

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

MCMURDO J

No 7991 of 2007

LEONARD WILLIAM CLAMPETT

Applicant

and

ROBYN HILL, PRINCIPAL REGISTRAR OF
THE DISTRICT COURT OF QUEENSLAND

First Respondent

and

ANTHONY GETT

Second Respondent

and

JUDGE GRIFFIN

Third Respondent

BRISBANE

..DATE 25/09/2007

JUDGMENT

HIS HONOUR: Mr L W Clampett has commenced proceedings
purportedly pursuant to the Judicial Review Act 1991 against
three respondents.

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On the first return date of this application each respondent
sought orders for the summary dismissal of Mr Clampett's case
arguing that the case has no reasonable basis, is frivolous or
vexatious and constitutes an abuse of process.

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Mr Clampett commenced these proceedings in the following
circumstances. On 9 November 2006 he was convicted in the
Magistrates Court of an offence against the Tax Administration
Act 1953 of the Commonwealth. He was fined \$1,500 in default
15 days' imprisonment with six months to pay.

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On 23 November 2006 he filed an appeal under section 222 of
the Justices Act against his conviction and sentence. His
appeal was listed for hearing on 6 September before his Honour
Judge Griffin SC. When the appeal was mentioned in the
callover that morning Mr Clampett made a submission to the
effect that the Court lacked jurisdiction to entertain the
appeal which he had brought before it.

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Notwithstanding that submission, the appeal was called on for hearing later in the day. Mr Clampett was then sitting in the public seating of the Court room but declined to come forward to the Bar table to argue his case. Counsel then appearing for the prosecution, Mr Gett, applied for the appeal to be struck out and his Honour so ordered. Mr Gett is the second respondent in Mr Clampett's present proceedings.

His Honour, Judge Griffin, is the third respondent. The first respondent is the Director of Courts, Supreme and District Courts, formerly the Principal Registrar and Court Administrator. She is joined because Mr Clampett is dissatisfied with her response, or non-response to correspondence which he sent to her in relation to his appeal to the District Court.

Mr Clampett, who is not legally represented, explained to me that at the heart of his case against each respondent is this point. He says that his notice of appeal to the District Court was not duly sealed by that Court, with the consequence, he says, that the District Court had no jurisdiction. In his letter to the Director of Courts he described that consequence somewhat differently, saying that he was not satisfied that his appeal "would be brought under a properly constituted State Court." But whatever the suggested consequence, the essence of his complaint is that the seal of the District Court was not used on the commencement of his appeal. He says that the Director of Courts should have responded to his letter by acknowledging that.

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As I was saying, whatever the suggested consequence, the essence of Mr Clampett's complaint is that the seal of the District Court was not used on the commencement of his appeal and he says that the Director of Courts should have responded by acknowledging that. He says that the second respondent was wrong to have applied for the dismissal of his appeal because, the argument goes, his appeal was not properly before the Court because of the want of a seal. Thirdly, he says that his Honour was wrong to make any order and specifically for the dismissal of his appeal, again for the want of a seal.

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There are many flaws in Mr Clampett's case and in my view it is clear that the case should be summarily dismissed. One fundamental problem for Mr Clampett is that his appeal to the District Court was duly sealed. Section 8B of the District Court Act 1967 provides as follows:

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"8B Seals of the court

(1) The District Court must have a seal, and may have the other seals that may be required for the business and administration of the court.

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(2) All notices, summons, certificates, warrants and other process, issued by a registrar must be sealed with a seal mentioned in subsection (1)."

Rule 978 of the UCPR requires the Registrar to keep a seal showing the name of the Court and the location of the Court or Registry and provides that the seal must be stamped on each document issued by the Registry.

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Section 8B is to the same effect as Section 190 of the Supreme Court Act 1995 in relation to the seals used by this Court. Section 190 re-enacted the former Section 3 of the Supreme Court Act 1967. In each case there was or is provision for the keeping of a seal, together with such other seals that may be required for the business of the Court. Mr Clampett's argument is that there can be but one seal kept by the District Court, or the Supreme Court, and that it is that seal which is to be used for each and every document which is issued from the Court.

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He says that what was placed on his notice of appeal was not the seal but a stamp. His argument, in my view, fundamentally misconceives the requirements of section 8B and rule 978. Once that is recognised then any foundation for his complaint against these respondents is removed. As there was no invalidity in his appeal to the District Court he could have no complaint that the first respondent did not respond to his correspondence.

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The claim against the second respondent is also flawed because there is no provision in the Judicial Review Act of Queensland by which his conduct for any decision made by him as a prosecutor employed by the Commonwealth could be subject to review and Mr Clampett's complaint against Judge Griffin has the further problem that his Honour was performing a judicial and not an administrative function.

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The application for judicial review, as filed by Mr Clampett,
is not entirely comprehensible. It suggests other arguments,
some of which refer to what might generously be described as
constitutional points. I shall not attempt to unscramble
these parts of his application as filed. Apart from one
matter, which seemed to involve an assertion that the wrong
coat of arms was on the wall of the courtroom, either this
room or that in which Judge Griffin was sitting, Mr Clampett
confined his oral argument to the point about the seal.

Each respondent has clearly established that these proceedings
should be summarily dismissed. I order that they be
dismissed. I will hear the parties as to costs.

Mr Handran?

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HIS HONOUR: The remaining question is that of costs. Each respondent has sought an order for costs. Nothing said by Mr Clampett provides any reason for not ordering them. It will be further ordered that the applicant pay to each of the respondents his or her costs of these proceedings to be assessed on a standard basis.

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