

HIGH COURT OF AUSTRALIA

JAGOT J

IN THE MATTER OF AN APPLICATION BY JING
YU FOR LEAVE TO ISSUE OR FILE

[2026] HCASJ 34
Date of Judgment: 2 October 2026
C13 of 2026

ORDER

1. *The ex parte application filed on 28 July 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 14 July 2026, Steward J made a direction under r 6.07.2 of the *High Court Rules 2004* (Cth) that the Registrar refuse to issue or file a proposed 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 28 July 2026 under r 6.07.3 of the *High Court Rules*, the applicant seeks such leave. The application is supported by an affidavit affirmed on 24 July 2026 and is accompanied by a proposed Notice of a Constitutional Matter under s 78B of the *Judiciary Act 1903* (Cth).

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 The concept of an abuse of process "cannot be confined within closed categories" but "encompasses an attempt to invoke the original or appellate jurisdiction of the High Court on a basis that is confused or manifestly untenable".²

Background

4 By the proposed application the applicant seeks to challenge: (i) orders made by Edelman J on 14 August 2025 dismissing with costs a previous application by the applicant for a constitutional or other writ; (ii) an order made by Gordon and Beech-Jones JJ on 4 December 2025 refusing leave to appeal from Edelman J's orders; (iii) the refusal by a Registrar of this Court on 5 February 2026 to accept for filing a fresh application lodged by the applicant for a constitutional or other writ; (iv) a direction made by Steward J on 17 February 2026 under r 6.07.2 of the *High Court Rules* in respect of that proposed application; and (v) a direction made by Gleeson J on 1 April 2026 under r 6.07.2 in respect of a further application by the applicant for a constitutional or other writ.

5 The procedural history giving rise to the proposed application is lengthy. Its beginnings are largely set out in the judgment of Edelman J in *Yu v Judges of the*

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

Federal Court of Australia.³ In summary, the applicant was employed by the Australian Capital Territory education authorities until 2016, when her employment was terminated. The applicant commenced proceedings in the then Federal Circuit Court alleging contraventions of the *Fair Work Act 2009* (Cth). The applicant's claims were dismissed at first instance but partly upheld on appeal to the Full Court of the Federal Court, which remitted the determination of remedies. On remittal, the (by then) Federal Circuit and Family Court of Australia held that the applicant's former employer was liable to pay pecuniary penalties totalling \$10,500 but otherwise dismissed the applicant's claims for compensation (including aggravated damages) and exemplary damages. On a further appeal, a single judge of the Federal Court increased the penalties to \$18,600 but otherwise dismissed the appeal.

6 The applicant did not seek special leave to appeal from that decision. Instead, the applicant filed an application for a constitutional or other writ in this Court seeking, in substance, to have the decisions of the courts below quashed and redetermined.

7 It was this proceeding which Edelman J dismissed on 14 August 2025. His Honour observed that some of the orders sought to be quashed had already been set aside at least in part and that, to the extent the applicant sought to challenge extant decisions of the courts below, the applicant: (i) had not exhausted the ordinary appellate process; (ii) had not identified exceptional circumstances justifying departure from that process; and (iii) was attempting to "leapfrog" the ordinary appellate process.⁴ On that basis the proceeding was an abuse of process and dismissed without a hearing under r 25.09.1 of the *High Court Rules*.⁵ Leave to appeal from Edelman J's decision was refused by Gordon and Beech-Jones JJ on 4 December 2025.⁶

8 The applicant subsequently lodged a fresh application for a constitutional or other writ on 2 February 2026 challenging the orders of Edelman J and of Gordon and Beech-Jones JJ. On 5 February 2026, a Registrar of this Court refused to accept that document for filing. On 17 February 2026, Steward J made a direction under r 6.07.2 of the *High Court Rules* directing the Registrar not to accept the document for filing without leave of a justice first had and obtained.

3 [2025] HCASJ 23 at [3]-[5].

4 *Yu v Judges of the Federal Court of Australia* [2025] HCASJ 23 at [7]-[9].

5 *Yu v Judges of the Federal Court of Australia* [2025] HCASJ 23 at [9].

