the time limit in r 41.02.1 of the Rules be dispensed with.

7 Mr Praljak's proposed grounds of appeal include, inter alia, that the Federal Court of Australia: erred in denying the extension of time, and thereby obstructed Mr Praljak from pursuing claims of discrimination and human rights violations; erred in reaching the conclusion that Mr Praljak is a "vexatious litigant"; denied Mr Praljak procedural fairness and natural justice by dismissing claims without hearing; and made unjust and punitive costs orders. Mr Praljak also indicates that he seeks to expand the scope of the matter to include criminal and civil claims, and asserts that the respondent and its legal representatives "unlawfully exploited insider knowledge of the judicial system and manipulated ongoing legal proceedings for personal gain". Beyond seeking to overturn the decision of Mortimer CJ and to obtain a rehearing, Mr Praljak seeks relief in the form of setting aside the "vexatious litigant designation", referral of the matter for criminal investigation, an order for costs, exemplary, punitive and pecuniary damages, and an order for the recognition and compensation of "latent personal injuries", both mental and physical, that have "not yet been fully diagnosed due to delays in accessing specialist medical care".

Proceeding M83/2024

8 In proceeding M83/2024, by application filed 3 October 2024, Mr Praljak seeks leave to issue or file an application for special leave to appeal dated 17 September 2024.

9 On 18 September 2024, Gordon J directed the Registrar pursuant to r 6.07.2 of the Rules to refuse to issue or file the document without the leave of a Justice of the Court first had and obtained.

10 In support of his application for leave to issue or file, Mr Praljak relies on an affidavit sworn by him on 25 September 2024. That affidavit sets out similar matters to those raised in his affidavits sworn on 6 September 2024 and filed in proceeding M79/2024 before this Court.

11 By his proposed appeal, Mr Praljak seeks to appeal from the whole of the judgment of the Federal Court of Australia in proceeding VID41/2024 made on 6 May 2024, in which Mortimer CJ refused to grant an extension of time to file an application for leave to appeal from the orders of Logan J made on 14 December 2021, by which Logan J refused leave to Mr Praljak to make an application to the Federal Court of Australia pursuant to the *Australian Human Rights Commission Act 1986* (Cth) against the Department of Defence regarding allegations of unlawful disability discrimination in relation to the Department's refusal of his

3.

applications to become a member of the Australian Defence Force.² Mortimer CJ also ordered that Mr Praljak pay the respondents' costs of the proceeding. Mr Praljak also seeks an order that compliance with the time limit in r 41.02.1 of the Rules be dispensed with.

12 By his application for special leave to appeal, Mr Praljak asserts that the Federal Court erred in its interpretation of s 53 of the *Disability Discrimination Act 1992* (Cth); erred by its failure to consider reasonable adjustments under s 21A of the *Disability Discrimination Act 1992* (Cth); erred in reaching the conclusion that he was a "vexatious litigant"; and denied him procedural fairness, particularly having regard to his self-represented status, medical disabilities and financial hardship. He seeks various orders, including: orders that his appeal be allowed, the judgment of the Federal Court be set aside and the matter remitted to the Federal Court for rehearing; orders for damages, including compensatory damages, aggravated damages, and exemplary damages; and orders that the respondents and associated parties be referred to the Australian Federal Police for investigation.

Proceeding M84/2024

13 In proceeding M84/2024, by application filed 3 October 2024, Mr Praljak seeks leave to issue or file an application for special leave to appeal dated 17 September 2024.

14 On 18 September 2024, Gordon J directed the Registrar pursuant to r 6.07.2 of the Rules to refuse to issue or file the document without the leave of a Justice of the Court first had and obtained.

15 In support of his application for leave to issue or file, Mr Praljak relies on an affidavit sworn by him on 25 September 2024. That affidavit sets out similar matters to those raised in his affidavit sworn on 6 September 2024 in proceeding M79/2024 before this Court. It is unnecessary to repeat those matters.

16 By his application for special leave to appeal, Mr Praljak seeks to appeal from the whole of the judgment of the Federal Court of Australia in proceeding VID40/2024 made on 6 May 2024, by which Mortimer CJ refused to grant an extension of time to file an application for leave to appeal from the orders of McEvoy J made on 30 November 2022, by which McEvoy J refused leave to Mr Praljak to make an application to the Federal Court of Australia pursuant to the *Australian Human Rights Commission Act 1986* (Cth) against the State of Queensland regarding allegations of unlawful disability discrimination by the Southport Magistrates Court.³ Mortimer CJ also ordered that Mr Praljak pay the

2 *Praljak v State of Queensland* [2024] FCA 467 at [5].

