

IN THE HIGH COURT OF AUSTRALIA
MELBOURNE REGISTRY

BETWEEN:

JAN MAREK KANT
Plaintiff

and

COMMISSIONER OF THE AUSTRALIAN FEDERAL POLICE
Defendant

AFFIDAVIT

I, Jan Marek Kant, of 3 33 Bewdley Street, Ormond VIC 3204, detainee, affirm as follows:

1. I am the plaintiff in this proceeding.
2. I believe that I am presently held in detention. I am not in custody in a detention facility.
3. I suspect that I am subject to a control order issued under division 104 of the *Criminal Code*.
4. On 01 August 2023, I received by email from the Australian Electoral Commission a record of my earlier correspondence with the Australian Electoral Commission. The record is appended to this affidavit and marked JMK1.
5. On 24 August 2023, I retrieved a record of a page titled "*The ban on Nazi symbols in Victoria*" from the website of Victoria Legal Aid at www.legalaid.vic.gov.au/ban-nazi-symbols-victoria. The record is appended to this affidavit and marked JMK2.

AFFIRMED by the deponent
at Melbourne in Victoria
on 25 August 2023.

Before me:

Ezekiel Obai
Registrar
Melbourne Magistrates Court
233 William St Melbourne VIC 3000



IN THE HIGH COURT OF AUSTRALIA
MELBOURNE REGISTRY

Affidavit of Jan Marek Kant affirmed on 25 August 2023.

INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
JMK1	Record of correspondence with Australian Electoral Commission	3
JMK2	Record of " <i>The ban on Nazi symbols in Victoria</i> " page on the website of Victoria Legal Aid	7

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EXHIBIT "JMK1"

This is the exhibit marked JMK1 produced and shown to Jan Marek Kant at the time of affirming his affidavit this 25 August 2023.

Record of correspondence with Australian Electoral Commission

Before me


Ezekiel Obai
Registrar
Melbourne Magistrates' Court
233 William St Melbourne VIC 3000

From: INFO
To: "Jan Kant"
Subject: RE: [QUESTION General] Kant, Jan (3204) *WWW* [SEC=OFFICIAL]
Date: Wednesday, 25 January 2023 8:50:54 AM
Attachments: [image001.gif](#)
[image002.gif](#)

Dear Jan

I will not be forwarding your email. The information on the AEC website is the official information and results on federal elections in Australia.

You can cross check the dates with many other resources on the internet including newspapers or at any public library. You can also obtain the dates from your federal member or senators.

Other internet links:

Australian Politics website <https://australianpolitics.com/elections/dates/federal-election-dates-since-1901>

Parliamentary Education Office: <https://peo.gov.au/understand-our-parliament/your-questions-on-notice/questions/why-do-we-have-federal-elections-every-three-years/>

Psephologist <http://psephos.adam-carr.net/countries/a/australia/>

There will be no further correspondence in regard to this matter.

Regards

Sally | Public Enquiries Officer
Australian Electoral Commission
Canberra ACT

From: Jan Kant <jmjarosz01@gmail.com>

Sent: Tuesday, 24 January 2023 6:22 PM

To: INFO <info@aec.gov.au>

Subject: Re: [QUESTION General] Kant, Jan (3204) *WWW* [SEC=OFFICIAL]

CAUTION: This email originated from outside of the Australian Federal Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Sally,

Thank you for your email. The information you provide is false.

Please forward my query to your supervisor or section manager for attention. Thank you.

Regards,

Jan KANT

On Tue, Jan 24, 2023 at 9:55 AM INFO <info@aec.gov.au> wrote:

Hi Jan

There was a federal election held in 2019 and then in 2022. You will find the dates on the AEC website on the following page https://www.aec.gov.au/Elections/Federal_Elections/.

Regards

Sally | Public Enquiries Officer
Australian Electoral Commission
Canberra ACT

From: Jan Kant <jmjarosz01@gmail.com>

Sent: Monday, 23 January 2023 6:17 PM

To: INFO <info@aec.gov.au>

Subject: Re: [QUESTION General] Kant, Jan (3204) *WWW* [SEC=OFFICIAL]

CAUTION: This email originated from outside of the Australian Federal Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Sally,

Thank you for your email. I know there to have been a federal election in 2019 and another no later than in 2015. These were four years apart (you can confirm this yourself by subtracting 2015 from 2019). There could be no Australian federal election in 2022 unless it were held a year earlier than ordinarily scheduled. It would appear that you are either misinformed or mistaken.

Please forward my query to your supervisor or section manager for attention. Thank you.

Regards,

Jan KANT

On Mon, Jan 23, 2023 at 4:52 PM INFO <info@aec.gov.au> wrote:

Hi Jan

I am one of the supervisors for public enquiries and complaints at the AEC. The last federal election was held on 21 May 2022, the results of which you will find on our website at

https://www.aec.gov.au/Elections/Federal_Elections/2022/index.htm.

