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THE SUPREME COURT
OF NEW SOUTH WALES
COMMON LAW DIVISION

ADAMS J

MONDAY 24 JULY 2006

20128/06 - JOHN WILSON v STATE DEBT RECOVERY OFFICE & STATE OF NEW
SOUTH WALES

20258/06 - JOHN WILSON v THE CROWN SOLICITOR

20162/06 - ERIC ABRAKAM JURY v CRAIG NORMAN & STATE OF NEW SOUTH
WALES

APPLICATIONS LIST

Plaintiffs self-represented
Mr R Weinstein for the defendants

WEINSTEIN: If your Honour will see me?

HIS HONOUR: Yes. Mr Wilson?

PLAINTIFF WILSON: Mr Adams, I demand a jury.

HIS HONOUR: I'm afraid you cannot have one.

PLAINTIFF WILSON: You are breaking the law.

HIS HONOUR: Do you have any other applications?

PLAINTIFF WILSON: You are breaking the law and I will arrest you.

HIS HONOUR: Very well. Remove him please.

PLAINTIFF WILSON: I will arrest you. This fellow is breaking the law and you are aiding and abetting that offence.

HIS HONOUR: Mr Wilson, go. When you have a proper application I will hear what you have to say.

PLAINTIFF WILSON: You won't hear anything. I will issue a warrant for your arrest, Mr Adams.

HIS HONOUR: There are rules in Court.

PLAINTIFF WILSON: You are a fraud and a liar.

HIS HONOUR: We have real matters.

PLAINTIFF WILSON: A traitor and a fool.

HIS HONOUR: Just remove him.

PLAINTIFF WILSON: I will issue a warrant for your arrest -expect it.

HIS HONOUR: All those who are wearing slogans would you please leave the Court. You may return when you leave the slogans. This is not a case for a political campaign.

PLAINTIFF WILSON: It is the law. You understand you have just committed treachery.

HIS HONOUR: Please go.

UNIDENTIFIED MEMBER OF PUBLIC: We are asking for justice, your Honour. we are asking for trial by jury which is justice. He has a right to a trial by jury, John has a right to trial by jury.

HIS HONOUR: I have litigants in this Court who have real cases.

PLAINTIFF WILSON: It says there is a right for trial by jury -it says it in the Constitution. We have a right to trial by jury in any action.

SHORT ADJOURNMENT

WEINSTEIN: Might I assist your Honour? There are three related matters before your Honour. Two concern Mr Wilson and one concerns Mr Eric Jury who is in Court. The three matters are similar in that we seek a dismissal of the proceedings in each of the matters.

There was at least one application by Mr Wilson in a formal application in that he had filed a requisition for a jury in the matter of Wilson v The State Debt Recovery Office and the State of New South Wales. Your Honour called Wilson v the Crown Solicitor originally. I think your Honour is right to assume Mr Wilson wishes for a jury in each of those cases.

HIS HONOUR: He asked - that was the first thing he said.

WEINSTEIN: It might be simplest, if your Honour wishes to proceed this way, to proceed with the matter of Mr Jury's case because he is in Court and it wouldn't be a long matter, your Honour.

HIS HONOUR: Very well but before I do so I have already mentioned to members of the public that a Court of law is not a place for political slogans. If you wish the law to be changed then the place for your slogans is Parliament, not a Court of law. It follows therefore that I must ask you please to go whilst you are wearing those T-shirts ("It's a Democracy, Trial by Jury").

UNIDENTIFIED MEMBER OF PUBLIC: You can't ask us what to wear, your Honour. Can you show me where that's in legislation, please?

HIS HONOUR: If you wish to hear the proceedings in a courtroom, and members of the public are entitled to do so provided they remain ordered and quiet, you may return without those T-shirts. If you do not go- -

UNIDENTIFIED MEMBER OF PUBLIC: I am just an ordinary citizen. I am in ignorance as to what's going on. I would like to know where the legislation says you can go ahead and order that to take place. You would have to throw all the people out of Sydney with T-shirts on.

HIS HONOUR: I have an inherent right as a Judge of the Supreme Court of New South Wales to order the proceedings in my courtroom.

UNIDENTIFIED MEMBER OF PUBLIC: We have inherent power as citizens, your Honour.