3 *Praljak v State of Queensland* [2024] FCA 467 at [3].

4.

respondent's costs of the proceeding. Mr Praljak also seeks an order that compliance with the time limit in r 41.02.1 of the Rules be dispensed with.

17 By his application for special leave to appeal, Mr Praljak asserts that: he has been denied procedural fairness, particularly having regard to his self-represented status, medical disabilities and financial hardship; the Federal Court erred in concluding that he was a "vexatious litigant"; and he has "extremely credible serious allegations" of various matters including "[u]nlawful [i]ndictable and [s]ummary [c]riminal [o]ffences", and serious threats to Australia's national security. Mr Praljak seeks substantially the same orders as sought in proceeding M83/2024, which are described at paragraph 11 above.

Proceeding M85/2024

18 In proceeding M85/2024, by application filed 3 October 2024, Mr Praljak seeks leave to issue or file an application for special leave to appeal dated 17 September 2024.

19 On 18 September 2024, Gordon J directed the Registrar pursuant to r 6.07.2 of the Rules to refuse to issue or file the document without the leave of a Justice of the Court first had and obtained.

20 In support of his application for leave to issue or file, Mr Praljak relies on an affidavit sworn by him on 25 September 2024. That affidavit sets out similar matters to those raised in his affidavit sworn on 6 September 2024 and filed in proceeding M79/2024 before this Court.

21 By his application for special leave to appeal, Mr Praljak seeks to appeal from the whole of the judgment of the Federal Court of Australia in proceeding VID42/2024 on 6 May 2024, in which Mortimer CJ refused to grant an extension of time to file an application for leave to appeal from the orders of McEvoy J on 30 November 2022 and 8 December 2022, by which McEvoy J refused leave to Mr Praljak to make an application to the Federal Court of Australia pursuant to the *Australian Human Rights Commission Act 1986* (Cth) against the Federal Court and Logan J regarding allegations of unlawful disability discrimination.⁴ Mortimer CJ also ordered that Mr Praljak pay the first respondent's costs of the proceeding. Mr Praljak also seeks an order that compliance with the time limit in r 41.02.1 of the Rules be dispensed with.

22 Mr Praljak asserts that: the Federal Court's refusal of an extension of time amounted to a "significant" legal error; and, the Federal Court erred in reaching the conclusion that he was a "vexatious litigant" as well as in failing to consider the broader implications of the case, particularly the need for "criminal and civil

4 *Praljak v State of Queensland* [2024] FCA 467 at [7].

5.

accountability" of the respondents and associated parties. Mr Praljak seeks substantially the same orders as sought in proceeding M79/2024, which are described at paragraph 7 above.

Principles to be applied

- 23 The discretion conferred by r 6.07.2 of the Rules to refuse leave to issue or file a document will ordinarily be exercised where the document 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".⁵ The concept of abuse of process, which cannot be confined within closed categories, encompasses "an attempt to invoke the original or appellate jurisdiction of the High Court on a basis that is confused or manifestly untenable".⁶ Exercise of the discretion to refuse leave to issue or file a document is appropriate "only in the clearest of cases".⁷

Consideration

- 24 It is plain on the face of the proposed applications for leave to issue or file, which annex the proposed applications for special leave to appeal, and the supporting affidavits that Mr Praljak's proposed grounds of appeal are entirely devoid of merit. Mr Praljak seeks to invoke this Court's jurisdiction on a basis that is "confused or manifestly untenable".⁸ Neither the proposed applications for special leave to appeal, nor the affidavits filed in support of the applications for leave to issue or file, disclose an arguable basis for the relief sought. The proposed applications for special leave to appeal would amount to an abuse of process if the documents were filed. Accordingly, they should not be filed, and each of the applications for leave to issue or file should be dismissed without an oral hearing pursuant to r 13.03.1 of the Rules.

- 25 The application filed on 11 September 2024 for leave to issue or file in proceeding M79/2024, and each of the three applications filed on 3 October 2024 for leave to issue or file in proceedings M83/2024, M84/2024 and M85/2024, are refused.

5 *Re Young* (2020) 94 ALJR 448 at 451 [10]-[11] per Gageler J; 376 ALR 567 at 570; see also the Rules at r 6.07.1.

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

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

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