SUPREME COURT OF QUEENSLAND

CITATION:	*Re Skyring* [2014] QSC 166
PARTIES:	**ALAN GEORGE SKYRING**
	(applicant)
FILE NO/S:	BS4625/14
DIVISION:	Trial
PROCEEDING:	Application
DELIVERED ON:	28 July 2014
DELIVERED AT:	Brisbane
HEARING DATE:	29 May 2014
JUDGE:	Alan Wilson J
ORDER:	**Application refused**
CATCHWORDS:	PROCEDURE – MISCELLANEOUS PROCEDURAL MATTERS – VEXATIOUS LITIGANTS AND PROCEEDINGS – where the applicant has been declared a vexatious litigant – where the applicant seeks leave to institute proceedings under section 11 of the *Vexatious Litigants Proceedings Act* 2005 (Qld) – where, if leave is granted, the applicant seeks to rectify an error of law in an earlier case – where, secondly, the applicant seeks to set aside the original order categorising him as a vexatious litigant – where, thirdly, the applicant seeks the intervention of the Attorney-General pursuant to notice of constitutional matters and thereafter that the proceedings be moved to the High Court – where, fourthly, the applicant seeks to claim compensation for the 'anguish, pain and suffering' caused by the previous proceedings he has been involved in – where, fifthly, the applicant seeks judicial review of a magistrate's order convicting him of a speeding fine – whether each proposed application would be vexatious
	Australia Act 1986 (Cth) *Australia Acts (Requests) Act* 1986 (Qld) *Australian Constitution*, s 115 *Currency Act* 1965 (Cth) *Judicial Review Act* 1991 (Qld) *Justices Act* 1886 (Qld), s 222 *Queensland Constitution*, s 53 *Vexatious Litigants Proceedings Act* 2005 (Qld), s 11, s 12(1)(b)
	Clampett v Attorney-General (Qld) [2013] QCA 325,

considered
Clampett v Hill & Ors [2007] QCA 394, considered
Clampett v Kerslake (Electoral Commissioner of Qld) [2009] QCA 104, considered
Sharples v Arnison [2002] 2 Qd R 444, considered
Re Skyring [1995] QSC 55, considered
Re Skyring [2013] QSC 197, considered
Re Skyring [2014] QSC 28, considered
Re Skyring [2014] QSC 61, considered
Re Skyring [2014] QSC 89, considered
Re Skyring's Application (No 2) (1985) 59 ALJR 561, considered
R v Minister for Justice and Attorney-General (Qld); Ex parte Skyring [1986] FC 9, considered
Skyring v The Commissioner of Taxation of the Commonwealth (unreported, 5/83, 19 August 1983, BC8321370), considered
Skyring v Cooper & Anor [2014] QSC 103, considered

COUNSEL: Mr Skyring appeared on his own behalf

SOLICITORS: Mr Skyring appeared on his own behalf

[1] **Wilson J**: Mr Skyring, who has been classified as a *vexatious litigant* under the *Vexatious Litigants Proceedings Act* 2005 (Qld), applies for leave to bring proceedings. Section 11 of the VLPA compels Mr Skyring to seek that leave before he brings any action in the courts.

[2] As he frankly admitted in documents he filed in this matter,[1] this is another in a series of applications he has regularly brought in recent times of, essentially, an identical nature.

[3] Since 1 July 2013 Mr Skyring has, in fact, brought 17 applications seeking much the same relief he pursues here. They have been considered and refused by 11 judges.

[4] Mr Skyring provided lengthy written submissions. He was also invited to signify any other submissions he had presented to the Court in recent times upon which he would also like to rely. He referred, in particular, to his submissions in matters BS 2722/14 (heard by Mullins J on 1 April 2014) and BS 4353/14 (heard by Daubney J on 21 May 2014: *Skyring v Cooper & Anor* [2014] QSC 103. Those files were obtained, and I read his submissions in them.

[5] In his written submissions in support of this new application he also refers to material he filed in BS 2541/14, which was heard and determined by me on 21 March 2014 (*Re Skyring* [2014] QSC 61). He says, too, that new material was placed before Daubney J on 21 May 2014, of whom he is critical for failing to appreciate its meaning and consequences. That criticism is quite unjustified, as will be seen.

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1 Mr Skyring's 'supplementary affidavit (no 1)' filed 19 May 2014

[6] On the other hand his submissions express gratitude to Atkinson J, who dealt with the most recent of his applications (BS 3660/14; *Re Skyring* [2014] QSC 89, delivered on 28 April 2014) and whose decision has led, he says, to a re-framing of his application in a way which is responsive to her Honour's decision.

[7] Despite those submissions the relief sought now, and the submissions advanced in support of it, do not appear to differ in any meaningful way from his previous applications. Mr Skyring's documents and submissions are not easy to read, or understand. Ready comprehension is not aided by the frequent use of bold type, capitalisation of words and phrases, and underlining. I appreciate that, after so many similar proceedings, I may not be fully alive to nuances in his documents which have now appeared in this Court in many iterations and with which (it is safe to assume) he is supremely familiar.

[8] That said, the frequency and repetitiveness of this application and the several judgments upon it instils confidence that the principal elements of his application can readily be identified. In particular, the detailed reasons of Mullins J in *Re Skyring* [2013] QSC 197 and Peter Lyons J in *Re Skyring* [2014] QSC 28 reprise all of the major arguments advanced here, again, by Mr Skyring and show why they do not warrant the leave he seeks.

