



HIGH COURT OF AUSTRALIA

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Details of Filing

File Number: M65/2023
File Title: In the matter of an application by Jan Marek Kant for leave to i
Registry: Melbourne
Document filed: Transcript
Filing party: HCA
Date filed: 15 Sep 2023

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[2023] HCATrans 128

IN THE HIGH COURT OF AUSTRALIA

Office of the Registry
Melbourne

No M65 of 2023

In the matter of -

an application by JAN MAREK KANT
for leave to issue or file

KIEFEL CJ

TRANSCRIPT OF PROCEEDINGS

AT CANBERRA ON FRIDAY, 15 SEPTEMBER 2023, AT 3.31 PM

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HER HONOUR: Pursuant to rules 6.07.3 and 13.03.1 of the *High Court Rules 2004* (Cth), I refuse the application filed on 4 September 2023 for leave to issue or file an application for a constitutional or other writ. I publish my reasons and direct that those be incorporated into the transcript.

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The order of the Court is:

1. The ex parte application filed on 4 September 2023 for leave to issue or file an application for a constitutional or other writ is refused.

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I publish that order.

On 30 August 2023 the applicant sought to file an application against the Commissioner of the Australian Federal Police seeking a writ of habeas corpus and orders, which included: an order releasing him from the effect of all control orders and similar instruments issued against him; an order prohibiting covert experimentation with the plaintiff by public officials; an order making available to him all information the Commonwealth has about control orders and similar instruments issued against him; and an order for the award of damages in respect of his arbitrary detention. On 31 August 2023 Jagot J, pursuant to r 6.07.2 of the *High Court Rules 2004* (Cth), directed the Registrar to refuse to issue or file this document without the leave of a Justice first had and obtained by the applicant. The applicant now seeks that leave by way of an ex parte application, filed on 4 September 2023, pursuant to r 6.07.3 of the *High Court Rules*.

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It must be noted at the outset that it is not at all clear whether the applicant is the subject of any control order or is in any form of detention as a result. No such order is provided with the application. The applicant says that he has “reason to believe that he is presently held in detention” and suspects that his detention has effect by force of a control order issued under the *Criminal Code* (Cth). On the other hand his application does suggest that there has been some form of hearing in relation to control orders. He says he was not afforded the opportunity to make submissions at such a hearing and that it should have been a trial.

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Even if one were to assume that the applicant is subject to some form of control order, the terms of which are unknown, no basis for a writ of habeas corpus or other constitutional writ is shown. Apart from listing various provisions of the *Constitution*, the application goes no way to explaining what the applicant’s argument might be. His reference to s 80 in the context of a control order is inapt.

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45 The application for constitutional writs is incomprehensible and constitutes an abuse of the processes of the Court within r 6.07.1. I will order that the ex parte application filed on 4 September 2023 be refused.

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AT 10.31 AM THE MATTER WAS CONCLUDED