SUPREME COURT OF QUEENSLAND

CITATION:	*Kotev v Federal Government of Australia & Ors* [2010] QCA 296
PARTIES:	**ERIC KOTEV** (applicant/appellant) **v** **FEDERAL GOVERNMENT OF AUSTRALIA &** **VICTORIA STATE GOVERNMENT &** **AUSTRALIAN LABOUR PARTY &** **AUSTRALIAN LIBERAL PARTY &** **PRESIDENT OF THE MAGISTRATES COURT OF** **MELBOURNE** (respondents)
FILE NO/S:	Appeal No 9468 of 2010 SC No 8482 of 2010
DIVISION:	Court of Appeal
PROCEEDING:	General Civil Appeal
ORIGINATING COURT:	Supreme Court at Brisbane
DELIVERED ON:	22 October 2010
DELIVERED AT:	Brisbane
HEARING DATE:	15 October 2010
JUDGES:	McMurdo P, Muir JA and Cullinane J Separate reasons for judgment of each member of the Court, each concurring as to the order made
ORDER:	**Appeal dismissed.**
CATCHWORDS:	PROCEDURE – SUPREME COURT PROCEDURE – QUEENSLAND – JURISDICTION AND GENERALLY – GENERALLY – appellant sought to file originating application, claim and statement of claim – registrar referred originating process to the Court pursuant to r 15 *Uniform Civil Procedure Rules* 1999 (Qld) (UCPR) – primary judge directed pursuant to r 15(2)(b) UCPR that registrar refuse to issue originating process without leave of the Court – appellant applied for leave to issue claim and statement of claim – primary judge refused application for leave – whether judge erred in refusing application *Uniform Civil Procedure Rules* 1999 (Qld), r 15
COUNSEL:	The appellant appeared on his own behalf No appearance for the respondents

SOLICITORS: The appellant appeared on his own behalf
                   No appearance for the respondents

[1]   **McMURDO P:** Eric Kotev sought to file the following originating application,

claim and statement of claim in the Supreme Court registry at Brisbane:

SUPREME COURT OF QUEENSLAND

1 2 AUG 2010

FILED BRISBANE   Supreme /district / magistrates court of Queensland

registry   Brisbane
number BS 8482/10.

applicant   eric kotev

first respondent   federal government of Australia
                             and
second respondent   Victoria state government
                             and
third respondent   Australian labor party
                             and
forth respondent   Australian liberal party

FiPTh respondent - presidit of mgisTrate courT melbourhe

originating application

to the respondents   take notice that the applicant is applying to the court for the flowing orders:
Leare To Proceed To FiLe the cLaih and statmeht of cLaih
1.that eric kotev is the defender of australia ,on its implications.

2.that this honored court shall ad respondents or alternatively remove respondents as this honored
court deems appropriate

3.further that this hounoured court shall applicants as this hounored court deems appropriate.

4.that the respondents number 3 and 4 are partners and unlawful organizations.

5.a state of security emergency in australia.

6.that the applicant share the same wrights as his x wife concerning his children.

7.that the respondent number 2 shal stop proceedings against the applicant.

8.that the aec shall become an applicant to the originating application.

9.that the respondent number 1 shall become an applicant to the originating application.

10.such further orders as this honored court deems appropriate.

#the respondents pay the applicant 100.000.000 one hundred million dollar.

Filed in the Brisbane registry on 12.8.2010

this aplicaTioh Tic be heard court aT brisbahe

20 AUG 2010 @ at 10.00am
registry   Brisbane

Registrar:

SUPREME COURT OFFICE BRISBANE

Statement of claim

1   This claim by the son of god, as we are al his children

2   I red the words of Moses and they are grate wisdom. i red the words of Jesus cries and they are grate insight .i red the words of al rasoul al cabir and they are grate knowledge –god is one.