HIS HONOUR: If you do not go –

UNIDENTIFIED MEMBER OF PUBLIC: We are not leaving.

HIS HONOUR: -- I will have you charged with contempt in the face of the Court. I will have you arrested and I will have you placed in custody.

UNIDENTIFIED MEMBER OF PUBLIC: Go ahead.

HIS HONOUR: I am ordering you to go.

UNIDENTIFIED MEMBER OF PUBLIC: We are here to bring justice to the system, your Honour, justice to the system.

HIS HONOUR: Officer.

UNIDENTIFIED MEMBER OF PUBLIC: We are asking for justice, your Honour.

HIS HONOUR: Officer, please.

SHORT ADJOURNMENT

HIS HONOUR: Mr Weinstein, you were mentioning the matter of Mr Jury?

WEINSTEIN: That is so.

HIS HONOUR: Mr Jury, take a seat at the bar table

PLAINTIFF JURY: I would much rather stand up.

HIS HONOUR: Very well, if you are more comfortable.

WEINSTEIN: I have a notice of motion filed on the 6 June this year seeking orders generally pursuant to Part 13, rule 13.4 to have the proceedings dismissed and in the alternative have the statement of claim struck out. Can I file in Court an affidavit of Elizabeth Mee, my instructing solicitor?

AFFIDAVIT OF ELIZABETH MEE FILED IN COURT.

HIS HONOUR: Is this matter set down for hearing today?

WEINSTEIN: It was.

PLAINTIFF JURY: Where is the jury?

HIS HONOUR: I am going to ask you in a moment. Would you just wait for a moment?

WEINSTEIN: Directions were made your Honour about six weeks ago to file and serve an affidavit. They have been back before the Registrar today so they could be heard before your Honour.

HIS HONOUR: Mr Jury are you ready to be heard?

PLAINTIFF JURY: No, I am not ready. Where is the jury? I have asked for a jury. I am nearly 80 years of age and I want a jury to hear this matter.

HIS HONOUR: If I refuse a jury?

PLAINTIFF JURY: I will walk out of the Court.

HIS HONOUR: Would you be ready to proceed?

PLAINTIFF JURY: I am not ready to proceed without a jury.

HIS HONOUR: Is there anything more you wish to say?

PLAINTIFF JURY: There is nothing more I wish to say. I just want a jury, that's all, which I am entitled to. Are you going to refuse me a jury?

HIS HONOUR: Yes, I am.

UNIDENTIFIED MEMBER OF PUBLIC: You are breaking the law. You are a criminal. You know the Act.

HIS HONOUR: You will need to be quiet.

PLAINTIFF JURY: I am going to walk out of this Court if you are going to refuse me a jury and I'm going to have you charged.

FOR HIS HONOUR'S JUDGMENT SEE SEPARATE TRANSCRIPT

PLAINTIFF JURY: That's abominable. I have heard enough. The Privy Council appointed you an authority.

HIS HONOUR: Mr Jury –

PLAINTIFF JURY: You are a fraud and a liability, Justice Adams.

FOR THE CONTINUATION OF HIS HONOUR'S JUDGMENT SEE SEPARATE TRANSCRIPT

HIS HONOUR: What is the particular legislative –

WEINSTEIN: I hand your Honour a document setting out my submissions. Your Honour sees at pages 7 and 8 it sets out the Local Court Act. Might I tell your Honour this, that I tried to give Mr Jury copies of my submissions outside the Court and he wouldn't take them.

FOR THE CONTINUATION OF HIS HONOUR'S JUDGMENT SEE SEPARATE TRANSCRIPT

UNIDENTIFIED MEMBER OF PUBLIC: You did not give him a right to a jury which he has a right to.

HIS HONOUR: Sit down.

UNIDENTIFIED MEMBER OF PUBLIC: I am taller when I am standing.

HIS HONOUR: That is true. You will either leave the Court or sit down.

HIS HONOUR: Mr Weinstein, that leaves us with the problem of Mr Wilson's case.

WEINSTEIN: That is correct. There are two of them. I am not sure quite how to proceed in the circumstances?

HIS HONOUR: Is Mr Wilson outside the Court?

(Plaintiff Wilson's name called outside the Court.)

HIS HONOUR: Mr Wilson, I have refused your application for a jury. Do you wish to be heard on the substance of the matter as to whether or not your statements of claim should be struck out?