6 *Yu v Judges of the Federal Court of Australia* [2025] HCADisp 273.

3.

9 On 26 March 2026, the applicant lodged a further application for a constitutional or other writ, together with a Notice of a Constitutional Matter pursuant to s 78B of the *Judiciary Act 1903* (Cth), seeking to challenge: (i) the orders made by Edelman J; (ii) the order of Gordon and Beech-Jones JJ; (iii) the Registrar's refusal to file; and (iv) the r 6.07.2 direction made by Steward J. On 1 April 2026, Gleeson J made a direction under r 6.07.2 in respect of that application.

10 The applicant subsequently lodged on 25 June 2026 the proposed application which now must be considered.

Consideration

11 The proposed application is manifestly untenable in its challenge to each of the decisions which it would seek to impugn.

12 In respect of the decision of Edelman J, the applicant submits that his Honour committed jurisdictional error in failing to determine "whether the pleaded allegations of jurisdictional error [by the courts below], together with the supporting factual allegations, disclosed a matter capable of engaging [this] Court's supervisory jurisdiction under s 75(v) of the Constitution". The applicant submits that this was a "real question"⁷ fit for determination so that Edelman J erred in dismissing the proceeding without a hearing. It is apparent, however, that Edelman J considered whether the applicant had established "a constitutional issue" or "a want or excess of jurisdiction by a federal judge that [was] 'clearly shown'".⁸ His Honour's clear answer was that the applicant had not. In those circumstances, the applicant's complaint is unfounded.

13 The error asserted by the applicant in relation to the refusal by Gordon and Beech-Jones JJ of leave to appeal from Edelman J's decision is essentially similar in nature. The applicant submits that in "summarily refus[ing] leave to appeal without an oral hearing [the] Full Court did not determine whether the alleged errors identified in the grounds of appeal and supporting material provided reasons to doubt the correctness" of Edelman J's decision. This submission again overlooks the express terms of the disposition, which included that "[n]othing in the applicant's application for leave to appeal raises any reason to doubt the correctness of the decision of Edelman J".⁹ Again, therefore, the asserted error is unfounded.

7 *Dey v Victorian Railways Commissioners* (1949) 78 CLR 62 at 91.

8 *Yu v Judges of the Federal Court of Australia* [2025] HCASJ 23 at [9] (footnotes omitted).

9 *Yu v Judges of the Federal Court of Australia* [2025] HCADisp 273 at [2].

14 It is unnecessary to address the challenge to the third of the decisions impugned by the proposed application – that is, the decision of the Registrar to refuse filing of a further application for a constitutional or other writ – in circumstances where that further application shortly thereafter became the subject of a direction made by Steward J under r 6.07.2, which the proposed application would also challenge.

15 The applicant's challenge to the direction made by Steward J, and to the subsequent direction made by Gleeson J in respect of a yet further application, identifies as the vice of the directions the absence of reasons given for them. The applicant submits that "[i]n the absence of any articulated basis for the exercise and continuing maintenance of that power, it was not possible to assess whether the directions were made and maintained within the limits prescribed by r 6.07". However, this submission is irreconcilable with the evident premise of r 6.07.2, namely that "the formation of [the relevant] view by a Justice of this Court will be on the face of the document and will therefore generally require no reasons".¹⁰ The applicant has not identified, and nor could she identify, any departure from the procedure authorised by r 6.07.2 in relation to the impugned directions. This aspect of the proposed application is therefore baseless.

16 Even leaving aside the above, the proposed application suffers, upon analysis, the same vice identified by Edelman J in its predecessor of purporting to "leapfrog" the ordinary appellate process.¹¹ In particular, its ultimate object is, evidently, to reopen matters decided by the lower courts. For the reasons given by Edelman J that course is inappropriate and the proposed application amounts to an abuse of process.

17 The applicant's ex parte application filed on 28 July 2026 for leave to issue or file the proposed application for a constitutional or other writ is therefore dismissed.

10 *In the matter of an application by Colin George Dunstan for leave to issue or file* [2026] HCASJ 11 at [5].

11 *Yu v Judges of the Federal Court of Australia* [2025] HCASJ 23 at [11].