HIGH COURT OF AUSTRALIA

BEECH-JONES J

RYAN HARRISON YOUNG PLAINTIFF

AND

MINISTER FOR IMMIGRATION AND CITIZENSHIP DEFENDANT

[2026] HCASJ 40
Date of Judgment: 11 November 2026
B66 of 2026

ORDERS

1. *The plaintiff be granted leave to amend his application for a constitutional or other writ in the form of Annexure X to his affidavit affirmed on 20 October 2026.*

2. *The document that is Annexure X to the plaintiff's affidavit affirmed on 20 October 2026 is to stand as his Amended Application for a Constitutional or Other Writ.*

3. *Pursuant to section 44(1) of the Judiciary Act 1903 (Cth), the matter be remitted to the Federal Circuit and Family Court of Australia (Div 2).*

4. *The matter continue in the Federal Circuit and Family Court of Australia (Div 2) as if the steps in this Court were taken in the Federal Circuit and Family Court of Australia (Div 2).*

5. *The Registrar of this Court provide to the proper officer of the Federal Circuit and Family Court of Australia copies of all documents filed in this Court.*

6. *The costs of the proceedings in this Court to date be costs in the Federal Circuit and Family Court of Australia.*

7. *The costs in this Court, including the costs of any taking out of this order, be according to the scale applicable to proceedings in this Court and thereafter to the scale applicable in the Federal Circuit and Family Court of Australia and in the discretion of that court.*

Representation

The plaintiff is unrepresented

The defendant is represented by Australian Government Solicitor

2.

1 BEECH-JONES J. For the reasons that follow these proceedings will be remitted to the Federal Circuit and Family Court of Australia (Div 2).

2 The plaintiff is a citizen and resident of the United States of America. He is a party to proceedings under the *Family Law Act 1975* (Cth) in the Federal Circuit and Family Court of Australia. Over many years he has applied for visas to enter Australia to be present for those proceedings.

3 On 16 September 2026 the plaintiff filed an application for a constitutional or other writ naming the Minister for Immigration and Citizenship ("the Minister") as the defendant. The application sought various forms of relief in relation to an outstanding application for a visitor visa (subclass 600) he lodged on 15 October 2024. On 17 September 2026 Jagot J refused an application by the plaintiff for expedition of the proceedings.

4 On 16 October 2026 a delegate of the Minister granted the plaintiff a visitor visa, valid for a period of one month on his arrival. The delegate imposed three conditions on the grant of the visa, including condition 8503 precluding him from being granted a further substantive visa in Australia other than a protection visa. The plaintiff travelled to and entered Australia on the day the visa was granted.

5 On 22 October 2026 the plaintiff filed an application for leave to amend the application for a constitutional or other writ and an affidavit annexing a proposed amended application. The proposed amendments are lengthy. Two of the forms of relief appear to seek to only quash the temporal limitation on his visitor visa. The balance of the relief sought principally seeks to quash the imposition of condition 8503 and have the Minister redetermine that aspect of the plaintiff's application for a visa.

6 On 29 October 2026 the plaintiff filed an application seeking various forms of injunctive relief, the broad effect of which was to keep him lawfully in the country beyond the expiry of his visitor's visa. The plaintiff also filed an affidavit the effect of which is that he seeks to remain in Australia to participate in the proceedings under the *Family Law Act 1975* (Cth).

7 On 2 November 2026 the Minister filed a response consenting to the plaintiff being granted leave to amend the application. The Minister's response conceded that the decision to grant the plaintiff's visitor visa was affected by jurisdictional error by reason of an alleged failure to engage with the matters put by the plaintiff when he applied for the visa as to his length of stay. The Minister agreed to submit to orders setting aside the decision to grant the plaintiff's visitor visa and redetermine it according to law. The Minister disputed that the balance of the relief sought by the plaintiff should be granted. The Minister's response noted that the plaintiff cannot be granted a visitor visa while he remains in Australia. On 10 November 2026 the plaintiff filed a reply refusing to agree to the orders proposed by the Minister.

8 On 5 November 2026 the plaintiff was granted a bridging visa that takes effect when his visitor visa ceases on 16 November 2026.

9 In circumstances where the plaintiff entered Australia on the basis of a visa granted by the Minister I am not prepared at this point to make a finding that the decision was affected by jurisdictional error or grant relief to that effect given that would appear to remove his basis for remaining in Australia prior to 16 November 2026. That said, it is not apparent whether there is any basis for any relief to be granted by the Court enabling the plaintiff to either be granted a further visa or to prevent his removal from Australia on or after 16 November 2026.

10 Both parties accepted that the Federal Circuit and Family Court of Australia (Div 2) has jurisdiction to determine an application for judicial review of the decision to grant the plaintiff a visitor visa. The plaintiff opposed remittal, and the Minister contended that remittal was of no utility given the concession of jurisdictional error. However it is self-evident that the concession does not resolve the proceedings.

11 The position has been reached where the plaintiff should be given the opportunity to put a case for the further relief he seeks or relief that will enable him to remain in Australia for some period beyond 16 November 2026 or following the expiry of his bridging visa. The parties should also have the opportunity to discuss some means of resolving the morass that it appears to be developing. These matters should be addressed before a trial court, namely the Federal Circuit and Family Court of Australia (Div 2). They are not matters for this Court.

12 Accordingly, I make the following orders:

1. The plaintiff be granted leave to amend his application for a constitutional or other writ in the form of Annexure X to his affidavit affirmed on 20 October 2026.

2. The document that is Annexure X to the plaintiff's affidavit affirmed on 20 October 2026 is to stand as his Amended Application for a Constitutional or Other Writ.

3. Pursuant to section 44(1) of the *Judiciary Act 1903* (Cth), the matter be remitted to the Federal Circuit and Family Court of Australia (Div 2).

4. The matter continue in the Federal Circuit and Family Court of Australia (Div 2) as if the steps in this Court were taken in the Federal Circuit and Family Court of Australia (Div 2).

5. The Registrar of this Court provide to the proper officer of the Federal Circuit and Family Court of Australia copies of all documents filed in this Court.

6. The costs of the proceedings in this Court to date be costs in the Federal Circuit and Family Court of Australia.

7. The costs in this Court, including the costs of any taking out of this order, be according to the scale applicable to proceedings in this Court and thereafter to the scale applicable in the Federal Circuit and Family Court of Australia and in the discretion of that court.