

Court of Appeal New South Wales

Case Title: John Wilson v The Attorney General of New South Wales

Medium Neutral Citation: [2011] NSWCA 10

Hearing Date(s): 8 February 2011

Decision Date: 08 February 2011

Jurisdiction:

Before: McColl JA
Whealy JA

Decision: Application for leave to appeal dismissed with costs
[Note: The Uniform Civil Procedure Rules 2005 provide (Rule 36.11) that unless the Court otherwise orders, a judgment or order is taken to be entered when it is recorded in the Court's computerised court record system. Setting aside and variation of judgments or orders is dealt with by Rules 36.15, 36.16, 36.17 and 36.18. Parties should in particular note the time limit of fourteen days in Rule 36.16.]

Catchwords: Vexatious litigant - application for leave to appeal - no question of principle

Legislation Cited: Vexatious Proceedings Act 2008 (NSW)

Cases Cited: Attorney General of NSW v Wilson [2010] NSWSC 1008

Texts Cited:

Category: Principal judgment

Parties: John Wilson (Applicant)
The Attorney General of New South Wales
(Respondent)

Representation

- Counsel: Counsel:
Applicant in person
C Spruce (Respondent)

- Solicitors: Solicitors:
Crown Solicitor of New South Wales
(Respondent)

File number(s): 2010/49922

Decision Under Appeal

- Court / Tribunal: Supreme Court

- Before: Davies J

- Date of Decision: 23 September 2010

- Citation: Attorney General of NSW v Wilson [2010]
NSWSC 1008

- Court File Number(s) SC 2010/49922

Publication Restriction:

Judgment

Ex tempore

- 1 **McColl JA** : This is an application for leave to appeal from orders made by Justice Davies on 23 September 2010 pursuant to s 8(7)(b) of the *Vexatious Proceedings Act 2008 (NSW): Attorney General of NSW v Wilson* [2010] NSWSC 1008.

- 2 The effect of those orders was to prohibit Mr John Wilson, the applicant for leave to appeal, from instituting proceedings in New South Wales other than with leave of an appropriate court under that Act, to stay any legal proceedings instituted by Mr Wilson in any court or tribunal in New South Wales before the date of the order and to order that Mr Wilson was not to be allowed to file and was restrained from filing and also from serving any Notice of Motion in any proceedings currently before any court or tribunal in New South Wales, and was not to be allowed to make, and was restrained from making, any oral application in such proceedings without the leave of a judge of an appropriate court under that Act. Mr Wilson was also ordered to pay the Attorney General of New South Wales costs of the proceedings.

- 3 The reasons of the primary judge contain a careful analysis of 14 sets of proceedings Mr Wilson commenced in the Court (and almost invariably took on appeal to this Court and by application for special leave to the High Court) between 4 July 1996 and 17 October 2007.

- 4 Mr Wilson has not challenged his Honour's analysis in any respect. Rather, his written and oral submissions have been directed to reiterating, among other matters, the underlying theme of many of those actions, namely, that any legal action in which he is involved, including those before the primary judge, must be tried by a jury (a right said to be derived from the Bible , the Magna Carta and other instruments such as the Universal Declaration of Human Rights , t he International Covenant on Civil and Political Rights and historical sources). He also submits that judicial officers are not properly appointed and therefore have no jurisdiction over him. These submissions have been considered and rejected in many of the cases which form the basis of the Attorney General's application.

- 5 In addition, as I understand Mr Wilson's oral submissions this morning, he alleges that the *Vexatious Proceedings Act* itself is ultra vires, apparently, again, because it does not permit trials by juries. Mr Wilson's written

submissions also refer to principles of natural justice, in particular the rule against bias and the right to be heard, but make no submission that the hearing before the primary judge was affected by any breach of either of those principles. A reading of the transcript of the hearing and of the judgment make it plain that the primary judge approached the matter impartially and went to great lengths to ensure Mr Wilson was given an opportunity to be heard (despite the fact that he had to be removed from court at one stage due his constant interventions and over talking the judge).

- 6 In oral submissions, Mr Wilson also suggested that the primary judge had been a judge in his own cause. There is no basis on my reading of the materials for that assertion.
- 7 In my view, despite specific invitation, Mr Wilson has not identified any error in the primary judge's reasoning to his conclusion that the respondent had established that an order under s 8(7)(b) should be made.
- 8 None of the matters that have been indicated today in Mr Wilson's submissions throw any doubt on the primary judge's reasons. There is no basis in my view to think that there is any prospect of success on appeal. In my view, the application for leave to appeal should be dismissed with costs.
- 9 **Whealy JA:** I agree.
- 10 **McColl JA:** The orders I propose are the orders of the Court.
