

**FEDERAL COURT OF AUSTRALIA**

**Gunter v Doogan [2003] FCA 667**

**RICHARD STEPHEN GUNTER v CHRISTOPHER DOOGAN, PRINCIPAL REGISTRAR, HIGH COURT OF AUSTRALIA, GRAHAM KINGSLEY RAMSEY, DISTRICT REGISTRAR, QUEENSLAND, FEDERAL COURT OF AUSTRALIA AND BARRY COSGROVE, SENIOR LAWYER, BRISBANE OFFICE, AUSTRALIAN GOVERNMENT SOLICITOR**

**Q 88 OF 2003**

**DOWSETT J  
BRISBANE  
26 JUNE 2003**

**IN THE FEDERAL COURT OF AUSTRALIA  
QUEENSLAND DISTRICT REGISTRY**

**Q 88 OF 2003**

**BETWEEN:           RICHARD STEPHEN GUNTER  
                          APPLICANT**

**AND:                 CHRISTOPHER DOOGAN, PRINCIPAL REGISTRAR, HIGH  
                          COURT OF AUSTRALIA  
                          FIRST RESPONDENT**

**GRAHAM KINGSLEY RAMSEY, DISTRICT REGISTRAR,  
QUEENSLAND, FEDERAL COURT OF AUSTRALIA  
SECOND RESPONDENT**

**BARRY COSGROVE, SENIOR LAWYER, BRISBANE  
OFFICE, AUSTRALIAN GOVERNMENT SOLICITOR  
THIRD RESPONDENT**

**JUDGE:             DOWSETT J**

**DATE OF ORDER:   26 JUNE 2003**

**WHERE MADE:      BRISBANE**

**THE COURT ORDERS THAT:**

1.     Leave be granted to file the application insofar as it relates to the first respondent.
2.     The application be dismissed.

Note: Settlement and entry of orders is dealt with in Order 36 of the Federal Court Rules.

**IN THE FEDERAL COURT OF AUSTRALIA  
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**Q 88 OF 2003**

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                          APPLICANT**

**AND:                 CHRISTOPHER DOOGAN, PRINCIPAL REGISTRAR, HIGH  
                          COURT OF AUSTRALIA  
                          FIRST RESPONDENT**

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QUEENSLAND, FEDERAL COURT OF AUSTRALIA  
SECOND RESPONDENT**

**BARRY COSGROVE, SENIOR LAWYER, BRISBANE  
OFFICE, AUSTRALIAN GOVERNMENT SOLICITOR  
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**JUDGE:              DOWSETT J**

**DATE:                26 JUNE 2003**

**PLACE:              BRISBANE**

**REASONS FOR JUDGMENT**

1            I have previously held that the claims against the District Registrar of the Federal Court, Mr Ramsey, and a solicitor employed by the Australian Government Solicitor, Mr Cosgrove, are misconceived. For that reason, I have declined to allow proceedings to issue against those proposed respondents. Insofar as concerns the Registrar of the High Court, I propose to allow the proceedings to be filed and to dismiss them summarily as an abuse of process. This application is purportedly brought pursuant to s 39B of the *Judiciary Act 1903* (Cth). The applicant has said that he wishes to bring the Registrar into this Court in order to compel him to accept documents which the applicant wishes to file in order to commence proceedings in the High Court. The Registrar has not appeared today. I am of the view that the applicant should be allowed to file his proceedings. They raise complaints concerning a public official, and it would not be appropriate to stifle such complaints.

2            Under s 18 of the *High Court of Australia Act 1979* (Cth) (the “*High Court Act*”), provision is made for the appointment of a Chief Executive and Principal Registrar. That

officer is to act on behalf of, and assist the Justices of the High Court in the administration of the affairs of that Court. He or she has such other functions as are conferred on him or her by the *High Court Act*, or are assigned to him or her by the Court. As far as I can see, in accepting documents for filing, Mr Doogan performs the functions conferred upon him by the Court. In *Official Trustee in Bankruptcy v Nedlands Pty Ltd (in liq)* (1999) 99 FCR 554, Finn J considered an application to set aside certain orders made by a Registrar of this Court under a delegated power. His Honour held that where a Registrar acts under the actual authority of the Court, and want of jurisdiction in the Court itself is alleged, the status of the order is as an order of the Court and therefore voidable, not void. His Honour also held that because such an order is an order of the Court, the Court cannot grant prerogative relief in respect of that order. The order may only be called into question by way of review under the provisions provided for in s 35A of the *Federal Court of Australia Act 1976* (Cth).

3 I consider that decision to be plainly correct. Applying that decision by analogy to the present circumstances, the Registrar's decision was made on behalf of the Court pursuant to delegated powers rather than pursuant to the *High Court Act*. It is true that provision is made in s 30 for the establishment of a registry, and that the registry is to be under the control of the Chief Executive and Principal Registrar. Nonetheless, the function of accepting or rejecting documents is so closely associated with the judicial function as to be part thereof.

4 It cannot be appropriate for this Court to compel an officer of the High Court to perform a function which he or she performs in that role or to restrain any such action. That is, in my view, a matter for the High Court. There are various reasons of policy which underlie that view. It is not necessary to say anything more about it for present purposes. I will dismiss the application as an abuse of process.

I certify that the preceding four (4) numbered paragraphs are a true copy of the Reasons for Judgment herein of the Honourable Justice Dowsett.

Associate:

Dated: 18 July 2003

Counsel for the Applicant: The Applicant appeared in person.

Counsel for the First, Second and Third Respondents: The First, Second and Third Respondents did not appear.

Date of Hearing: 26 June 2003

Date of Judgment: 26 June 2003