PLAINTIFF WILSON: No juries, no justice. You are breaking the law.

HIS HONOUR: You have made that point.

PLAINTIFF WILSON: You can't get past that point.

HIS HONOUR: Mr Wilson, do you wish to be heard?

PLAINTIFF WILSON: Before a jury, a properly constituted Court and this is not a properly constituted Court.

HIS HONOUR: There are other matters and I propose to proceed with them and I will return to yours.

WEINSTEIN: Would your Honour give me a not before marking?

HIS HONOUR: Not before 12.15.

PLAINTIFF WILSON: You intend to proceed summarily without jurisdiction?

HIS HONOUR: I intend to proceed according to the powers given to me by the jurisdiction of New South Wales and as a Supreme Court Judge.

PLAINTIFF WILSON: You have no such powers.

HIS HONOUR: I am moving to the next matter

PLAINTIFF WILSON: Expect a warrant for your arrest. The maximum penalty is life imprisonment

UNIDENTIFIED MEMBER OF PUBLIC: Absolutely, and the people will uphold that.

MATTER STOOD DOWN IN THE LIST.

(Plaintiff Wilson called out of Court; no appearance.)

HIS HONOUR: The transcript should note it is now 21 minutes past 12 and I set this matter down for hearing at 12.15. Mr Wilson was in the Court and I do not doubt that he heard me set that time for the hearing of this application.

WEINSTEIN: There are two matters left. The first one is Wilson v State Debt Recovery Office and the State of New South Wales.

HIS HONOUR: What's the number of that one?

WEINSTEIN: 20128/2006. There was a notice of motion filed on the 9 June 2006. The orders are identical to the orders sought in the matter of Jury. There is an affidavit of Elizabeth Mee, if I might file that in the Court? I hand to your Honour an outline of submissions. It was a document I tried to give to Mr Wilson. However, he refused to take it.

AFFIDAVIT OF ELIZABETH MEE SWORN 21 JUNE 2006 FILED IN COURT. READ.

HIS HONOUR: What's the actual name of the Appeal Act?

WEINSTEIN: An appeal from?

HIS HONOUR: Under the Crimes (Local Courts Appeal and Review) Act.

WEINSTEIN: Paragraph 17.

FOR HIS HONOUR'S JUDGMENT SEE SEPARATE TRANSCRIPT

WEINSTEIN: Does your Honour refuse the relief to have the proceedings dismissed, I am assuming.

HIS HONOUR: The reason why they want it dismissed is that it seems to me where there is an abuse of process I should simply strike it out. It's an abuse of the Court to commence the proceedings.

WEINSTEIN: I am only mindful of this, your Honour, if the pleading –

HIS HONOUR: You want a res judicata, is that the issue?

WEINSTEIN: I am mindful if your Honour dismisses the pleading it may be that we are back here.

HIS HONOUR: Yes, I see the point.

FOR THE CONTINUATION OF HIS HONOUR'S JUDGMENT SEE SEPARATE TRANSCRIPT

HIS HONOUR: I am not sure that the form of the order ultimately matters.

WEINSTEIN: Let me say that the next place for Mr Wilson would be in the Court of Appeal. Does your Honour make the same costs orders in those matters?

HIS HONOUR: Yes, the same costs orders. That brings us then to the second matter.

WEINSTEIN: Your Honour that is a matter against the Crown Solicitor himself. The number is 20258/06.

HIS HONOUR: I have those now.

WEINSTEIN: When the matter was before Registrar Howe this morning I told the Registrar that I wanted to proceed on a motion today without any evidence, as I am entitled to do, and the Registrar asked Mr Wilson if he proposed filing any evidence or he had a desire to do so and Mr Wilson said no. I move on my motion today. The motion was filed on the 18 July 2006.

FOR HIS HONOUR'S JUDGMENT SEE SEPARATE TRANSCRIPT

SHORT ADJOURNMENT

LUNCHEON ADJOURNMENT

UPON RESUMPTION

(John Peter Bauskis and Peter Rutherford brought into court.)

HIS HONOUR: Gentlemen, I see that you are still wearing that t-shirt and I take it that is intended to be an act of defiance, or would you prefer an opportunity to remove it now?

