



New South Wales Supreme Court

CITATION :	Wilson v New South Wales Sheriff [2006] NSWSC 991
HEARING DATE(S) :	19 September 2006
JURISDICTION :	Common Law
JUDGMENT OF :	Michael Grove J at 1
EX TEMPORE JUDGMENT DATE :	09/19/2006
DECISION :	Proceedings dismissed generally

CATCHWORDS :	SUMMARY JUDGMENT - CLAIM AGAINST SHERIFF ARISING OUT OF EXECUTION PROCEEDINGS - NO EVIDENCE OF UNLAWFUL CONDUCT OF SHERIFF - PLEADING DISCLOSED NO CAUSE OF ACTION - CLAIM DOOMED TO INEVITABLE FAILURE - UCPR Pt13 r 13.4 APPLIED
PARTIES :	John Wilson v New South Wales Sheriff
FILE NUMBER(S) :	SC 20310/06
COUNSEL :	In person (Plaintiff) R.H. Weinstein (Defendant)
SOLICITORS :	I.V. Knight (Crown Solicitor)

**IN THE SUPREME COURT
OF NEW SOUTH WALES
COMMON LAW DIVISION**

MICHAEL GROVE J

Tuesday 19 September 2006

20310/06 - JOHN WILSON v NEW SOUTH WALES SHERIFF

JUDGMENT

1 **HIS HONOUR:** There is before the court a Notice of Motion on behalf of the defendant who is titled in proceedings commenced by the plaintiff, Mr Wilson, as the Sheriff of New South Wales. The matter has a long history which is detailed in the affidavit of Elizabeth Mee sworn 31 August 2006 and the various documents annexed thereto. Significant amongst those documents are transcripts of proceedings in the Local Court and a copy of a judgment delivered by Adams J on 17 March 2004. It is in my view unnecessary for me for present purposes to do more than briefly recapitulate what the claim brought by the plaintiff is all about.

2 As I have said, the nominated defendant is the Sheriff of New South Wales. The complaint is and the relief sought relates to a demand in execution of a judgment for which the Sheriff has made for a sum of just under \$6,000, together with some incremental amounts. As can be seen from the documentation, at the heart of Mr Wilson's complaints is his belief that no court may enter a valid judgment other than as a result of a trial by jury. Amongst other things, the Statement of Claim seeks damages against the State of New South Wales stated to be in the sum of \$5 million.

3 At the outset of the hearing today Mr Wilson has submitted that I hold no valid authority to hear or determine any matter relating to him or specifically to deal with the motion that is presently before the court. It scarcely needs repetition to say that that submission is rejected.

WILSON: You have no right to reject anything.

4 **HIS HONOUR:** The matter is before the court as a result of the filing in court of a Statement of Claim by Mr Wilson, and it is procedurally appropriate for the named defendant to bring before the court its claim for relief. The motion itself --

WILSON: There is no jury here.

5 **HIS HONOUR:** The motion itself has a number of prayers, but Mr Weinstein for the moving party has indicated that the only relief being sought is an order that the proceedings be dismissed pursuant to Pt 13 r 13.4 of the Uniform Civil Procedure Rules. That Rule provides that if in any proceedings it appears to the Court --

WILSON: The court?

6 HIS HONOUR -- that in relation to the proceedings generally, or in relation to any claim for relief in the proceedings, the proceedings are frivolous or vexatious, or no reasonable cause of action is disclosed, or the proceedings are an abuse of the process of the court, the court may order that the proceedings be dismissed or the motion to that --

WILSON: The court may order? Where is the court? There is no court here. The court? You said it yourself the court may order, there is no court here.

7 HIS HONOUR: Mr Wilson please stop interrupting --

WILSON: Then try and put the records straight. You are committing serious crimes against the people of Australia, you are a traitor, you are committing treachery. Australia is based on being a democracy race where sovereignty lies with the people. Sovereignty lies with the jury box, not with you.

8 HIS HONOUR: Mr Wilson, you had an opportunity to make submissions which you declined.

WILSON: I'm challenging the jurisdiction of the court.

9 HIS HONOUR: We have been through that.

WILSON: Made that clear from the start, challenging the jurisdiction of the court.

10 HIS HONOUR: Mr Wilson I will have to ask you to be quiet to enable me to finish what I was saying.

WILSON: Why are you saying anything? You've got no jurisdiction.

11 HIS HONOUR: If you wish to seek relief --

WILSON: Any award during the proceedings are not to be drawn in consequence or example.

12 HIS HONOUR: -- there are procedures whereby you can seek to have anything that I have done reviewed.

13 To return where I was before I was interrupted, it is apparent from the affidavit of Miss Mee that there is in existence a judgment duly entered --

WILSON: Not duly entered at all, there was no jury. Those proceedings are invalid too.

14 HIS HONOUR: -- and that the Sheriff's action is in pursuit of --

WILSON: Corruption. In pursuit of corruption.

15 HIS HONOUR: -- execution of that judgment.

WILSON: There was no judgment because there was no jury, none at all. To be holden for --

16 HIS HONOUR: The interruptions which Mr Wilson apparently will not refrain from making --

WILSON: No because we're in the right and you're in the wrong.

17 HIS HONOUR: -- I simply repeat his initial assertion that no court can operate other than by the method of trial by jury.

WILSON: It can operate as long as both parties give their consent,

that's the law. I didn't give my consent.

18 **HIS HONOUR**: What Mr Wilson is saying is being recorded but it is quite impossible for me to continue to try and give reasons beyond what I have already said as he apparently will not desist from continual interruption.

WILSON: Not backing down from the truth and justice, no way.

19 **HIS HONOUR**: It suffices therefore in the circumstances that have arisen to record that a simple reading of the Statement of Claim and the assertions which are described as pleading and particulars show that the claim being advanced by Mr Wilson is doomed to failure and has no prospects of success.

WILSON: In front of a judge, an evil judge. The bill of rights says you are evil, that's the legal term for you, evil.

20 **HIS HONOUR**: The relief sought by the defendant must in my view inevitably be granted and I order pursuant to paragraph 2 of the Notice of Motion that the Statement of Claim filed on 10 August 2006 be dismissed pursuant to --

21 WILSON: You've got no jurisdiction to do that.

22 **HIS HONOUR**: -- Pt 13 r 13.4 of the Uniform Civil Procedure Rules 2005

WILSON: Have you read the bill of rights?

23 **HIS HONOUR**: -- and I order John Wilson to pay the costs --

WILSON: You have no right to order anybody to do anything.

24 **HIS HONOUR**: -- of the moving party.

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