

HIGH COURT OF AUSTRALIA

GLEESON J

IN THE MATTER OF AN APPLICATION BY
GERRARD TATE FOR LEAVE TO ISSUE OR FILE

[2025] HCASJ 3

Date of Judgment: 30 January 2025

C1 of 2025

ORDER

- 1. The application dated 20 December 2024 for leave to issue or file the application for a constitutional or other writ dated 4 December 2024 is refused.*

Representation

The applicant is unrepresented

1 GLEESON J. By application dated 20 December 2024, the applicant ("Mr Tate") seeks leave to issue or file an application for a constitutional or other writ dated 4 December 2024, which names as defendants the Australian Security Intelligence Organisation, the Australian Federal Police, the Prime Minister of Australia, the Minister for Foreign Affairs, the Minister for Employment & Workforce [sic] Relations, the Attorney-General of Australia, the Solicitor-General of Australia, the Defence Minister & the Deputy Prime Minister, and the Minister for Home Affairs.

2 On 12 December 2024, pursuant to r 6.07.2 of the *High Court Rules 2004* (Cth), Steward J made a direction to the Registrar to refuse to file or issue the proposed application without the leave of a Justice first had and obtained by the party seeking to file it.

3 The current application complies with r 6.07.3 and is supported by an affidavit sworn by the applicant on 20 December 2024.

4 For the following reasons, leave to file the proposed application should be refused without listing the application for a hearing.

Principles to be applied

5 The discretion to refuse the leave sought is to be exercised by reference to the criteria set out in r 6.07.1, namely whether the proposed application "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 Implicit in the requirement that a document the subject of an application under r 6.07.3 be considered "on its face" is that such an application falls to be determined on the papers,² that is, without an oral hearing. While there are no "closed categories" of what amounts to an abuse of process, that concept captures attempts to invoke the jurisdiction of the Court on bases that are confused or untenable.³

Consideration

6 The facts and legal grounds underlying Mr Tate's application for a constitutional or other writ are not stated in the proposed application. Nor are they apparent from the supporting affidavit. The proposed application references

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

2 *Re Young* (2020) 94 ALJR 448 at 451 [12]; 376 ALR 567 at 570; *Re Simmonds* [2020] HCA Trans 34.

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

2.

"confidential files which will be provided to the justice", although no such documents have been filed.

7 Mr Tate alleges that the defendants "are in breach of their duties & office". None of the grounds in the proposed application for a constitutional or other writ, nor the contents of his affidavit, indicate the basis for this allegation.

8 The relief sought in the proposed application comprises writs of quo warranto, mandamus, prohibition and an injunction. The applicant also seeks damages in an extraordinary amount without identifying any basis for that claim.

9 It is plain on the face of the proposed application and the supporting affidavit that the applicant seeks to invoke this Court's jurisdiction on a basis that is "confused or manifestly untenable".⁴ Nothing in the proposed application, nor the supporting affidavit, discloses an arguable basis for the relief sought. The proposed application would be an abuse of process if the document was filed.

10 The application dated 20 December 2024 for leave to issue or file the application for a constitutional or other writ dated 4 December 2024 is refused.

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