RUTHERFORD: I would ask that the law embrace that I wear this t-shirt

HIS HONOUR: The law in this court is that you remove it. It was plainly worn in association with the application being made in this court for trial by jury in an attempt to intimidate the court into making those orders and that is why they should not have been worn. Furthermore, they are political slogans and a court of law is not the place for political slogans. Do you intend to remove your t-shirt or not?

BAUSKIS: No.

HIS HONOUR: And you?

RUTHERFORD: No, I intend to live my rights.

HIS HONOUR: I will take that as a no. Both of you refused to obey the court's order to leave the court whilst you were wearing the t-shirt stating "Trial by Jury is Democracy" in large letters and one of you violently resisted attempts by Sheriff's officers to induce you to leave, and when attempts were made to arrest you, in the course of so doing part of the courtroom was damaged and officers were injured. That person, I think it is alleged, was Mr Peter Rutherford.

In relation to John Peter Bauskis, it is alleged that the court, having ordered that he could not remain in court whilst wearing the t-shirt containing the words in large letters, "Trial by Jury is Democracy", you refused to leave the court and refused to obey the lawful directions of a Sheriff's officer to do so.

Now, you have been I think in the cells since, I suppose it would be in the order of about eleven o'clock to now, which is 3.20pm. You have both committed contempts in the face of the court, as I have just described. You can be charged with those offences and proceeded against according to law.

On the other hand, if you apologise for your conduct I will not take the matter any further and will desist from charging you. Would you like to have time to consider your situation?

BAUSKIS: I don't need to apologise for anything.

HIS HONOUR: What do you say, Mr Bauskis?

BAUSKIS: I have not broken the law or done anything wrong.

HIS HONOUR: Do you wish to apologise, Mr Bauskis?

RUTHERFORD: You are asking the question of who?

HIS HONOUR: I am sorry, you are Mr Rutherford, are you?

RUTHERFORD: Yes.

HIS HONOUR: Mr Rutherford, do you wish to apologise?

RUTHERFORD: If you will apologise to me.

HIS HONOUR: I see. Well, the answer to that question then is no. Very well, would you please stand, Mr Rutherford.

The court having ordered, Peter Rutherford, you have remained in court whilst wearing a t-shirt containing the words in large letters, "Trial by Jury is Democracy", did refuse to leave the court and voluntarily resisted attempts by Sheriff's officers to induce you to leave and when attempts were made to arrest you, in the course of so doing part of the courtroom was damaged and officers were injured. Do you wish to plead guilty or not guilty?

RUTHERFORD: I no-plead.

HIS HONOUR: The plea of not guilty is entered.

RUTHERFORD: No plea.

HIS HONOUR: I need recorded—

RUTHERFORD: No, it is not a not guilty. It is a no plea, thank you.

HIS HONOUR: I understand, and I have a power to enter a plea and the plea-

RUTHERFORD: I am a sovereign being—

HIS HONOUR: The matter is beyond argument. I have this power and I propose to use it.

UNIDENTIFIED MEMBER OF PUBLIC: If you enter a plea, do you propose to act for him?

HIS HONOUR: I will deal with who can act for him in a moment.

John Peter Bauskis, the court having ordered that he should not remain in court whilst wearing a t-shirt containing the words in large letters, "Trial by Jury is Democracy" did refuse to leave the court and refused a lawful direction to leave made by the officers of the Sheriff. How do you plead, are you guilty or not guilty?

BAUSKIS: I am not pleading anything.

HIS HONOUR: Enter a plea of not guilty.

BAUSKIS: I am a sovereign person, you have no rights over me.

HIS HONOUR: You are both in custody.

BAUSKIS: Illegally.

HIS HONOUR: I think it is imperative that you obtain legal advice and I am prepared –

BAUSKIS: For what?

HIS HONOUR: I am prepared to consider whether or not you should be granted bail. Do you seek bail?

BAUSKIS: I seek nothing. This court has no jurisdiction. I would like to apply for a jury myself.

HIS HONOUR: I think you should really consider whether you wish to remain in custody or, having been charged, whether you should seek bail.

BAUSKIS: I have not done anything wrong. Why should I seek bail?

HIS HONOUR: I suggest you seek bail. I am not in a position to consider whether you should remain in custody or not.

