



New South Wales
Supreme Court

CITATION: WILSON v HATZISTERGOS & ANOR [2008] NSWSC 230

HEARING DATE(S): 4 March 2008

JURISDICTION: Common Law Division

JUDGMENT OF: Adams J at 1

EXTEMPORE JUDGMENT DATE: 4 March 2008

DECISION: Statement of Claim struck out pursuant to Part 14 Rule 14.28 of the Uniform Civil Procedure Rules 2005.
Plaintiff to pay the defendants' costs of this motion and the costs of the proceedings.

CATCHWORDS: Frivolous and vexatious proceedings struck out

CATEGORY: Principal judgment

LEGISLATION CITED: Court Security Act 2005 s 9
Uniform Civil Procedure Rules 2005 Part 14 Rule 14.28

PARTIES: John WILSON (Plaintiff)
John HATZISTERGOS (First defendant)
Ian KNIGHT (Second defendant)

FILE NUMBER(S): SC 2007/20354

COUNSEL: Plaintiff in person
Mr H El-Hage (First & second defendants) (Solicitor)

SOLICITORS: Plaintiff unrepresented

THE SUPREME COURT
OF NEW SOUTH WALES
COMMON LAW DIVISION

Ex tempore - checked

ADAMSJ

TUESDAY 4 MARCH 2008

20354107 - JOHN WILSON v JOHN HATZISTERGOS & ANOR

JUDGMENT

HIS HONOUR: On 17 October 2007 Mr John Wilson commenced proceedings by way of statement of claim against John Hatzistergos and Ian Knight. The statement of claim claims the following relief:

"(i) Relief by a jury adjudging that John Hatzistergos, while acting as the Attorney General of the State of New South Wales and Ian Knight, while acting as the Crown Solicitor of the State of New South Wales, did conspire, with malice aforethought, to perpetrate a Fraud and to illegally censor and intimidate.

(ii) Relief by a jury adjudging that the 'Crown', as mentioned in a letter dated 2 August 2007 from John Hatzistergos, while acting as the Attorney General of the State of New South Wales, and letters dated 20 August and 17 September from Ian Knight, while acting as the Crown Solicitor of the State of New South Wales, does not exist in any real or valid form within the Commonwealth of Australia of which the State of New South Wales is a part.

(iii) Relief by a jury adjudging that 'copyright', claimed by the two Defendants in the letters mentioned above in paragraph (ii) to be owned by the 'Crown', does not exist.

(iv) Relief by a jury issuing a server censure against the two defendants."

1 Various assertions described as pleadings and particulars are then alleged. 1 will come to those matters briefly, in due course.

- 2 By a notice of motion filed 30 November 2007 the defendants seek orders that the statement of claim be struck out or the proceedings be dismissed in accordance with the *Uniform Civil Procedure Rules 2005*, orders for costs in respect both of the motion and the proceedings and any other appropriate order.
- 3 When this matter was called for hearing Mr Wilson, who was wearing a T-shirt asserting a right to trial by a jury, persistently over-talked me with improper and insulting submissions (which are sufficiently set out in the transcript) and refused to sit quietly when I attempted to speak. I directed him at first to remain silent. When he refused to do so and therefore prevented the hearing from continuing except on his terms, I had him removed from the courtroom.
- 4 After about five minutes, when counsel for the defendants handed up written submissions, a set of supporting documents which are already the subject of affidavit evidence and an affidavit, I invited Mr Wilson back, provided he would agree to remain silent whilst the matter was proceeding. He refused to do so, simply continuing with the earlier nonsense. I therefore had him removed again.
- 5 The Court is not a forum for political protest, still less an opportunity for abusing a judge and preventing properly instituted proceedings from continuing. It matters not whether that conduct is undertaken by a member of the public or a party. It is clear that Mr Wilson simply saw the courtroom as providing him with a stage in which he could, regardless of any merits, attack the legitimacy and jurisdiction of the Court using language which was at once foolish and offensive. He was plainly playing to an audience.
- 6 Mr Wilson had himself filed a notice of motion dated 4 February 2008 seeking that a special Jury be empanelled to determine the jurisdiction of the Court in the interests of justice where justice is the protection of rights and the punishment of wrongs". It is sufficient merely by reading the order sought to demonstrate that this application is without merit. there is no jurisdiction in this Court to empanel a special jury for the specified purpose.
- 7 It is, I think, sufficient to note that the relief claimed in Mr Wilson's statement of claim is impossible to obtain by the law of this State. Insofar as it alleges what appears to be a criminal offence, relief by way of statement of claim can not be had, still less at the instigation of Mr Wilson as a private citizen in this Court. Nor can a jury adjudge whether there is a crown in right of the State of New South Wales, as claimed in paragraph 2. It is possible that a court could adjudge whether the Crown does have the

