

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION

Not Restricted

S CI 2014 06498

THE ANZ EXECUTORS AND TRUSTEE COMPANY
LIMITED (as Trustees of the Estate of John William
Shaw, Deceased)

Applicant

v

BRIAN WILLIAM SHAW

Respondent

S CI 2014 06499

THE ANZ EXECUTORS AND TRUSTEE COMPANY
LIMITED (as Trustees of the Estate of John William
Shaw, Deceased)

Applicant

v

BRIAN WILLIAM SHAW

Respondent

S CI 2014 06500

THE ANZ EXECUTORS AND TRUSTEE COMPANY
LIMITED (as Trustees of the Estate of John William
Shaw, Deceased)

Applicant

v

BRIAN WILLIAM SHAW

Respondent

JUDGE: RUSH J
WHERE HELD: Melbourne
DATE OF HEARING: 17 June 2015
DATE OF JUDGMENT: 17 June 2015
CASE MAY BE CITED AS: The ANZ Executors and Trustee Co Ltd v Shaw
MEDIUM NEUTRAL CITATION: [2015] VSC 288

VEXATIOUS LITIGANT - Leave sought to continue proceedings in three costs orders

matters – No material capable of supporting or justifying the exercise of the Court’s discretion to grant leave – Leave refused – *Attorney General (Vic) v Weston* [2004] VSC 314 – *Vexatious Proceedings Act 2014* ss 55 and 63(1).

HIS HONOUR:

1 On 17 May 2007, Brian William Shaw ('Shaw') was declared a vexatious litigant by order of Hansen J. The order declaring Shaw a vexatious litigant means he cannot, without leave of the Court, commence or continue any legal proceeding in this Court or an inferior court.

2 Mr Shaw now seeks leave to continue proceedings in three matters where costs orders have been made against him.

3 The applications made by Shaw for leave to continue proceedings concerned the following costs orders:

(a) ANZ Executors and Trustee Company Limited (as Trustees of the Estate of John William Shaw, Deceased), S CI 2014 6498, order of Court Registrar Deviny of 8 April 2015 that Shaw pay ANZ Executors Trustee Company Limited ('Trustee Company') costs of \$11,609.30. The taxation was pursuant to paragraph 6 of the Order of Habersberger dated 13 March 2013 in Supreme Court proceedings S CI 2009 7640.

(b) ANZ Executors and Trustee Company Limited v Brian William Shaw, S CI 2014 6500, order of Court Registrar Deviny made 8 April 2015 that Shaw pay the Trustee Company's costs of \$15,699.52. The taxation was pursuant to the Order of Nettle and Neave JJA of 17 April 2013 in Court of Appeal proceeding S APCI 2013 0043.

(c) ANZ Executors and Trustee Company Limited (as Trustees of the Estate of John William Shaw, Deceased) v Brian William Shaw, S CI 2014 6499, order of Court Registrar Deviny of 8 April 2015 that Shaw pay the Trustee Company's costs of \$14,021.95. The taxation was pursuant to the paragraph 5 of the Order of Habersberger J of 13 March 2013 in S CI 2009 7640.

4 The Trustee Company are the trustees of the Estate of John William Shaw, Deceased, who is Shaw's father. In the materials filed by Shaw in these applications was a letter from the Trustee Company dated 23 November 2005. The letter indicates that

Shaw had, as of that date, been paid a significant part of his entitlement from the Estate and that there had been ongoing disputation between the Trustee Company and Shaw.

5 Each Order of Registrar Deviny in the matters listed above in 'Other Matters' records that Shaw attended the Court at 10.00am 'and then elected to depart the Court at 10.15am. The taxation continued in his absence'.

6 Each of the three applications to continue proceedings was supported by affidavits and materials that were in similar form. In each application, Shaw seeks orders for:

- (1) leave to continue a proceeding;
- (2) a stay of the costs order in relation to the particular summons;
- (3) removal of the proceeding to the High Court in relation to the constitutional disqualification of Senators and House of Representatives relating to s 44 of the Constitution of the Commonwealth of Australia enabled by the *Common Informers Parliamentary Disqualification Act* (Cth) stating original jurisdiction.

7 The materials put forward by Shaw concern allegations against the Trustee Company that range from -

- (a) asserting that the real corporate entity is not the Trustee Company but, rather, 'Fiduciary Investments Institutional Services Company Inc of Boston USA';
- (b) that birth certificates are being converted into 'bonds' and are treated as securities held by Fidelity Investments;
- (c) that partners of Atkin Partners, solicitors for the Trustee Company, and Mukhtar, Daly and Randall AsJJ, Habersberger J, Nettle and Neave JJA, the Prothonotary of the Supreme Court Mr R. Radcliff and Registrar Deviny are guilty of treason and have concealed the offence which is asserted by Shaw to somehow relate back to the removal of the oath of allegiance to Queen Elizabeth II from the *Legal Profession Practice Act*;

- (d) that various sections of the Australian Constitution are invoked by the conduct of the Trustee Company and officers of the Court and thus, the jurisdiction of the High Court is invoked;
- (e) that the electors of Victoria have been misled by the conduct of officers of the Supreme Court concerning electoral petitions and electoral fraud;
- (f) that the Government of Victoria, Victorian courts, Victoria Police and other bodies 'all work for and on behalf of the Masonic Lodge situated at East Melbourne'.

8 A document titled 'Objections To Costings' in the materials filed by Shaw includes allegations that every officer of the Supreme Court is a traded commodity by their birth certificates being converted into bonds, that officers of the Supreme Court of Victoria are subject to a foreign power, being the 'Knights of St John of Jerusalem'.

9 There are numerous other allegations of a similar nature made by Shaw in the materials accompanying his applications that are said to support an order that he have leave to continue proceedings. I cannot, on reading the materials, find one matter or assertion that could be said to be relevant to the exercise of my discretion to grant leave to continue proceedings.

10 Pursuant to s 63(1) of the *Vexatious Proceedings Act 2014* ('the Act'), I consider it appropriate to deal with the applications without the appearance of Shaw and to determine the applications based on the voluminous material and submissions of Shaw filed with the Court.

11 There is no merit in the applications brought by Shaw. There is no material capable of supporting or justifying the exercise of my discretion to grant leave to continue these proceedings pursuant to s 55 of the Act.

12 As stated, what I have set out above from the materials filed by Shaw in support of his applications is not the totality of the various extraordinary allegations made by him. They are sufficient to demonstrate the applications are based on hopeless,

untenable, indeed bizarre, materials (see Whelan J, *Attorney General (Vic) v Weston* [2004] VSC 314 at [16]).

- 13 In each of the applications, I will make orders refusing leave to continue proceedings.