UNIDENTIFIED MEMBER OF PUBLIC: You can't judge in your own court.

BAUSKIS: In your own cause.

UNIDENTIFIED MEMBER OF PUBLIC: Can I make a comment?

HIS HONOUR: Who are you?

UNIDENTIFIED MEMBER OF PUBLIC: I am supporting these two men. They have come here in good faith. They believe in the principles of trial by jury. They have never entertained the idea of breaking any law. They have come here to support Mr Wilson and they do not –

HIS HONOUR: I'm sorry, I think what you are saying is you are expressing an opinion about the legitimacy of the charge against them.

UNIDENTIFIED MEMBER OF PUBLIC: Yes.

HIS HONOUR: Yes, I understand that but I am afraid we have passed that for the moment. I am not going to listen to submissions on whether or not it is appropriate that they should be

charged or if it is appropriate whether or not they should have bail and the extent to which these proceedings will be adjourned.

UNIDENTIFIED MEMBER OF PUBLIC: You still have no authority.

HIS HONOUR: If you interrupt again you will be removed.

UNIDENTIFIED MEMBER OF PUBLIC: You have no authority to do that.

HIS HONOUR: You should understand that arrangements can be made to give you legal aid if you wish to obtain legal advice.

BAUSKIS: We have broken no law.

HIS HONOUR: If you do not wish to obtain legal advice, that is entirely a matter for you, but I would urge you to seriously consider obtaining legal advice.

Now, I come to the question of bail. If I do not grant you bail, you will remain in custody until such time as I am in a position to deal with you.

UNIDENTIFIED MEMBER OF PUBLIC: You can't judge in their cause.

RUTHERFORD: You can't judge on your own cause.

BAUSKIS: There is a due process of law.

RUTHERFORD: That is all we are asking, the rules of law. Mr Adams, you are on a thin edge.

HIS HONOUR: It is precisely that rule I am applying to you.

RUTHERFORD: No, you are not.

BAUSKIS: We have no rights. You have taken all our rights from us.

RUTHERFORD: Do you want the front page of the newspaper to say you put us in gaol for wearing the wrong t-shirt in our courtroom, the people's courtroom? I would suggest that would be on thin ice for you, Mr Adams.

BAUSKIS: You are the one breaking the law by not granting us a trial by jury.

UNIDENTIFIED MEMBER OF PUBLIC: Mr Adams, you are behaving in a very dis-supportive manner and totally unfair and despotic.

HIS HONOUR: Please, enough is enough. I am behaving according to law.

UNIDENTIFIED MEMBER OF PUBLIC: It is the people's court room.

HIS HONOUR: I will not be interrupted.

UNIDENTIFIED MEMBER OF PUBLIC: People will –

HIS HONOUR: Please go.

UNIDENTIFIED MEMBER OF PUBLIC: You step back, don't you lay a hand on me.

HIS HONOUR: I said, go.

UNIDENTIFIED MEMBER OF PUBLIC: I can assure you it is not the last you will hear of this, Mr Adams.

(Unidentified member of public removed from court room)

BAUSKIS: Why do you defy the Crown?

HIS HONOUR: I will have you removed also.

Mr Rutherford and Mr Bauskis, if you are persons with permanent places of abode and you are prepared to enter into an agreement to abide by the conditions of bail which essentially require you to attend on this court on the date set, I will grant bail. Do you wish to apply for bail?

BAUSKIS: No I don't.

HIS HONOUR: Do you wish to apply for bail?

RUTHERFORD: I wish to apply for justice.

HIS HONOUR: Is that a "no"?

RUTHERFORD: I wish to apply for justice.

BAUSKIS: That's what we are here for.

HIS HONOUR: This matter is adjourned until 10.00 am tomorrow morning and you are remanded in custody. Remove them, please.

FURTHER UNIDENTIFIED MEMBER OF PUBLIC: What did our fathers fight two World Wars for ~ to have fascism prevail.

HIS HONOUR: The rule of law –

ABOVE UNIDENTIFIED MEMBER OF PUBLIC: It says in the Australian Constitution every Australian is entitled to a trial by jury in any action, any action. Why do you defy the Constitution?

HIS HONOUR: The court is now adjourned.

ABOVE UNIDENTIFIED MEMBER OF PUBLIC: How dare you defy the Constitution.