

HIGH COURT OF AUSTRALIA

EDELMAN J

IN THE MATTER OF AN APPLICATION BY
SUSAN JANE SCOTT FOR LEAVE TO ISSUE OR
FILE

[2025] HCASJ 11

Date of Judgment: 24 February 2025

A3 of 2025

ORDER

- 1. The ex parte application filed on 10 February 2025 for leave to issue or file an application for a constitutional or other writ is refused.*

Representation

The applicant is unrepresented

1 EDELMAN J. The applicant, Ms Scott, seeks leave under r 6.07.3 of the *High Court Rules 2004* (Cth) to issue or file an application for a constitutional or other writ. Ms Scott requires that leave because, on 24 December 2024, Beech-Jones J directed the Registrar, pursuant to r 6.07.2 of the *High Court Rules*, to refuse to issue or file Ms Scott's proposed application without the leave of a Justice first had and obtained.

2 In Ms Scott's affidavit in support of her application for leave to issue or file an application for a constitutional or other writ, Ms Scott seeks an oral hearing "to address the specific reasons of [r] 6.07.2" of the *High Court Rules* or, alternatively, "notice of the specific reasons" that the direction was made and an "opportunity to make submissions ... prior to a determination on [the] papers", as a matter of "procedural fairness".

3 Ms Scott had the opportunity, which she took, in her proposed application to make a brief statement of her argument in support of the application.¹ A judicial direction to the Registrar under r 6.07.2 to refuse to issue or file a proposed application without the leave of a Justice does not require any further opportunity to be afforded for more submissions or for an oral hearing by an affected party; the judicial direction is based upon an assessment of the application documents on their face. Nor are reasons required for such a direction to a Registrar to be given. If an application is ultimately made under r 6.07.3 for leave to issue or file a proposed application, then submissions in support of that application for leave can be made by the applicant in a supporting affidavit.² Again, an oral hearing in relation to the application for leave is not required. Rather, "it is implicit in the requirement that [such] a document ... be considered 'on its face' that the application [for leave to issue or file] falls to be determined without an oral hearing".³

4 Ms Scott's proposed application names the Federal Court of Australia, O'Sullivan J (of the Federal Court), McElwaine J (also of the Federal Court), and "Nimlaw Pty Ltd" as the first, second, third and fourth defendants. Ms Scott appears to seek six forms of relief in her proposed application: (i) a declaration of her "right ... as the executor of Mrs AB Scott" to have a claim under s 23 of the *Civil Liability Act 1936* (SA) heard, "incorporating ... [an] extension of time" under the *Limitations of Actions Act 1936* (SA); (ii) an injunction that such claim be heard "as a valid exercise of [the] judicial power of the Commonwealth"; (iii) a

1 *Practice Direction No 1 of 2024 — High Court Rules 2004 Approved Forms*, Form 12 – Application for a constitutional or other writ, Part V.

2 See *Practice Direction No 1 of 2024 — High Court Rules 2004 Approved Forms*, Form 31 – Ex parte application for leave to issue or file, "Grounds".

3 *Re Young* (2020) 94 ALJR 448 at 451 [12]; 376 ALR 567 at 570.

writ of certiorari "of the judgment of Justice O'Sullivan" delivered in a proceeding in the Federal Court; (iv) a writ of certiorari in relation to "judgments of Justice McElwaine" delivered in a separate proceeding in the Federal Court and an extension of time to file that writ; (v) a declaration of the "right of the executor of Mrs AB Scott" to obtain select investigation records of the "Australian Health Practitioners Regulatory Authority" and the "National Health and Privacy Ombudsman"; and (vi) an "injunction ... of prompt delivery" to her of such records.

5 The asserted basis for the relief sought in Ms Scott's proposed application for a constitutional or other writ involves confused, prolix allegations including generalised references to prejudgement and judicial independence, judgments obtained fraudulently, and arguments made in other courts alleging tyranny, oppression and murder of state, corruption and maladministration, fraud, and conspiracy for unjust enrichment. Ms Scott's affidavit filed in support of her application for leave to issue or file her proposed application runs (together with its exhibits) to nearly 500 pages and is extremely difficult to follow. Ms Scott's proposed application is an attempt to invoke this Court's original jurisdiction on a basis that is, on its face, confused or manifestly untenable.

6 For these reasons, the proposed application is an abuse of process.⁴ The proposed application is also vexatious. An application "will be frivolous or vexatious where, because of the manner in which the issues are presented or because of the inappropriate nature of the court to which it is presented, the jurisdiction of the court has not properly been invoked".⁵ Leave to issue or file the proposed application should be refused.

7 This is not the first time that Ms Scott has sought to file an application in this Court that is vexatious or an abuse of the process of this Court. On 24 April 2024, Gordon J made a direction under r 6.07.2 of the *High Court Rules* that the Registrar refuse to issue or file an application by Ms Scott for a constitutional or other writ without leave of a Justice first had and obtained. Ms Scott filed an ex parte application in this Court seeking such leave which was refused by Jagot J on 14 June 2024.⁶ Her Honour noted that multiple writs of certiorari and mandamus were sought against five proposed defendants, "comprising three justices of the Federal Court of Australia, a Registrar of the Federal Circuit Court

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

5 *Varcoe, In the matter of an application for leave to issue or file* [2022] HCATrans 125 at 3-4. See also *Citta Hobart Pty Ltd v Cawthorn* (2022) 276 CLR 216 at 245-247 [70]-[73].

6 *In the matter of an application by Susan Jane Scott for leave to issue or file* [2024] HCASJ 23.

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of Australia, and an incorporated legal practice, Nimlaw Pty Ltd".⁷ On 5 September 2024, Gleeson and Beech-Jones JJ refused Ms Scott's application for leave to appeal from Jagot J's decision on the basis that such an appeal would enjoy no prospects of success.⁸

8 This Court has the power under s 77RN of the *Judiciary Act 1903* (Cth), on its own initiative, to make a vexatious proceedings order. The repeated filing of proceedings which are vexatious, including those which are an abuse of the processes of this Court, can be a reason for the making of such an order. At present, nothing further needs to be said about this issue.

9 The order of the Court is that the ex parte application filed on 10 February 2025 for leave to issue or file an application for a constitutional or other writ is refused.

7 *In the matter of an application by Susan Jane Scott for leave to issue or file* [2024] HCASJ 23 at [2], [4].

8 *In the matter of an application by Susan Jane Scott for leave to appeal* [2024] HCASL 216 at [2].