[9] What he seeks is the right to start proceedings against the Crown Solicitor and the Attorney-General for several different kinds of relief: the 'rectification' of an error of law in the decision of McPherson J (as his Honour then was) in a taxation case in which Mr Skyring was involved in 1983;[2] to set aside an order of White J (as her Honour then was) of 5 April 1995 declaring him to be a vexatious litigant;[3] to bring an action setting aside bankruptcy proceedings against him in the 1980s; and, then, to bring in the Attorney General with a view to having him intervene in an action about these matters so that they may be referred to the High Court, on the basis they involve constitutional questions.

[10] These matters, as I understand the submissions, involve the Australian Constitution and what has been called the 'currency' argument – explained and discussed a little later – and the *Australia Act* 1986 (Cth) argument, which is also discussed below. Mr Skyring also wishes to claim compensation to which he says he is entitled because of the 'anguish, pain and suffering' those previous proceedings have caused him.

[11] An additional proposed cause of action has been added since Mr Skyring was convicted in the Magistrates Court of speeding in January this year. He seeks the right to begin an action in which that decision would be removed to this Court, and judicially reviewed.

[12] The course of the proceedings in the Magistrates Court were discussed at length by Peter Lyons J in the decision just mentioned. As his Honour discovered, Mr Skyring's purpose is not to challenge any order made by the learned magistrate but, rather, the validity of the *Judicial Review Act* 1991 (Qld) which no longer provides for reference to the Crown for the purpose of obtaining prerogative writs. He also sought, in that proceeding, to challenge the validity of the *Australia Act* and to re-

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2 *Skyring v The Commissioner of Taxation of the Commonwealth* (unreported, 5/83, 19 August 1983, BC8321370).

3 *Re Skyring* [1995] QSC 55.

agitate the currency arguments, mentioned earlier and discussed below. If, as the learned judge observed, Mr Skyring's real desire is to overturn the speeding fine and the decision made by the learned Magistrate, his proper remedy is in the District Court under s 222 of the *Justices Act* 1886 (Qld). It is compelling that his purpose, in respect of the Magistrates Court proceedings and his speeding ticket, is to create another path for him to pursue the currency and *Australia Act* arguments. For the reasons which follow, he should not have leave for those purposes.

[13] The currency argument may be traced back to the decision of McPherson J in 1983 and a discussion there of s 115 of the *Australian Constitution* which creates a prohibition against the issuing of currency by State Governments. Mr Skyring contends that the *Currency Act* 1965 (Cth) is affected by s 115, contrary to the view expressed by McPherson J.

[14] There are several problems with that submission. First, Mr Skyring is unable to identify any jurisdiction in this court to reopen or review the decision of McPherson J, now three decades old. Secondly, as a number of the judges of this court who have dealt with this application have previously observed, the argument he pursues was rejected by Deane J in *Re Skyring's Application (No 2)* (1985) 59 ALJR 561, and that decision was upheld by the Full Court of the High Court. That Mr Skyring's argument was entirely disposed of, on its merits, has also been recognised in Queensland in *Clampett v Kerslake (Electoral Commissioner of Qld)* [2009] QCA 104.

[15] Another submission by Mr Skyring, to the effect that the appellate process around the decision of McPherson J was unsatisfactory was properly, with respect, rejected by Peter Lyons J.[4] His Honour explained in detail, and with some care, why other judges of this court would not have the power to reopen an earlier decision of another judge of the same court.[5]

[16] His argument about the validity of the *Australia Act* has also been addressed and unequivocally found to be without merit on several occasions, most recently in the decision of the Queensland Court of Appeal in *Clampett v Attorney-General (Qld)* [2013] QCA 325. In short it is that the Queensland Parliament, in presenting the bill for the *Australia Acts (Requests) Act* 1986 (Qld) for royal assent, acted in breach of s 53 of the *Queensland Constitution* and that the consequent legislation was and is of no effect. As Fraser JA explained, the legislative path leading to the *Australia Act* was clear, and plainly lawful.[6]

[17] Finally, Mr Skyring again seeks to set aside the order made in 1995 declaring him to be a vexatious litigant. As Peter Lyons J pointed out,[7] this is another of many attempts by Mr Skyring to circumvent the appellate process by asking one judge of this court to overturn or set aside the decision of another in circumstances where no jurisdiction or power to do so exists.

[18] It follows, of course, that claims for compensation arising out of these very old decisions have neither a legal basis, nor merit. It also follows that Mr Skyring's

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4 *Re Skyring* [2014] QSC 28, at par [20].

5 At pars [22]-[23].

6 See, also, *Sharples v Arnison* [2002] 2 Qd R 444; *Clampett v Hill & Ors* [2007] QCA 394; and, *R v Minister for Justice and Attorney-General (Qld); Ex parte Skyring* [1986] FC 9.

7 [2014] QSC 28 at [21].

criticism of Daubney J's decision was unjustified: his Honour, with respect, addressed precisely the issues Mr Skyring raised before him and, by reference to the cases mentioned earlier, showed why his arguments were untenable.

[19] Section 12(1)(b) of the VLPA requires the judge hearing an application of this kind to dismiss it if the court considers, among other things, that the proposed proceeding is itself vexatious. A great many judges have now told Mr Skyring, on a large number of occasions, that what he seeks to do as an already declared vexatious litigant is bring proceedings which are, themselves, plainly vexatious.

[20] For whatever reason, he persists. This perseverance on his part is disturbing. It cannot be good for him, and it is detrimental to the proper administration of justice – a busy court, occupied with efforts to adjudicate upon and resolve genuine legal disputes, ought not be repeatedly compelled to entertain pointless, unmeritorious but relentless applications from a declared vexatious litigant, and the legislation needs amendment to prevent that.