

FEDERAL COURT OF AUSTRALIA

Wilson v Condon [2013] FCA 184

Citation: Wilson v Condon [2013] FCA 184

Appeal from: Condon v Wilson [2012] FMCA 1069

Parties: **JOHN WILSON v SCHON GREGORY CONDON**

File number: NSD 1792 of 2012

Judge: **EMMETT J**

Date of judgment: 6 February 2013

Legislation: *Bankruptcy Act 1966* (Cth) s 146, Division 5 of Part IV

Date of hearing: 6 February 2013

Place: Sydney

Division: GENERAL DIVISION

Category: No catchwords

Number of paragraphs: 8

Counsel for the appellant: The appellant appeared in person

Counsel for the respondent: S Nash (solicitor)

Solicitor for the respondent: Sally Nash & Co

**IN THE FEDERAL COURT OF AUSTRALIA
NEW SOUTH WALES DISTRICT REGISTRY
GENERAL DIVISION**

NSD 1792 of 2012

**BETWEEN: JOHN WILSON
 Appellant**

**AND: SCHON GREGORY CONDON
 Respondent**

JUDGE: EMMETT J

DATE OF ORDER: 6 FEBRUARY 2013

WHERE MADE: SYDNEY

THE COURT ORDERS THAT:

1. The appeal be dismissed.
2. The appellant pay the respondent's costs of the appeal.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

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JUDGE: EMMETT J

DATE: 6 FEBRUARY 2013

PLACE: SYDNEY

REASONS FOR JUDGMENT

1 When this matter was called on for directions, the appellant challenged the jurisdiction of the Court, asserting that he had clear evidence from the Privy Council that my appointment as a judge was “totally fraudulent”. He sought what he described as a “peremptory stay of proceedings” until the jurisdiction of the Court was determined. He then asserted that he had been denied his legal rights. He did not indicate what rights he had been denied or when the denial occurred. I then asked the appellant whether he wished to have the appeal listed for hearing or whether he wanted me to strike it out. His response was that he did not want me to do anything and that I was “a fraud”.

2 Subsequently, the appellant asserted that the whole of the structure of the courts in Australia is a “total fraud” and that the Federal Court is not a court. When I asked the appellant whether he wished to have his appeal heard, he said that he was challenging the jurisdiction of the Court and that I have no jurisdiction to do anything. He repeated the phrase “you are a fraud”.

3 When I pointed out to the appellant that he had not yet filed an appeal book, he responded by repeating that he challenged the jurisdiction of the Court. I endeavoured to ascertain whether the appellant was seeking to challenge the Court’s jurisdiction to hear his appeal. He asserted that he wanted a Court that has authority and jurisdiction and that the Federal Court does not have such authority and jurisdiction.

4 The appellant said that he wanted the Court to empanel a “special jury” to determine the jurisdiction of the Court, repeated that he was seeking a “peremptory stay of proceedings” and said that the matter must go to a “special jury, to the sovereign people of Australia who are the ultimate authority to make and impose laws”. The appellant then said:

This is more than just fraud, this is treason this is incredible treason against the people of Australia. You and your brothers are denying us our lawful rights, our lawful rights to the lawful judgment of our equals. That is democracy and we had that right since Magna Carta guaranteed it and you are disregarding it. You are incredibly corrupt, incredibly evil.

5 In the circumstances, it is not surprising that the respondent to the appeal applied for summary dismissal of the appeal on the basis that the conduct of the appellant is vexatious.

6 The appellant is a bankrupt and the respondent is his trustee in bankruptcy. The appellant apparently failed to file a statement of affairs. The appeal is nominally brought from an order made by the Federal Magistrates Court on 2 November 2012, that the distributions of dividends to those creditors who have proved their debts in the bankrupt estate of the appellant proceed in accordance with Division 5 of Part IV of the *Bankruptcy Act 1966* (Cth) as if he had filed a statement of affairs and that creditors had been stated to be those creditors in it pursuant to s 146 of the *Bankruptcy Act 1966* (Cth).

7 The first ground of appeal is that the Federal Magistrates Court had no jurisdiction to proceed summarily because the appellant did not consent to be without a jury. The second ground of appeal is that:

[t]he “ORDER” is full of lies, misconceptions, fraud and treason, as is proven by the true information in affidavit form already filed ...

8 Clearly, the notice of appeal is embarrassing and vexatious and should not be allowed to stand. It discloses no possible basis upon which the appeal could succeed. In the absence of any sensible response from Mr Wilson, who became more and more abusive as time passed, I consider the appropriate course is to dismiss the appeal.

I certify that the preceding eight (8) numbered paragraphs are a true copy of the Reasons for Judgment herein of the Honourable Justice Emmett.

Associate:

Dated: 6 March 2013