3   In the name of god and the people .i am committed to god ,to the people .i will defend them and they will defend me.

4   Its been decades that the people of Australia are being controlled by two parties, sharing and changing the governing between them. through terror improving corruption without accountability .parties that we didn't choose and do not represent us. Rubber seal of tycoons oligarchy and not democracy neither monarchy .a Group of overseas narrow interests who sale us and the resources of Australia .dictating the people through divide and role –this term have a name in political science, it is clad "conspiracy of the weak" ,rolling through dividing between husband and wife ,children and parents. using our agents against us and unlawful corporation between government authorities ,between public servants, Judges ,police, companies woo paid bribery in the cover of donations and more, .corruption became a norm.

5. For the last 8 years the government of Australia acted against me – cooperating to the Israeli corrupt government, screening me in Australia and Israel with radiation and electro magnetic beams ,running into my family with a car and then stole my compensation. steeling my land ,steeling my business that I got by law, inflicting emotional stress on me through insulation. hurting my friends ,murdering my father and now kidnapping my children – all that and much more for defending the people. Mosad agenTs aTackT me oh 2009. ~ (remark) and 2010. Oh EL AL Flights FRom Hohq Kohg

6. When I got better they kept on hurting me .causing my x wife to brake an agreement and fleeding the family court of qld to vic .together with my children and then using them against me .my children are hurt with strangers .the judges who are getting paid grate amount of money did nothing for the last 3 years .when I went for them the government of vic hurt me physically and mentally. Beaten and sick. using the known corrupt police of vic with history agaist me – stop using jews against us .your methods are known and this is not the first time.

7. How it was done - I was arrested and prevented my basic wrights – a phone cal then a layer ..then legal aid came and sighed me on papers with out my glasses as a condition for my bail ,for the intervention order and was asked to leave vic on the intimidate -legal aid layer told me not to show up for the court case - but didn't show up them selves .the damages -no children,no jury. no witnesses. no proofs. no expert witnesses .no elections for the people .no nothing -well ,well.

8. I was denied my basic wrights – phone cal or a lawyer .hurt and turcherd for my religion ,my gender ,my race.. didn't let me defend my self in court. removed from vic and being judge without my presents. all that in Australia 2010 ,all that against the law ,against their party policy .it was done to me its being done every day to the people.

The prosecution red to the judge the accusations -the judge looked at me with a dirty look .i tried to stand up and say -your honor ,i am presumed Innocent until proven otherwise .but at this point the legal aid layer hold me and said – sit down and don't say nothing. then he deserted ,betrayed me .

9. Using my lawyers against me for the second time .the judges cooperated – prevented me from seen my children wile using them against me by the police. cooperating to my poor x wife , which fled away from government harassment .then they cooperated to the qld police –sending them with papers and threatening me to sign papers .threatening witnesses in court in front of the eyes of the jodge not to testify. the politicians knew but didn't act – they have an obligation to ,but it was convenient not to – they breeched the law and then suing me for defending the people. I shal judge you for doing and undoing.

10   I have raised for the Australian people and opened a political party,to run for the federal election. based on good australians.as a base for first true molty cultural party in Australia – the common will party – the government blocked the Australian people from representing them self's in parliament – the court of vic authorized the adjournments initiated by the police straight into the election days without my presents – as I was denied access to court from vic at all – my government legal id lawyer told me that if il come to the court to defend my self il get arrested again – but then he himself cooperated to the government and didn't show to the court at all –we cannot have justice in Australia ,the government left the people out. I have sent letters to the defendents and the governor of Australia -wouldn't bother to answer.

11 .   the law said that we shall have 40 days from the election to daClaire that the elections are not valid - so far the aec didn't act and by then il be in a different state ,defending my self on a court case in melbourne -did we say organized crime.

12   Iv asked from the minister for an inquiry – the police inquired them selves – said every thing is al Wright and then asked for reconciliation – but on the other hand kept pushing the case against me .

13   If You took all ,you are responsible for all. Share the governing with the people or loose it .

14   We are the people ,from saints to sinners .we are the people ,we eat ,we drink, we smoke ,we make love –let us be. We demand our land ,our governing ,our justice ,our freedom, our happiness .all that was given to us by our father in heaven and taken by you.

15   the government override the law and prevented us from getting into the stases of Australia in order to represent our self's – we shall move to Canberra. decades of governing led to a corrupt systems of law and justice for the rich only .law and election systems that you need agents to get into and then they using your agents against you – the law said that it should be understood for the average person – it is not so and I am a university graduate – your systems are not lawful, which makes you unlawful –history will judge you.

