

**JURISDICTION** : SUPREME COURT OF WESTERN AUSTRALIA

**TITLE OF COURT** : THE COURT OF APPEAL (WA)

**CITATION** : PALMER -v- CITY OF GOSNELLS  
[2014] WASCA 102

**CORAM** : McLURE P  
BUSS JA  
MAZZA JA

**HEARD** : 10 APRIL 2014

**DELIVERED** : 20 MAY 2014

**FILE NO/S** : CACR 17 of 2014

**BETWEEN** : GRAHAM CLIVE PALMER  
First Appellant

SANDRA MAXINE PALMER  
Second Appellant

AND

CITY OF GOSNELLS  
Respondent

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**ON APPEAL FROM:**

**Jurisdiction** : SUPREME COURT OF WESTERN AUSTRALIA

**Coram** : EDELMAN J

**Citation** : PALMER -v- CITY OF GOSNELLS  
[2013] WASC 446

**File No** : SJA 1030 of 2013

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*Catchwords:*

Criminal law - Grounds of appeal have no reasonable prospect of success

*Legislation:*

*Criminal Appeals Act 2004 (WA)*, s 9, s 16(2), s 18

*Magistrates Court Act 2004 (WA)*

*Planning and Development Act 2005 (WA)*

*Result:*

Leave to appeal refused

Appeal dismissed

*Category:* B

**Representation:**

*Counsel:*

First Appellant : In person  
Second Appellant : In person  
Respondent : No appearance

*Solicitors:*

First Appellant : In person  
Second Appellant : In person  
Respondent : TBA

**Case(s) referred to in judgment(s):**

Glew Technologies Pty Ltd v Department of Planning and Infrastructure [2007]  
WASCA 289

Glew v City of Greater Geraldton [2012] WASCA 94

Glew v Frank Jasper Pty Ltd [2010] WASCA 87

Glew v Frank Jasper Pty Ltd [2012] WASCA 93

Glew v Shire of Greenough [2006] WASCA 260

Glew v Shire of Greenough [2007] HCATrans 520

Glew v The Governor of Western Australia [2009] WASC 14

Krysiak v Hodgson [2009] WASCA 114

O'Connell v The State of Western Australia [2012] WASCA 96

Shaw v Jim McGinty in his capacity as Attorney General [2006] WASCA 231

McLURE P

1     **McLURE P:** This is an application for leave to appeal from the decision  
of Edelman J refusing leave to appeal on all grounds and dismissing the  
appellants' appeal against conviction.

2             The appellants were each convicted after a trial in the Magistrates  
Court of six offences under the *Planning and Development Act 2005*  
(WA).

3             The appellants appealed against their convictions to a single judge of  
the Supreme Court under Pt 2 Div 2 of the *Criminal Appeals Act 2004*  
(WA) (the Act) (the single judge appeal). The leave of the court was  
required for each ground of appeal: s 9(1) of the Act. The court must not  
give leave to appeal on a ground of appeal unless it is satisfied the ground  
has a reasonable prospect of succeeding: s 9(2) of the Act.

4             The appellants' grounds in the single judge appeal were that the  
learned magistrate:

- (1) erred in the application of his discretion regarding an  
adjournment request by the appellants when such was fair  
and reasonable;
- (2) demonstrated ostensible if not actual bias and  
predetermination towards the appellants;
- (3) did not properly consider the acquisition of the property or  
the trespass of [sic] the property by the respondents;
- (4) misapplied the common purpose doctrine to the detriment  
of the appellants;
- (5) failed to properly consider authorities read by the  
appellants; and
- (6) was operating as an employee of the Department of the  
Attorney General of Western Australia and was therefore  
not a judicial officer.

5             In detailed reasons, Edelman J concluded that no ground of appeal  
had a reasonable prospect of success. Accordingly, he refused leave on  
all grounds and dismissed the appeal.

6             The appellants have appealed to this court from the decision of  
Edelman J pursuant to s 16(2) of the Act. Section 9 of the Act applies to  
this appeal: s 18 of the Act. Accordingly, leave is required for each

ground of appeal and leave must not be given unless this court is satisfied that the ground has a reasonable prospect of succeeding.

7 The appellants, who are self-represented in this appeal, rely on three grounds. They are, in terms, that Edelman J:

- (1) failed to see the magistrate failed to swear the lawful Oath of Allegiance to Queen Elizabeth II lawful sovereign of Australia;
- (2) failed to see the *Magistrates Court Act 2004* (WA) which is repugnant to the Commonwealth Constitution 1901 therefore invalid; and
- (3) committed a 'tort' in judicial misfeasance when he deliberately ignored the requirements of the State and Commonwealth Constitution 1901 in relation to the Oath of Allegiance.

8 The appellants' written submissions are in the following terms:

1. The Oath of Allegiance is in the schedule to the Commonwealth Constitution and must be sworn by every government officer State and Commonwealth.
2. *The Magistrates Court Act 2004* is repugnant to the Commonwealth Constitution 1901 and must be declared to be invalid chapter 111 of the Commonwealth Constitution refers.
3. Decisions of State courts do not form part of the common law and should be scrutinised against the Commonwealth Constitution 1901 and the justices would find then [sic] to be invalid.
4. The Commonwealth of Australia is a corporation registered on the US Securities and Exchange Commission no 0000805157. The State of Western Australia is a corporation ABN 072526008 Department of the Attorney General ABN 70598519443 is a corporation.
5. Other than the Commonwealth of Australia, the State of Western Australia, the Department of the Attorney General including the courts are subsidiary companies of the Commonwealth corporation and are registered in Delaware USA. The submissions by the Attorney General are a fraud and a 'tort' on the appellants as they are aware of the correct entities as is [sic] the lawyers for the City of Gosnells.
6. The Constitution used by the State of Western Australia since Federation is a fraud and at Federation had 32 section missing.

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7. All laws and decisions of courts in Western Australia since Federation are unlawful because of the fraudulent State Constitution.

9 None of the grounds of appeal, as elaborated on in the submissions, have a reasonable prospect of succeeding. The same issues have been repeatedly raised in the Supreme Court and dismissed. See for example *Shaw v Jim McGinty in his capacity as Attorney General* [2006] WASCA 231; *Glew v Shire of Greenough* [2006] WASCA 260 (special leave refused: *Glew v Shire of Greenough* [2007] HCATrans 520); *Glew Technologies Pty Ltd v Department of Planning and Infrastructure* [2007] WASCA 289; *Glew v City of Greater Geraldton* [2012] WASCA 94; *Glew v Frank Jasper Pty Ltd* [2012] WASCA 93; *Krysiak v Hodgson* [2009] WASCA 114; *Glew v The Governor of Western Australia* [2009] WASC 14; *Glew v Frank Jasper Pty Ltd* [2010] WASCA 87; *O'Connell v The State of Western Australia* [2012] WASCA 96 [92]. The grounds of appeal are devoid of any merit.

10 Leave to appeal on each ground is refused and the appeal is taken to have been dismissed.

11 **BUSS JA:** I agree with McLure P.

12 **MAZZA JA:** I agree with McLure P.