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SOD:SND W3621-G 355/08

LOCAL COURT
BURWOOD

MAGISTRATE DAKIN

WEDNESDAY 30 JULY 2008

Commissioner of Taxation v John WILSON

OFFENCE Failing to comply with a court order to furnish Business Activity Statements

Ms DREVER for the Informant
Accused appeared in person

HIS HONOUR: Sir are you John Wilson?

ACCUSED: That's me.

HIS HONOUR: Would you just stand behind the tall microphone please. Do you have anybody representing you here today sir?

ACCUSED: What's your name?

HIS HONOUR: I'm magistrate Dakin. Do you have anybody representing you here today?

ACCUSED: NO I'm here to challenge the jurisdiction of the court. I have it in written form and I'd like the stamp by the court and the court keep one copy and one copy to the opposition and I'll keep the other two.

HIS HONOUR: All right so just before we get onto that Mr Wilson –

ACCUSED: Well you can't get on with anything because I'm challenging the jurisdiction of the court. All proceedings cease. There is a peremptory stay of proceedings until the jurisdiction is determined by a special jury. That is the law.

HIS HONOUR: Do you want to swap places? Do you want to sit up here? Guess what?

ACCUSED: Do you know the law?

HIS HONOUR: Guess what?

ACCUSED: Do you know the law?

HIS HONOUR: Just listen to me. I run this court, not you.

ACCUSED: No, the people run this court, you're only a servant of the people. You're only a servant.

HIS HONOUR: I don't dispute that, but it's my court –

ACCUSED: It's not your court, it's the people's court.

HIS HONOUR: -- and I'll run proceedings.

ACCUSED: Where's your name on the door? This is a court of the people. Not you.

HIS HONOUR: Now listen to me. I'll listen to you but there's one condition, you listen to me. Understood?

ACCUSED: Do you understand?

HIS HONOUR: What?

ACCUSED: Do you understand that I have a right for a trial by jury and that I am –

HIS HONOUR: No you don't.

ACCUSED: Do you understand?

HIS HONOUR: No you don't but anyway listen to me.

ACCUSED: You're saying I don't have the right, you mean our right to trial by jury has been extinguished? By who?

HIS HONOUR: Will you listen to me or I'll have you removed. It's that simple.

ACCUSED: I'm challenging the jurisdiction of the court, it's simple.

HIS HONOUR: Will you listen to me. We are not at that point, right?

ACCUSED: Are we getting there?

HIS HONOUR: Well if you give me an opportunity to speak we might. Finish at 4 o'clock. There are a number of allegations before the court, there are ten allegations of failing to comply with a court order to furnish a Business activity Statement for the periods September 04, December 04, March 05, June 05, September 05, December 05, March 06, June 06, September 06, December 06. Do you challenge the jurisdiction of the court in respect to those matters?

ACCUSED: Yes.

HIS HONOUR: There is a second set of proceedings –

ACCUSED: That is called subject matter. I challenge the jurisdiction. There are three basic grounds for challenging, one is subject matter, the other is relationship, the other one is competence. I'm challenging on all grounds. Now I'd like those papers stamped and returned to me please.

HIS HONOUR: There is a second set of proceedings, 19 allegations of failing to comply with the requirements to lodge GST returns for the period ending 30 June 2002. Do you challenge the jurisdiction of the court?

ACCUSED: I challenge the jurisdiction of the court to deal with those matters.

DREVER: Sir if I just may interrupt the defendant here. Your Honour in relation to the first set of offences the first charge is – I seek leave to withdraw that charge your Honour so there should be nine offences under s 8H of the taxation Administration Act, and the second set of offences your Honour I have no knowledge of.

HIS HONOUR: In fact –

DREVER: I believe they may be – the offences your Honour referring to in the second set may be the initial conviction which has led to this matter coming before the court again. They related to – were they in court your Honour on 17 December last year?

HIS HONOUR: Yes.

DREVER: Yes your Honour. The defendant was convicted on that occasion and failure to comply with an order made on that occasion means that the matters have come back to court today on a new Court Attendance Notice.

HIS HONOUR: So they're the allegations under s 8G and s 8H.

DREVER: That's right your Honour and in relation to the first charge I seek leave to withdraw that first charge, so the matters before the court –

HIS HONOUR: Which is on or about 18 February 2008 at North Rocks, is that right, is that sequence 1?

DREVER: They all start in that fashion your Honour but it relates to the BAS for the period between 1 July 2004 and 30 September 2004.

HIS HONOUR: All right so, 1(i).

DREVER: That's right your Honour yes.

HIS HONOUR: Why don't you come and have a seat at the bar table sir. Have a seat over there. Now the prosecutor wants to withdraw sequencenumber 1 sir, which is 1

(i) on the Court attendance Notice. Do you have any objection to that?

ACCUSED: I'm objecting to the jurisdiction of the court.

HIS HONOUR: I understand that but do you have any objection to that charge being withdrawn? How can I determine jurisdiction –

ACCUSED: You can't determine anything, you've got no jurisdiction.

HIS HONOUR: All right –

ACCUSED: Do you understand? You have no jurisdiction because I have not signed a Memorandum of Consent to say that I would be without a jury. It's the law. No parliament can take away the rights of the people. Our most important right, the glory of English law, as Blackstone said, the glory of English law is trial by jury.