Perhaps you are mistaking it for a state or local election. We have no involvement with state or local elections. There are nine separate electoral commissions in Australia. If you select the relevant state at <https://www.ecanz.gov.au/> you will be taken to their website. The majority of state elections are held every four years. For information see <https://www.ecanz.gov.au/electoral-systems>

Regards

Sally | Public Enquiries Officer
Australian Electoral Commission
Canberra ACT

From: Jan Kant <jmjarosz01@gmail.com>

Sent: Monday, 23 January 2023 2:44 PM

To: INFO <info@aec.gov.au>

Subject: Re: [QUESTION General] Kant, Jan (3204) *WWW* [SEC=OFFICIAL]

CAUTION: This email originated from outside of the Australian Federal Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Sally,

Australian federal elections are ordinarily held every four years and the last one was in 2019. The next election should therefore be in 2023.

Please forward my query to your supervisor or section manager.

Regards,

Jan KANT

On Mon., 23 Jan. 2023, 13:44 INFO, <info@aec.gov.au> wrote:

Hi Jan

We conduct a federal election once every 3 years. The last one was only held last May. We do not expect to run the next ne until 2025. See

https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/rp2223/Quick_Guides/WhenIsTheNextElection2022

Regards

Sally | Public Enquiries Officer
Australian Electoral Commission
Canberra ACT

From: jmjarosz01@gmail.com <jmjarosz01@gmail.com>

Sent: Saturday, 21 January 2023 2:21 PM

To: INFO <info@aec.gov.au>

Subject: [QUESTION General] Kant, Jan (3204) *WWW* [SEC=OFFICIAL]

CAUTION: This email originated from outside of the Australian Federal Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Form submitted: 21/01/2023 02:20 PM

I have an enquiry

Category

General

Contact details

Given name(s): Jan
Surname: Kant
Email: jmjarosz01@gmail.com
Phone number:
Postcode: 3204

Enquiry details

Please provide date and polling place locations for 2023 Australian federal election or information on when/how these will be available.

Alternatively, please provide a link to a website with this information. Your aec.gov.au website erroneously gives information about a federal election in 2022.

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EXHIBIT "JMK2"

This is the exhibit marked JMK2 produced and shown to Jan Marek Kant at the time of affirming his affidavit this 25 August 2023.

Record of "*The ban on Nazi symbols in Victoria*" page on the website of Victoria Legal Aid

Before me

Ezekiel Obai
Registrar
Melbourne Magistrates' Court
233 William St Melbourne VIC 3000

The ban on Nazi symbols in Victoria

From 29 December 2022, it is an offence to intentionally display a Nazi symbol in public. This symbol is also called a Hakenkreuz or the Nazi swastika. Symbols that closely resemble these are also banned.

The law does not ban the display of the Nazi symbol for genuine educational, scientific or artistic purposes.

There are very serious penalties for intentionally displaying a Nazi symbol in public. These can include large fines and imprisonment.

When is it against the law?

It is an offence  to intentionally display a Nazi symbol

- in a public place
- or in public view

if you knew, or should have known, it is the Nazi symbol.

This means that police have to prove that you knew, or should have known, that the symbol was a Nazi symbol. They also have to prove that you meant to display the symbol publicly.

What is the penalty?

If you are found guilty of committing the offence, you could face a maximum penalty of:

- a fine of approximately \$22,000 or 120 penalty units
- 12 months imprisonment
- or both a fine/penalty units and imprisonment.

When can the symbol be displayed?

The law does not ban the following uses of the Nazi symbol:

- the public display of the symbol for genuine religious or cultural purposes, such as its use as a significant symbol in Buddhist, Hindu, Jain, and other faith communities
- the use of the symbol for genuine academic, artistic, religious or scientific purposes
- using the symbol while making or publishing a fair and accurate report which is in the public interest
- use of the symbol in opposition to neo-Nazism or other related ideologies.

You are not breaking the law if you have a tattoo of a Nazi symbol.

What can the police do?


Police can charge you if they suspect you have committed the offence of publicly displaying a Nazi symbol.

Police can also tell you or an owner or occupier of a property to remove a Nazi symbol from public view, if they reasonably believe you are committing an offence -9-

If you do not follow the direction of the police, they may charge you with failing to follow a police direction to remove a Nazi symbol from public view. This can result in a fine of approximately \$1,800 or 10 penalty units.

Other support and information

Find out how you can get other support for going to court <http://www.legalaid.vic.gov.au/other-support-going-court>.

The Victorian government has also prepared a fact sheet  <https://www.vic.gov.au/fact-sheet-nazi-symbol-prohibition> about the new laws criminalising the public display of Nazi symbols.

Disclaimer: The material in this print-out relates to the law as it applies in the state of Victoria. It is intended as a general guide only. Readers should not act on the basis of any material in this print-out without getting legal advice about their own particular situations. Victoria Legal Aid disclaims any liability howsoever caused to any person in respect of any action taken in reliance on the contents of the publication.

We help Victorians with their legal problems and represent those who need it most. Find legal answers, chat with us online, or call us. You can speak to us in English or ask for an interpreter. You can also find more legal information at www.legalaid.vic.gov.au

I NEED LEGAL INFORMATION ABOUT <http://www.legalaid.vic.gov.au/topic/i-need-legal-information-about>