16   You have crowned your self's and left us the dol.

17   if there is no law then there is caos – give us guns to defend our selves .you are leading towards a revolution ,you are leading towards civil war.

18   You have acted in a policy that Australia cannot hold neither sustain – and the world is watching .the Australian people said no to the war in Afghanistan .we need to merge in the region.

19   When god will come to clame ,when god shall ask – what have you done with my flock – what shall I tell him.

20   I lodged a claim in the supreme court . then Kevin said sorry to the aborigines – so said the lord,as it is written –you are all as blacks – and my children the aborigines are sniffing patrol.

21   I lodged second claim in the supreme court and the queen of England said sorry to the Irish – and the blood is on the floor – so said the lord – I have not desired ,not your prayers ,not your sacrifices – do not step on my yard again.

22   All states against one man ,who said do not touch the people. not in my force said the lord ,but in my spirit.

23   I shall give my last drop of blood for you to have your say ,what about us the people.

24   So said the lord ,do not touch my son and my prophet you shall not hurt as I will come to clame .you shall built walls in my holy city Jerusalem and I shall destroy them as the walls of Jericho.

25   For this I blame ,giant organizations,with grate power .heads of public servants who turned corruption to a norm. who are responsible to their actions and the actions of their menegers employees and messengers.

26   Aiding and abetting /accessory ; abducting children. conspiracy/deprivation of civil wrights. Neglect of duty. Failure to enforce. Discrimination of gender /sex. Negligence supervision. Breach of trust . Breach of duty. Preventing the course of justice. False imprisonment. Interfering with political liberty . Ofence to harass a witness. Ofence of Sirius racial and religion vilification. Ofence to provide misleading information. Inflorescence the election. Contributing to negligence. Diversion of justice. In bad faith. Misleading justice. Treason. Breach of contract. Breach of trust. Inflicting motional distress. Betrayal, damages .and more ,and more,and more...

(remark)   child abuse, crimes against umanaTy.

27   The people are not for sale.

       remark – Jhon bromby said sory For The bush Fire, I accept That as an admiTion and he will be Forgiven.

28 I accuse :

federal labor party on its australian branches.

Federal Liberal party on its aaustralian branches.

julia gilard

tony abot

federal attorney general

premier of Victoria

aec commissioner

minister of police and justice victoria

chief of police vic

bailiff melbourne

minister of Justice qld

president of magistrate court Melbourne (chif of justice)   remark

president of family court brisbane (chif of justice)

commander of Brighton police vic

commander of morabin police vic

ligal aid vic

vic police prosecutor

David ingram

keli mervin

Kevin rod

29 Where are you running without the people

30 Do not betray me by the third.

31 The one that do peace in heaven shall do peace upon Australia and the
all world ,and we say amen.

Defender of the people .

Eric kotev

[2]   This originating application, claim and statement of claim were accompanied by a bundle of supporting material comprising about 130 pages. It is impossible to make sense of these documents, but they suggest that Mr Kotev may have a number of grievances. One may relate to a personal injury he sustained in a motor vehicle accident outside Queensland. Another may relate to the breakdown of his marriage and his relationship with his children. Another may relate to criminal charges brought against him in Victoria. Another seems to concern his unsuccessful attempt to register a political party. Many of these grievances appear to be outside the jurisdiction of the Supreme Court of Queensland, but in any case he has not articulated any of his claims in a coherent way and certainly not in a way which complies with the requirements of the *Uniform Civil Procedure Rules* 1999 (Qld (UCPR). Further, some of the references in the material appear to be racist.[1]

[3]   The registrar considered that the originating application and associated material may be an abuse of the process of the court or may be frivolous or vexatious and referred it to a judge of the Trial Division of this Court under UCPR r 15 which provides as follows:

> "(1) If the registrar considers an originating process appears to be an abuse of the process of the court or frivolous or vexatious, the registrar may refer the originating process to the court before issuing it.
> (2) The court may direct the registrar—
>   (a) to issue the originating process; or
>   (b) to refuse to issue the originating process without leave of the court."

