

CITATION: *Lee-anne Lacey v Kate Worden* [2022] NTLC 029

PARTIES: Lee-anne Lacey

v

Kate Worden

TITLE OF COURT: LOCAL COURT

JURISDICTION: CIVIL

FILE NO(s): 22230458, 22230459, 22230460,
22230461, 22230463, 22230464

DELIVERED ON: 22 December 2022

DELIVERED AT: Darwin

HEARING DATE(s): 18 October, 1 November 2022

DECISION OF: Acting Judge O'Loughlin

CATCHWORDS:

Personal Violence Restraining Orders – Summary Judgment

Local Court (Civil Jurisdiction) Rules 1998 (NT) r 28.01

General Steel Industries Inc v Commissioner of Railways (NSW) (1964) 112 CLR 125

NT Pubco Pty Ltd v Strazdins [2014] NTSC 8

Kerinaia v Andreou [2018] NTSC 87

REPRESENTATION:

Counsel:

Applicant: Self

Defendant: Ms T Cramp

Decision category classification:	B
Decision ID number:	[2022] NTLC 029
Number of paragraphs:	28

IN THE LOCAL COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. 22230458, 22230459, 22230460,
22230461, 22230463, 22230464

BETWEEN:

Lee-anne Lacey

Applicant

AND:

Kate Worden

Defendant

REASONS FOR DECISION

(Delivered 22 December 2022)

ACTING JUDGE O'LOUGHLIN

Introduction

1. The Applicant has applied for personal violence restraining orders against the King Charles III, the Administrator of the Northern Territory (NT), the NT Attorney-General, the NT Minister for Police, Fire and Emergency Services, the NT Minister for the Prevention of Domestic, Family and Sexual Violence, and the Federal Minister for Indigenous Australians.
2. The Solicitor for the NT appeared for the Administrator and the NT Ministers, and has applied for summary judgment pursuant to *Local Court (Civil Jurisdiction) Rules 1998*, Rule 28.01.
3. The personal violence restraining orders applications are very similar and these reasons apply to each of the six proceedings.

Law

4. Local Court Rule 28.01 provides a power for the Court to summarily decide a matter in certain circumstances:
 - (1) *Where a proceeding generally or a claim in proceedings:*
 - (a) *does not disclose a cause of action;*
 - (b) *is scandalous, frivolous or vexatious; or*
 - (c) *is an abuse of the process of the Court,*

the Court may stay the proceedings generally or in relation to a claim or give judgment in the proceedings generally or in relation to a claim.

5. *General Steel Industries Inc v Commissioner of Railways (NSW) (1964) 112 CLR 125* remains a leading authority on summary judgment where Barwick CJ said at page 130:

"... great care must be exercised to ensure that under the guise of achieving expeditious finality a plaintiff is not improperly deprived of his opportunity for the trial of his case by the appointed tribunal. On the other hand, I do not think that the exercise of the jurisdiction should be reserved for those cases where argument is unnecessary to evoke the futility of the plaintiff's claim. Argument, perhaps even of an extensive kind, may be necessary to demonstrate that the case of the plaintiff is so clearly untenable that it cannot possibly succeed."

6. In *NT Pubco Pty Ltd v Strazdins [2014] NTSC 8*, Hiley J at [16] - [17] summarised the effect of the equivalent Supreme Court Rule in the following way:

"Courts have been reluctant to allow summary determinations; rather, a party is ordinarily entitled to have its case placed before the court in the 'ordinary way'. The power under Order 23 is one that should be exercised by a court with great caution; with the applicant bearing a heavy burden. It has been held in this jurisdiction that Rule 23.03 will only be enlivened in circumstances where the plaintiff's case is so clearly untenable that it could not possibly succeed."

... "in order to succeed under these provisions for summary relief [the defendant] must establish that the claims against them are plainly unsustainable".

7. Here the merits of the claims will be determined by section 15 of the *Personal Violence Restraining Orders Act 2016 (NT)* ("PVRO Act") which requires the Applicant to show:

"... on the balance of probabilities a personal violence offence has been committed, or is likely to be committed by the defendant against the person whose protection is sought".

8. A "personal violence offence" is defined in section 4 of the PVRO Act and refers to a number of offences in the *Criminal Code* (including offences against morality, assault etc.) as well as conduct causing harm, damaging property, intimidation, stalking and economic abuse.

