

FEDERAL COURT OF AUSTRALIA

Skyring v Ramsey (No 2) [2002] FCAFC 132

COSTS – application by appellant for departure from the usual order

Federal Court of Australia Act 1976 (Cth), s 14(3), 43

Judiciary Act 1903 (Cth), s 79

Constitution, s 118

Federal Court Rules, O 21 r 1

**ALAN GEORGE SKYRING v GRAHAM RAMSEY AS DISTRICT REGISTRAR OF
THE FEDERAL COURT**

Q 208 of 1999

RYAN, MERKEL, WEINBERG JJ

15 MAY 2002

MELBOURNE

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

Q208 of 1999

ON APPEAL FROM A JUDGE OF THE FEDERAL COURT OF AUSTRALIA

BETWEEN: **ALAN GEORGE SKYRING**
Appellant

AND: **GRAHAM RAMSEY AS DISTRICT REGISTRAR OF THE
FEDERAL COURT**
Respondent

JUDGES: **RYAN, MERKEL and WEINBERG JJ**

DATE OF ORDER: **15 MAY 2002**

WHERE MADE: **MELBOURNE**

THE COURT ORDERS THAT:

1. The appellant pay the respondent's costs of the appeal, including any reserved costs, such costs to be taxed in default of agreement.

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

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

Q208 of 1999

ON APPEAL FROM A JUDGE OF THE FEDERAL COURT OF AUSTRALIA

BETWEEN: **ALAN GEORGE SKYRING**
Appellant

AND: **GRAHAM RAMSEY AS DISTRICT REGISTRAR OF THE
FEDERAL COURT**
Respondent

JUDGES: **RYAN, MERKEL and WEINBERG JJ**

DATE: **15 MAY 2002**

PLACE: **MELBOURNE**

REASONS FOR JUDGMENT

THE COURT

1 On 6 July 1999, Sackville J determined that Alan George Skyring, the appellant, was a vexatious litigant and ordered, pursuant to O 21 r 1 of the Federal Court Rules (“the Rules”) that he be disqualified from instituting or continuing any further legal proceedings without first obtaining the leave of the Court.

2 On 9 June 2000, the Full Court, constituted by Ryan, O’Connor and Weinberg JJ dismissed an appeal from his Honour’s judgment. The Court ordered that the parties file and serve written submissions in relation to the issue of costs.

3 On 5 March 2002, O’Connor J resigned as a Judge of this Court. In those circumstances, s 14(3) of the *Federal Court of Australia Act 1976* (Cth) applied. The appellant did not consent to the matter of costs being determined by the remaining two members of the Court. Accordingly, Merkel J now joins as the third member of the Bench in order that the remaining issue of costs may be determined.

4 The appellant filed two sets of lengthy submissions dated 26 and 27 June 2000, contending that the Court should depart from the usual rule that costs follow the event. Those submissions sought to re-agitate a number of the matters which had been

determined against the appellant by the primary Judge and by the Full Court. They included the contention that this Court made various errors in rejecting his grounds of appeal.

5 The appellant also referred to various public interest considerations which he claimed justified a departure from the usual order as to costs. He denied the existence of the power of the Court to award costs, contending that s.43 of the *Federal Court of Australia Act* 1976 (Cth) was itself subject to the provisions of “any other Act”. He presented an intricate but misconceived argument that the section had to be read subject to the provisions of a Queensland statute which, when read in conjunction with s 79 of the *Judiciary Act* 1903 (Cth) and s 118 of the Constitution, rendered the power to award costs nugatory.

6 It is unnecessary to set out in any detail the other arguments advanced by the appellant. They are all without merit. There is no reason in our view why the usual rule should not be applied in this case. Costs should follow the event. The appellant should pay the respondent’s costs of the appeal, such costs to be taxed in default of agreement.

I certify that the preceding six (6) numbered paragraphs are a true copy of the Ruling as to Costs herein of the Honourable Court.

Associate:

Dated: 15 May 2002

The appellant appeared in person

Counsel for the Respondent: Mr J A Logan

Solicitor for the Respondent: Australian Government Solicitor

Date of Hearing: 24 November 1999

Date of Judgment: 15 May 2002