SUPREME COURT OF QUEENSLAND

CITATION:	*Gilchrist v Queensland Parole Board* [2011] QSC 328
PARTIES:	**DAVID GILCHRIST** (applicant) v **QUEENSLAND PAROLE BOARD** (respondent)
FILE NO/S:	BS 6437/11
DIVISION:	Trial
PROCEEDING:	Costs Application
ORIGINATING COURT:	Supreme Court, Brisbane
DELIVERED ON:	9 November 2011
DELIVERED AT:	Brisbane
HEARING DATE:	On the Papers
JUDGE:	Dalton J
ORDER:	**Each party bear their own costs of and incidental to the proceeding.**
COUNSEL:	M Black for the applicant SA McLeod for the respondent
SOLICITORS:	Prisoners' Legal Service for the applicant Crown Solicitor for the respondent

[1] **DALTON J:** The applicant is a prisoner who made an application for statutory review of a decision of the Queensland Parole Board not to grant him parole. I dismissed the application ex tempore after hearing it in the applications list. The applicant submits that pursuant to s 49 of the *Judicial Review Act* 1991 he ought bear only his own costs, regardless of the outcome of the proceeding.

[2] The material before me shows that the applicant has almost no financial resources – see s 49(2)(a)(i). I do not believe the proceeding involved the public interest. It involved the application of well known principles to an unremarkable decision of the Parole Board. While the application was not frivolous, it did not seem to be one which could have been assessed as having good prospects of success.

[3] I take into account that when applications such as these are brought, the State is put to the expense of defending them and that the usual order as to costs – that they follow the event – has a purpose, not to punish the unsuccessful applicant, but to

compensate the successful respondent – *Oshlack v Richmond River Council*[1]. Section 49 of the *Judicial Review Act* 1991 does effect a change in the normal rule (r 681 UCPR) in matters in which it applies, because it mandates consideration of, inter alia, the financial resources of the relevant applicant.

[4] In this case I make an order that each party bear its own costs of and incidental to the application on the basis that, as the applicant has proved he has no financial resources, there would in fact be no practical utility in making an order that costs follow the event, notwithstanding the respondent State has been put to the expense of defending the application. While I do identify a lack of merit in the application, on the facts of this case, that factor is not such that it persuades me to make a costs order against the applicant to signify disapproval of the application, notwithstanding that the costs order would have no practical benefit to the respondent.

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1 (1998) 193 CLR 72.