

SUPREME COURT OF QUEENSLAND

CITATION: *Skyring v Dixon* [2010] QSC 150

PARTIES: **ALAN GEORGE SKYRING**
(applicant)

v

JEFFREY ARTHUR DIXSON
(respondent)

FILE NO/S: 3629 of 2010

DIVISION: Trial

PROCEEDING: Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 21 April 2010

DELIVERED AT: Brisbane

HEARING DATE: 21 April 2010

JUDGE: Fryberg J

ORDERS: **Application dismissed.**

CATCHWORDS: Procedure – Supreme Court procedure – Queensland – Jurisdiction and generally – Generally – Applicant declared vexatious litigant – Application to institute a proceeding – Futile and hopeless arguments – Application dismissed

Judicial Review Act (Qld)
Vexatious Litigants Act 1981 (Qld)
Vexatious Proceedings Act 2005 (Qld), s 16

Kirk v Industrial Relations Commission of New South Wales
(2010) 239 CLR 531; [2010] HCA 1, cited

COUNSEL: The applicant appeared on his own behalf
Ex parte

SOLICITORS: The applicant appeared on his own behalf
Ex parte

HIS HONOUR: This is an application by Alan George Skyring for leave to institute a proceeding that is subject to an order to a vexatious proceedings order, in effect prohibiting him from so doing.

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Mr Skyring is and has, for many years, been a declared vexatious litigant under the *Vexatious Litigants Act 1981*, which has been repealed by the *Vexatious Proceedings Act 2005*, but the declarations continue in effect by reason of s 16 of the 2005 Act.

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Mr Skyring has supported his application with an affidavit setting out the occasions on which he has applied for leave under either Act. In fact, the occasions are all under the previous Act, and they are listed, or more accurately, described, over some almost three pages of his affidavit. It is unnecessary to describe them here in detail.

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Mr Skyring seeks to have the leave because he wishes to commence proceedings by way of judicial review, or more accurately by way of application for a prerogative writ, to challenge a decision in the Magistrate's Court under the *TORUM Act*. The purpose of the challenge, he told me, is to raise two very important points: first, a challenge to the whole order of Government in Queensland, and perhaps Australia, and second, to the legality of the currency of Australia.

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He submits that the *Judicial Review Act* itself is invalid and that he can by the old prerogative writs challenge both the

decision in the Magistrate's Court and the order made against him under the *Vexatious Litigants Act*.

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His foundation for bringing the application now is his understanding of the decision of the High Court given earlier this year, and the reasons which were advanced for that decision more recently, in *Kirk v Industrial Relations Commission of New South Wales* [2010] HCA 1.

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Mr Skyring did not refer me to any particular part of the judgment in that case, but relied upon the summary of it which he had obtained from a commentary on the case. That summary, as I understand it, is that the case decides that a State Parliament may not, by legislation, remove the right of a citizen to apply in the Supreme Court of a State for constitutional writs, that is the prerogative writ.

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The precise ratio decidendi of *Kirk* will no doubt be worked out over time. Whether Mr Skyring's commentary's perception of the effect of the decision is correct may be doubted. However, it seems to me that it is, in any event, not to the point. The *Judicial Review Act* does not abolish the substance of the prerogative writs, it simply changes the procedure which is to be used in obtaining relief of the same nature. And, indeed, the Act refers to relief in the nature of each of the former prerogative writs. That was not something which was the subject of any challenge in *Kirk*, and no reading of that case can rationally be made which would cast any doubt on the efficacy of the *Judicial Review Act*.

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It does not seem to me that the Act operates as a denial of the inherent jurisdiction of this Court, but only as a regulator of the procedure by which this Court exercises jurisdiction. That is the first point. Nothing has changed.

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The second point is that the proceedings which Mr Skyring seeks to bring are for the purpose of raising two points, what he calls the "whole order of Government" and the "currency" point, which he has attempted to raise over many years.

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He submits that there has been no attempt by any Court definitively to address these questions. Whatever efforts have been made, that certainly have not satisfied Mr Skyring.

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Unfortunately for him, in the present proceedings, it seems to me that his arguments on these aspects of the matter are hopeless and futile. Like many previous Courts before me, I do not propose to descend into a detailed analysis of the arguments, or an explication of the rebuttal of them. Those interested may find sufficient of that in the reports of earlier decisions.

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It follows that in my view nothing has changed in relation to the *Judicial Review Act*, and the purpose for which the leave is sought is a futile purpose.

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Those factors lead me to the conclusion that it would not be appropriate to grant leave. The purpose of the *Vexatious*

Proceedings Act is to prevent respondents from having to take the trouble and bear the expense of defending futile proceedings. That purpose is served by not permitting proceedings, which Mr Skyring proposes to bring, to proceed. Leave is therefore refused. The application is dismissed.

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