HIS HONOUR: Have a seat, if you'd like to of course.

ACCUSED: Thank you.

HIS HONOUR: Now where's these documents you want me to look at?

ACCUSED: Why do you want to look at it, you've got no jurisdiction. Yu have no – there is a peremptory stay of proceedings. It's in that document. Read it.

HIS HONOUR: I just asked to read it and you said I'm not going to.

ACCUSED: Then you are denying not only my rights, legal rights, but also you are denying legal procedure. This is the definition of a kangaroo court. Do you understand that this is a kangaroo court?

HIS HONOUR: No

ACCUSED: It is a kangaroo court because you are disregarding legal rights and you are disregarding legal procedures. My right to trial by jury, you're disregarding that, this is a legal procedure, challenging the jurisdiction of the court, you are disregarding that. That is the definition of a kangaroo court.

HIS HONOUR: Do you want me to read your documents or not?

ACCUSED: No. You've got no jurisdiction.

HIS HONOUR: Proceed.

DREVER: Yes your Honour.

ACCUSED: You've got no authority to proceed. You are in violation of the law.

HIS HONOUR: You just watch it happen around you sir.

ACCUSED: I can't hear – what?

HIS HONOUR: I said you just watch this all happen around you, you can participate if you want to—

ACCUSED: And you are defying justice, justice is the protection of right and the punishment of wrongs. You are going against justice. You are in contempt of court because contempt of court is interfering with the administration of justice.

DREVER: Your Honour I'll just get my documents.

HIS HONOUR: Hm-mm.

ACCUSED: We all must know our rights otherwise we have none.

DREVER: Your Honour I have a statement from the ATO office, does your Honour —

ACCUSED: You are not taught in schools—

DREVER: --I'm not sure if the defendant objects—

ACCUSED: --they are relying upon your ignorance. They are getting away with these..(not transcribable).. reports, it is all totally illegal. It is treason in fact. Treason. What these people are doing is treason. They are denying democracy. They are denying trial by jury, that is treason.

HIS HONOUR: One more outburst—

ACCUSED: I'm trying to help you.

HIS HONOUR: One more outburst and I'll have you removed.

ACCUSED: I'm trying to help you.

HIS HONOUR: No, no, no.

ACCUSED: Yes you are, you're doing wrong. Do you know the wording of the Bill of Rights? It says, "Even counselor, judges and ministers endeavouring—

HIS HONOUR: Are you going to allow the prosecutor to present her case?

ACCUSED: No because there is no jurisdiction in this court. It's simple. We have the – there was even a case back in 1824 against the magistrates of Sydney and it came down heavily against the magistrates of Sydney because they were denying ordinary people the right to trial by jury. Have you read that case?

HIS HONOUR: Mr Wilson I just activated the duress alarm. You'll be removed in a moment. You are interfering with the processes of this court.

ACCUSED: No I'm not. You are interfering the court—

HIS HONOUR: You just turned your back and addressed the gallery while a prosecutor was speaking—

ACCUSED: Because this is a public court.

HIS HONOUR: I've invited you to allow the prosecutor to present her case, she will not do so, I'm going to have you removed.

ACCUSED: I'm denying because they have no jurisdiction. Are you going to get the sheriffs, because the role of the sheriff is to protect our rights and allow us to exercise those rights in safety. That's the role of the sheriff. Are you going to get the sheriff to disobey his duty.

HIS HONOUR: Mr Wilson, the sheriffs are behind you, I'm going to ask them to remove you—

ACCUSED: Do you know your job?

SPEAKER: You'll have to come out sir.

ACCUSED: See, a simple question.

HIS HONOUR: I've given you many warnings, I've given you the opportunity to cease interfering with the processes of this court, you are refusing to do so—

ACCUSED: There is no court of proper jurisdiction. It is a kangaroo court.

SPEAKER: Let's go out.

ACCUSED: I've been in communication with the Sheriff of New South Wales, I got a call – Chris Allen, trying to help him, showing him his own duty of care and he is to protect our rights and what you are doing is denying those rights. It's a simple case of justice.

SPEAKER: Let's go, let's go.

ACCUSED: See they do this all the time, there's only two sheriffs, normally about five or six. Contact me any time.

HIS HONOUR: Ms Drever?

DREVER: Yes your Honour I have--

HIS HONOUR: You might be able to present your case now.

DREVER: I have my witness here your Honour but would your Honour allow me to tender her statement?

HIS HONOUR: Yes

DREVER: I tender a statement of Elizabeth Vestos(?) of the ATO dated 2 June 2008 and does your Honour wish me to tender a statement of facts at this point?

HIS HONOUR: Yes

DREVER: And the defendant's record. I tender those documents your Honour.

HIS HONOUR: Thanks. Just pardon me while I read that material.

THE MATTER OF COMMISSIONER OF TAXATION AND JOHN WILSON I
GRANT LEAVE TO WITHDRAW SEQUENCE 1(i).

I FIND EACH OF THE OTHER ALLEGATIONS PROVED, S 196.
S 25(2) WARRANT TO ISSUE.

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