



HIGH COURT OF AUSTRALIA

9 September 2026

GXT25 v MINISTER FOR IMMIGRATION AND CITIZENSHIP
[2026] HCA 32

Today, the High Court unanimously refused an application by the plaintiff for an extension of time within which to file an application for a constitutional or other writ directed to the Minister for Immigration and Citizenship, and for related relief, in respect of a decision of a delegate of the Minister refusing to grant the plaintiff a Protection (Subclass 866) visa.

The plaintiff is a citizen of Kenya who arrived in Australia as the holder of a student visa. On 16 October 2024, after the expiry of his student visa, the plaintiff applied for a protection visa. His original claim for protection was based on a fear of harm in Kenya by reason of his Christianity. The Department sought further information about the plaintiff's Christianity, which the plaintiff provided. The plaintiff then provided a second response in which he claimed that he feared harm in Kenya by reason of his sexual orientation as a homosexual man and provided documents said to support that claim, including documents relating to an alleged assault in Kenya.

The delegate did not accept that the plaintiff was a homosexual man who feared harm in Kenya on that basis and concluded that the plaintiff had fabricated this claim. In reaching that conclusion, the delegate relied on several matters including the plaintiff's delay in raising the claim, the limited detail given about the alleged assault, and country information concerning fraudulent documents and conditions for LGBTIQ+ persons in Kenya.

The plaintiff sought merits review in the Administrative Review Tribunal, but that application was made outside the time prescribed by the *Migration Act 1958* (Cth) and was required to be dismissed. An application for judicial review in the Federal Circuit and Family Court of Australia (Division 2) was also dismissed.

By the application for a constitutional or other writ, the plaintiff contended that the delegate denied him procedural fairness by failing to give him notice of, and an opportunity to respond to, critical adverse issues including the veracity of his documentary evidence and sexual orientation claim. The plaintiff also contended that the delegate failed to comply with s 57 of the *Migration Act* by relying on country information concerning document fraud in Kenya without giving the plaintiff particulars of that information and inviting comment on it, and that the delegate's finding of fabrication was illogical, irrational or unreasonable.

The High Court rejected each ground. The Court held that the veracity of the plaintiff's documentary evidence and claims was an obvious and known issue on the available material. Further, there was no failure to comply with s 57 as the country information was not specifically about the plaintiff and the delegate's decision was not illogical, irrational or unreasonable. The Court accordingly held that it would be futile to extend the time available for the bringing of the application.

This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.