

HIGH COURT OF AUSTRALIA

STEWARD J

IN THE MATTER OF AN APPLICATION BY
RAKESH LAL FOR LEAVE TO ISSUE OR FILE

[2025] HCASJ 8

Date of Judgment: 17 February 2025
B3 of 2025

ORDER

- The application of 9 January 2025 for leave to issue or file a proposed application for special leave to appeal is dismissed.*

Representation

The applicant is unrepresented

1 STEWARD J. By an ex parte application pursuant to r 6.07.3 of the *High Court Rules 2004* (Cth) ("the Rules") filed on 9 January 2025, the applicant, Mr Lal, seeks leave to issue or file an application for special leave to appeal from orders of the Federal Court of Australia made on 3 December 2024.

2 The applicant is self-represented.

Background

3 On 3 December 2024, Collier ACJ (as her Honour then was) of the Federal Court of Australia made the following orders in proceeding QUD623/2024 ("the December Orders"):

- "1. The Interlocutory Applications lodged by the applicant on 28 and 29 November 2024 be held as pending on eLodgment until the first case management hearing listed before Justice Collier on 6 February 2025.
2. No further interlocutory applications in this proceeding be filed without leave of the Court."

4 On the face of the material put before this Court by the applicant, the context and events leading to the Federal Court making the December Orders is not clear. There is no evidence before this Court of the content of and relief sought in the interlocutory applications lodged by the applicant in the Federal Court on 28 and 29 November 2024 ("the Interlocutory Applications"). Nor does it appear that Collier ACJ gave reasons for the December Orders, although there is no evidence that the applicant requested provision of reasons for the December Orders.

5 The applicant seeks leave to file an application dated 17 December 2024 for special leave to appeal from the December Orders ("the Proposed Special Leave Application"), which outlines the following five proposed grounds of appeal:

- "1. The Registrar's rejection of urgent interlocutory applications, without providing substantive reasoning, constitutes a denial of procedural fairness under principles established in *Kioa v West* (1985) 159 CLR 550.
2. The Federal Court's failure to act promptly on the applicant's interlocutory applications constitutes a jurisdictional error under Section 75(v) of the *Constitution*.
3. The Federal Court's deferral of hearings to February 2025 creates inequitable and unjustified delays, exacerbating financial hardship, professional distress, and educational disruption for the applicant's dependents.

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4. Mackay Base Hospital's persistent non-engagement highlights systemic governance failures in publicly funded institutions, raising significant public interest concerns.
5. The balance of convenience and the severity of harm strongly favor judicial intervention, as established in *Kawasaki Heavy Industries Ltd v Laing O'Rourke Australia Construction Pty Ltd* [2017] FCA 825 [sic]."

6 On 23 December 2024, Beech-Jones J directed the Registrar to refuse to issue or file the Proposed Special Leave Application without the leave of a Justice of this Court first had and obtained, pursuant to r 6.07.2 of the Rules.

7 By his present application of 9 January 2025, the applicant now seeks leave, pursuant to r 6.07.3 of the Rules, to issue or file the Proposed Special Leave Application. The applicant relies on an affidavit in support of his application, which he affirmed on 7 January 2025 ("the Supporting Affidavit").

Principles to be applied

8 The discretion to grant or refuse leave in the present application under r 6.07.3 of the Rules falls to be exercised by reference to the same criteria which inform the action of the Registrar under r 6.07.1. That discretion will ordinarily be exercised to refuse leave to issue or file a document 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.¹ Such applications under r 6.07.3 also fall to be determined without an oral hearing.²

9 While the concept of abuse of process cannot be confined within closed categories, sufficiently for present purposes it encompasses an attempt to invoke the original or appellate jurisdiction of the High Court on a basis that is confused or manifestly untenable.³

Consideration

10 The December Orders were made by a single judge exercising the original jurisdiction of the Federal Court. An appeal from such orders lies with the Full

1 *Re Praljak* [2025] HCASJ 1 at [23] per Steward J; *Re Young* (2020) 376 ALR 567 at 570 [10]-[11] per Gageler J.

