

HIGH COURT OF AUSTRALIA

GORDON J

IN THE MATTER OF AN APPLICATION BY
TREVOR KINGSLEY FERDINANDS FOR LEAVE
TO ISSUE OR FILE

[2025] HCASJ 12
Date of Judgment: 6 March 2025
A1 of 2025

ORDER

- 1. The ex parte application filed on 3 February 2025 for leave to issue or file an application for a constitutional or other writ is refused.*

Representation

The applicant is unrepresented

1 GORDON J. This is an *ex parte* application for leave to issue or file an application for a constitutional or other writ against Registrar Burns of the Federal Court of Australia. The relief that the applicant seeks in the proposed application for a constitutional or other writ is, however, directed to a decision of this Court. The applicant seeks "[a]n order in the nature of certiorari to quash the decision of FERDINANDS [v] Registrar Burns [2024] HCASL 312 A19/2024 on 5 December 2024" and "[a] declaration that the decision is unlawful".

2 On 20 January 2025, Beech-Jones J directed that, pursuant to r 6.07.2 of the *High Court Rules 2004* (Cth), the application for a constitutional or other writ against Registrar Burns was not to be issued or filed without the leave of a Justice first had and obtained by the applicant. This application for leave to issue or file the application is supported by an affidavit sworn by the applicant on 3 February 2025. I have read the applicant's affidavit as well as the proposed application for a constitutional or other writ against Registrar Burns.

3 It is necessary to start with the decision of this Court which is the subject of the relief sought by the applicant. On 5 December 2024, Edelman and Jagot JJ refused the applicant's application for special leave to appeal from orders of the Full Court of the Federal Court of Australia (Cheeseman, Goodman and McEvoy JJ) ("the Full Court"),¹ including orders dismissing an appeal from a judgment of the Federal Court of Australia (Charlesworth J), which in turn had dismissed the applicant's originating application for judicial review of the Registrar's decision to refuse to accept for filing documents lodged by the applicant, on the basis that the documents did not disclose a decision that was capable of review by the Federal Court.² The refusal of the application was on the basis that the application for special leave to appeal presented no reason to doubt the correctness of the Full Court's decision and that an appeal to this Court would enjoy no prospects of success.

4 As the Full Court explained at the outset of its reasons, the two appeals that it heard and determined were the latest of many, many proceedings instituted by the applicant in many different courts and tribunals in which he has asserted that he was the victim of racially motivated and corruptly fabricated charges,³ which were apparently issued by summons in early 2000.

1 *Ferdinands v Registrar Burns* [2024] FCAFC 105.

2 *Ferdinands v Registrar Burns* [2024] HCASL 312.

3 *Ferdinands v Registrar Burns* [2024] FCAFC 105 at [2].

5 In short, two Registrars of the Federal Court – Registrar Allaway on 6 July 2022⁴ and Registrar Burns on 21 July 2023⁵ – under r 2.26 of the *Federal Court Rules 2011* (Cth) separately refused to accept for filing documents which the applicant had lodged. Those administrative decisions were each the subject of a judicial review application filed by the applicant. The applications were heard separately before single judges of the Federal Court and, in each case, the applications were dismissed. The applicant's appeals from those decisions were then heard concurrently by the Full Court, with the Full Court being "satisfied that each Registrar acted properly in the exercise of the administrative power conferred under r 2.26 of the [*Federal Court Rules*] and that each of the primary judges was correct to dismiss [the applicant's] review applications".⁶ The detailed reasons of the Full Court, comprising approximately 140 paragraphs, addressed each of the applicant's numerous "grounds of appeal".

6 Neither the application for a constitutional or other writ against Registrar Burns, nor the applicant's supporting affidavit, discloses any rational legal argument that could support the relief sought. The claims set out in the proposed application are manifestly hopeless and it would be an abuse of process if the proposed application were filed. The proposed application is vexatious on its face and should not be issued or filed.⁷

7 In the reasons of the Full Court, the Court stated that it was appropriate to initiate a process pursuant to s 37AO(2)(b) of the *Federal Court of Australia Act 1976* (Cth) as the Court had come to the preliminary view that it may be that the Court could be satisfied that the applicant had frequently instituted or conducted vexatious proceedings in Australian courts or tribunals and, if this was established, that a vexatious proceedings order could follow.⁸ On 21 August 2024, the Full Court ordered that, following the determination of the process that had been prescribed by the Court in relation to s 37AO(2)(b) of the *Federal Court of Australia Act*, the appeals would be dismissed. On 9 December 2024, pursuant to s 37AO(2)(b) of the *Federal Court of Australia Act*, the Full Court made an order

4 *Ferdinands v Registrar Burns* [2024] FCAFC 105 at [9].

5 *Ferdinands v Registrar Burns* [2024] FCAFC 105 at [10].

6 *Ferdinands v Registrar Burns* [2024] FCAFC 105 at [4]-[5].

7 See *High Court Rules*, r 6.07.1; *Re Young* (2020) 94 ALJR 448 at 451 [11]-[12]; 376 ALR 567 at 570.

8 *Ferdinands v Registrar Burns* [2024] FCAFC 105 at [6]; see also [140]-[156].

3.

that the applicant was prohibited from instituting proceedings in the Federal Court without the leave of the Court.⁹

8

Given that a document the subject of an application under r 6.07.3 of the *High Court Rules* is to be considered "on its face",¹⁰ it is implicit that the application falls to be determined without an oral hearing.¹¹ The *ex parte* application filed on 3 February 2025 for leave to issue or file an application for a constitutional or other writ is refused.

⁹ *Ferdinands v Registrar Burns (Vexatious Proceedings Order)* [2024] FCAFC 157.

¹⁰ *High Court Rules*, r 6.07.1.

¹¹ *Re Young* (2020) 94 ALJR 448 at 451 [12]; 376 ALR 567 at 570.