

HIGH COURT OF AUSTRALIA

JAGOT J

IN THE MATTER OF AN APPLICATION BY ZOFIA
BOZENA MAJAK FOR LEAVE TO ISSUE OR FILE

[2026] HCASJ 16
Date of Judgment: 29 May 2026
M44 of 2026

ORDER

- 1. The ex parte application filed on 1 May 2026 for leave to issue or file the proposed application for a constitutional or other writ is dismissed.*

Representation

The applicant is unrepresented

1 JAGOT J. On 24 April 2026, Gordon J made a direction under r 6.07.2 of the
High Court Rules 2004 (Cth) that the Registrar refuse to issue or file an application
by the applicant for a constitutional or other writ without leave of a Justice first
had and obtained. By ex parte application filed on 1 May 2026 under r 6.07.3 of
the *High Court Rules*, the applicant seeks such leave. The application is supported
by an affidavit affirmed by the applicant on 30 April 2026.

2 For the following reasons, leave to issue or file the proposed application for
a constitutional or other writ should be refused.

Relevant principles

3 The criteria governing the exercise of the discretion to refuse leave to issue
or file a document under r 6.07.3 of the *High Court Rules* are the same as those
that inform the decision of the Registrar to seek a direction from a Justice under
r 6.07.1. That is, leave to issue or file the document will ordinarily be refused
where the document "appears ... 'on its face' to be an abuse of process of the Court,
to be frivolous or vexatious or to fall outside the jurisdiction of the Court".¹

Consideration

4 The proposed application concerns part of the judgment of the Federal
Court of Australia (O'Sullivan J) in *Majak v Barnden*,² which summarily
dismissed, amongst other proceedings, a proceeding brought by the applicant
against the applicant's trustee in bankruptcy ("SAD 14 of 2026"). The proposed
application names as defendants O'Sullivan J and Andrew Barnden in his capacity
as trustee in bankruptcy of the applicant.

5 The relief sought by the applicant includes a writ of certiorari quashing the
order made by the Federal Court dismissing the proceeding, a writ of mandamus
requiring that Court to determine the proceeding according to law, an injunction
restraining the proposed defendants from taking any step which would render the
relief sought nugatory, and an order of prohibition restraining reliance upon the
impugned order as being determinative of insolvency or standing.

6 The applicant has previously sought leave to issue or file a proposed
application for a constitutional or other writ directed to other orders made in *Majak
v Barnden* concerning a proceeding the applicant commenced against a court-

1 *Re Young* (2020) 94 ALJR 448 at 451 [11]; 376 ALR 567 at 570, referring to r 6.07.1
of the *High Court Rules*.

2 [2026] FCA 363.

appointed receiver and the applicant's ex-partner ("SAD 26 of 2026"). I refused leave for that application to issue or file.³

7 In relation to the presently relevant proceeding, SAD 14 of 2026, the applicant contended that she was not insolvent or had ceased to be insolvent, on the basis that a court-appointed receiver had realised proceeds from the sale of property sufficient to extinguish the debt underlying her bankruptcy, being a debt related to costs orders made in the Federal Circuit and Family Court of Australia. O'Sullivan J held that the question of the applicant's insolvency had already been determined on 30 June 2023 in the dismissal of an appeal the applicant made against the sequestration order.⁴ Therefore, the applicant's contention that she was not insolvent could not stand and, in any event, given that all property of the applicant had been vested in her trustee in bankruptcy the applicant had no standing to bring the proceeding. O'Sullivan J also accepted the submissions of the respondents in SAD 14 of 2026 that the proceeding was an abuse of process in that it was an attempt to circumvent vexatious proceedings orders pursuant to s 102QB of the *Family Law Act 1975* (Cth) made in *Massalski & Riley [No 3]*,⁵ and an associated order prohibiting the applicant from instituting proceedings without leave in relation to her former partner in any court with jurisdiction under that Act. In consequence, O'Sullivan J summarily dismissed the proceeding.⁶ His Honour also referred the matter for allocation to a docket judge for the purpose of considering the making of a vexatious proceedings order pursuant to s 37AO of the *Federal Court of Australia Act 1976* (Cth).

8 In the proposed application, the applicant asserts that O'Sullivan J erred in several respects and that she does not "seek to challenge the correctness of any decision on the merits, but to ensure that the controversy brought within federal jurisdiction is determined according to law". The applicant's central contention appears to be that in order to validly exercise its jurisdiction, the only course of action open to the Federal Court was to make a new factual determination as to her insolvency, rather than relying on previous decisions determining that matter.

9 There is no evidence that the applicant has attempted to challenge O'Sullivan J's orders in *Majak v Barnden* by an application for leave to appeal in that Court. The proposed application claims that the "Court did not exercise jurisdiction according to law" and that therefore "[i]t follows that this is not a case

3 *In the matter of an application by Zofia Bozena Majak for leave to issue or file* [2026] HCASJ 9.

4 [2026] FCA 363 at [3], [8].

5 [2022] FedCFamC1F 562.

6 [2026] FCA 363 at [7], [9].

3.

in which an appeal provides an adequate or appropriate remedy" because "[a]n appeal would proceed on the same unexamined premises and would not cure the failure to exercise jurisdiction". However, the Federal Court having summarily dismissed an application is clearly a decision which, subject to any prohibitions or conditions that might be placed on the applicant by a vexatious proceedings order, is amenable to an application for leave to appeal in that Court.⁷ In those circumstances, the proposed application amounts to an abuse of process and no grant of leave to file the proposed application should be made.

10 Further, the applicant's affidavit acknowledges that SAD 26 of 2026 is a related proceeding that "arose from the same underlying financial arrangements and asserted proprietary interests", but does not explain why the applicant has fragmented her applications in this Court by making separate applications in respect of the different proceedings dealt with in *Majak v Barnden*, which itself amounts to an abuse of the process of this Court.

11 The applicant's ex parte application filed on 1 May 2026 for leave to issue or file the proposed application for a constitutional or other writ is therefore dismissed.

7 *Federal Court of Australia Act 1976* (Cth), ss 24(1A), 24(1D).