2 *Re Young* (2020) 376 ALR 567 at 570 [12] per Gageler J.

3 *Re Praljak* [2025] HCASJ 1 at [23] per Steward J; *Re Young* (2020) 376 ALR 567 at 570 [13] per Gageler J.

Court of the Federal Court,⁴ and such an appeal could only be brought where the Federal Court grants leave to appeal.⁵ This Court does not have jurisdiction to hear any appeal from the December Orders.⁶ Accordingly, the applicant seeks to invoke this Court's jurisdiction on a basis that is confused or manifestly untenable.

11 In any event, the Federal Court has a broad discretionary power, pursuant to r 1.32 of the *Federal Court Rules 2011* (Cth), to make any order it considers appropriate in the interests of justice. Nothing in the material before this Court indicates that the Federal Court's exercise of that discretion to make the December Orders was attended by any error, whether of the kind recognised in *House v The King*⁷ or otherwise.

12 It is plain on the face of the Proposed Special Leave Application that the applicant's proposed appeal is entirely devoid of merit. Neither of the Proposed Special Leave Application nor the Supporting Affidavit disclose an arguable basis for an appeal, noting in particular that:

- (a) by proposed ground 1, the applicant proposes to challenge the rejection of his Interlocutory Applications without provision of reasons. The December Orders from which the applicant proposes to appeal do not provide that the Interlocutory Applications be dismissed, but rather that they be held as pending and not filed until the first case management hearing on 6 February 2025. There is no evidence before this Court of the orders made at that case management hearing, but the issue of filing the Interlocutory Applications will necessarily again fall in the future, or will already have fallen, for further consideration by the Federal Court;
- (b) as to proposed ground 2, s 75(v) of the *Constitution* provides that this Court shall have original jurisdiction in all matters "[i]n which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth". This is of no relevance in the present application, and in any event, the December Orders from which the applicant proposes to appeal do not provide for such a writ;
- (c) by proposed ground 3, the applicant objects regarding the December Orders delaying any hearings in respect of the Interlocutory Applications until the first case management hearing on 6 February 2025. Noting that the Interlocutory Applications were lodged on 28 and 29 November 2024, this

4 *Federal Court of Australia Act 1976* (Cth) at ss 24(1)(a), 25(1).

5 *Federal Court of Australia Act 1976* (Cth) at s 24(1A).

6 *Federal Court of Australia Act 1976* (Cth) at s 33(2).

7 (1936) 55 CLR 499.

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is not a substantial delay, particularly having regard to court closures over the holiday period;

- (d) as to proposed ground 4, it is far from clear why any alleged "persistent non-engagement" by Mackay Base Hospital (the third respondent in the Federal Court proceeding) or any "public interest concerns" are demonstrative of any error in the exercise of the Federal Court's discretion. In any event, the applicant has not adduced any evidence in this Court capable of supporting a finding that Mackay Base Hospital has failed to engage in the Federal Court proceeding, nor has he articulated what public interest concerns arise (save to refer, without further explanation, to "systemic governance failures" and "holding public institutions accountable"); and
- (e) by proposed ground 5, the applicant seeks to invoke the "balance of convenience". While the balance of convenience may be relevant on an appeal from a judgment on an interlocutory application for an interim injunction, it is far from clear what relevance it has to the presently proposed appeal from the December Orders (which precede any determination of, or even the filing of, the Interlocutory Applications). In any event, there is no evidence before this Court capable of supporting a conclusion that the balance of convenience in the Interlocutory Applications weighs in favour of the applicant, nor even any evidence of what relief the applicant seeks in those applications.

13 It follows that the Proposed Special Leave Application would amount to an abuse of process if filed, and accordingly, should not be filed.

14 For the foregoing reasons, the application filed on 9 January 2025 for leave to issue or file the Proposed Special Leave Application is dismissed without an oral hearing pursuant to r 13.03.1 of the Rules.