[4]   The judge directed, pursuant to UCPR r 15(2)(b), that the registrar refuse to issue the originating process without leave of the court. Mr Kotev then applied for leave to issue the claim and statement of claim in these terms:

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[1]   See, for example, para 6 and para 20 of the statement of claim.

To the respondents take notice that the applicant is applying to the court for the flowing urgent orders:

leave to appeal to file the claim and statement of claim.

1. a state of security emergency in Australia.
2. That eric kotev is the defender of australia
3. to the victoria police prosecutor to dismiss al charges against eric kotev
4. further to the victoria police prosecutor to dismiss al charges against esther kotev
5. further and alternatively to the vic police to relies ester kotev from any imprisonment.
6. Further and alternatively to victoria public prosecuter to dismiss any charges against eric kotev
7. to ad the common wealth public prosecutor as an applicant
8. That eric kotev is intiteld as a father to have is children.
9. further to ad applicants as this honored court deems appropriate.
10. Further to ad respondents and alternatively dismiss respondents as this honored court deems appropriate.
11. Such further orders as this honored court deems appropriate.
12. To ad The a-c as ah apticahT.
the respondents pay the applicant 100.000.000 - one hondred milion dollar.

Filed in the brisbane registry

registry   brisbane

[5]   At the hearing of Mr Kotev's application the judge invited him to make submissions in support of it. Mr Kotev's oral submissions were incoherent, incomprehensible and nonsensical. The judge explained to him that, if his complaint was a criminal matter, he should go to the police. The judge also explained to him that, if his claim involved a civil dispute, he must set it out in a proper form which complied with the UCPR and that, to assist him in this respect, he should obtain legal advice. Mr Kotev did not respond rationally. Ultimately, the judge refused Mr Kotev's application for leave.

[6]   This appeal is from that order. Mr Kotev contends:

2. GROUNDS -

see also Developments - afidavit

1. fifth respondent on the originating proces is mising -i have aded the fift respondent infront of 2 public servmts of the supreme court.and the court must have a copy.

2. there are no court seals on pages of the originating proces.

3. i have asked the court for an urgentproces and was rejected.it should have been started by urjent aplication and not leave to apeal.

4. the jodge recived important matireal and have an obligation .inclouding the representative respondent n, 3

5. no one have the wright to take from me or from the people the wright of self defence. As the common wealth public prosecuter was served with a weetness and chose not to show.

6. my reqest from the jodges was just, concreat and urjent .leave for apeal was a delay with grate implications ,on the elctions ,on me and to the people.the jodge had infront of her new orders and so the respondent n.3

7. by section n, 11a to uniform,, there was areel ishue and urjent.

8. by section n,12 oral aplication should have been granted -urjent.i had a court case in melbourn and ther were proofs infront of the jodge.

9. by section 13 could give any descision .

10. by section 16 i represent the people.

11. by section 23 -no conditional intention to defend.

12. I objected that my cae wil be heard in melbbourn and asked to unite cases -my children were abdocted from qld.

13. all persons and parties incloud in the document that I gave to court -inclouding respondent n, 5 that I served him with the document from the court and kept on jodging me.

14. the public prosecutor didnt show ,the jodge did not cal him al thow I did infront of the jodge ,me and the people sustain damages.

15. the registrer and the jodge may be aded as respondents.and the public prosecutor to.

16. by section 64respondent didnt show up -partners.those who didnt show up to pay -inclouding those who showed up.i see not showing up as admition as there is no conditional intention to defend.

[7]   Mr Kotev has filed written submissions in support of his appeal. He appeared and made oral submissions at the hearing of his appeal and also handed up a large bundle of material. Nothing that has been placed before this Court has demonstrated that the primary judge erred in any way in refusing Mr Kotev's application for leave. The appeal must be dismissed.

ORDER: Appeal dismissed.

[8] **MUIR JA:** I agree that the appeal should be dismissed for the reasons given by McMurdo P.

[9] **CULLINANE J:** I have had the opportunity to read the draft reasons of the President in this matter. I agree with the reasons and the orders proposed.