claimed copyright but that cannot be done by a jury. Finally, it is not possible to obtain a "severe censure" against the two defendants, let alone anyone else by a jury (or a judge, for that matter) as requested by Mr Wilson. That is enough to demonstrate that the Statement of Claim has no basis and does not set out any matters upon which this Court can adjudicate for the purpose of determining whether or not Mr Wilson should have the relief he claims.

- 8 It is necessary also that a statement of claim set out the material facts, matters and things said to justify the relief sought. The statement of claim filed by Mr Wilson admits that he had placed on his website the transcripts and judgments of proceedings in this and, he says, Commonwealth courts dating back to 17 September 1996. He says that he was required to remove them by letter dated 2 August 2007, signed by the Director General of the Attorney General's Department. That letter rightly states that the Crown is the owner of the copyright in Court transcripts and judgments. Mr Wilson admits, in effect, that he never sought nor did he obtain the permission of the Attorney General to reproduce and transmit the transcripts and judgments which appeared on his website.
- 9 Mr Wilson also claims that the Constitutional provision relating to the giving of full faith and credit throughout the Commonwealth "to the laws, the public acts and records and the judicial proceedings of every State" means that the public records are, in effect, free from copyright restrictions. This is plainly wrong. That provision has nothing to do with the law of copyright nor the copyright of the Crown in the transcripts and judgments of a Court. Mr Wilson states that judicial proceedings have been quoted and written and published by numerous authors. That is undoubtedly true, but that does not mean that those publications were made without appropriate permission. Moreover, the copyright law permits quotations and citations, within certain limits. Nor does the fact that the media publishes what occurs in proceedings mean that there is no copyright in the transcripts and judgments. The fact that judgments are available on the websites of various Courts does not remove the Crown's copyright in the material. He asserts, in effect, that it is wrong that the Crown should assert its copyright in the matters he publishes because, he says, the parties are interested and they should be able to assert ownership of the material. He asserts that the first defendant, acting as Attorney General and the second defendant, acting as the Crown Solicitor, have wrongly attempted to censor him and to intimidate the Internet service provider. To the contrary, they have merely been asserting the Crown copyright in the material which he was not legally entitled to publish without permission. Lastly, he refers to s 9 of the Court Security Act 2005 prohibiting the use of a recording device in Court premises. I do not propose to waste further time considering that claim. It is manifest that the statement of claim does not state any material fact, matter or thing that is capable of justifying the relief sought.

10 Accordingly, the conclusion is inevitable that the statement of claim discloses no reasonable cause of action. I think also the proceedings are manifestly frivolous and vexatious. For present purposes, it is sufficient if the statement of claim is struck out pursuant to Part 14 Rule 14.28 of the Uniform Civil Procedure Rules 2005.

11 I order the plaintiff to pay the defendants' costs of this motion and the costs of the proceedings.

I certify that this and the 3
preceding pages are a true copy of
the reasons for judgment herein of
His Hon Justice Adams

A. Ritchie Associate
Date: 17 March 2008