Evidence

9. In September and October 2022, the Applicant filed affidavits to support her applications pursuant to *Local Court Practice Direction 37.2*. Thus the Court has the entirety of the Applicant's evidence and does not need to speculate on what evidence *might* be tendered. Notwithstanding this advantage of having the actual evidence, I will apply the above principles and require the Defendant to satisfy the heavy burden of showing the claims are plainly unsustainable.
10. Unfortunately, the Applicant is not represented by a legal practitioner and her affidavits of evidence are difficult to follow. Even after careful reading I have been unable to find evidence suggesting the Defendants have, or are likely to, commit a personal violence offence against the Applicant.

11. The affidavits mostly focus on issues relating to the *Constitution*, the Applicant's views on the validity of NT laws, the alleged lack of jurisdiction of this Court, and the quality of the mental health treatment she received in the NT and ACT.
12. Justice Barr dealt with very similar jurisdictional arguments in *Kerinaia v Andreou* [2018] NTSC 87 and at [24] found them to be "without merit", and I have reached the same conclusion here.
13. Despite my difficulty in following the affidavits, I have below attempted to identify those parts which *might* be regarded as alleging a personal violence offence.
14. In respect of the application against the Federal Minister for Indigenous Australians, the Applicant alleges the Minister has:

"advocated violence and defamation against my person and have deemed me mentally impaired which has caused harm on my person" and "defamed me since 1987-2009-2022. This has been recorded in the ACT and NT mental health with injections that have induced symptoms of Parkinson's disease".
15. The general assertion of advocating violence is without any detail and there is no suggestion that the Applicant has ever had dealings with the Federal Minister. The Applicant also alleges that Aboriginal and Torres Strait Islander organisations and Land Councils *"are practising apartheid that has caused harm to my mental health, physical health"*. This is unlikely to be true, but even if it was, it is not an act by the Minister for Indigenous Australians. I find there is no evidence to suggest the Minister for Indigenous Australians has, or will, commit a personal violence offence against the Applicant.
16. In respect of King Charles III, the Applicant alleges that he, as head of the Anglican Church, *"murdered aboriginal/indigenous and stole our land"*. Again, even if these historical allegations against the Anglican Church were made out, it would not be a basis to conclude that the current head of that church has committed, is likely to commit, a personal violence offence against the Applicant.
17. The application against the NT Minister for Police, Fire and Emergency Services nominates the protected person as Laura Hinks, where it is alleged this Minister *"has no authority or jurisdiction to remove Laura's children"* and that the Minister's agents have *"mentally and physically assaulted Ms Laura Hinks"*. Although the Applicant has taken an interest in this other proceeding, and Ms Laura Hinks has been subject to an arrest, there is no evidence suggesting the Minister has committed or is likely to commit a personal violence offence against Ms Hinks.
18. She also alleges the Minister for Police, Fire and Emergency Services *"continues to attempt to commit me into a mental institution on the whim of a phone call"*. There is no evidence to support this allegation and I also accept the submission by the Defendant that this Minister has no role under the *Mental Health and Related Services Act 1998* (NT).
19. In respect of the NT Attorney-General where the protected person is again Laura Hinks, the Applicant alleges that *"the policies and law legislation has affected the life of Laura Hinks and her children that has put her children in a dangerous position"*. Though not necessary, the

Defendant filed affidavit evidence stating the Attorney-General has had no involvement in Ms Hinks' proceeding. In any event, there is simply no evidence to suggest a personal violence offence has been, or will be, committed by the NT Attorney-General.

20. I could not find any allegation approximating a personal violence offence in the proceeding Local Court file number 22230463 against Kate Worden as NT Minister for the Prevention of Domestic, Family and Sexual Violence.
21. In respect of the Administrator, the Applicant seems to suggest that as "*Administrator of the Monarch who is the head of the Anglican Church... [she] ... murdered the aboriginal/indigenous/original people and stole their land*". This allegation is not evidence of a personal violence offence having been committed by the Administrator against the Applicant.
22. The summary judgment application was argued on 18 October 2022, where the Applicant was given two further weeks to file any additional evidence or submissions in response to the Defendant's written submissions.
23. The Applicant filed further affidavit evidence on 1 November 2022. That affidavit raised a number of additional novel legal arguments such as:

"The defendants ...are responsible and complicit for violations committed by the Australian police forces in particular the NT police force. The defendant, Vicki O'Halloran is administrating them via the Minister of Finance. The Australian police forces are impersonating Commonwealth officers which is a punishable crime".
24. Consistent with the reasoning of Barr J in *Kerinaia v Andreou*, I reject these propositions.
25. Nearly all of the remaining content of the 1 November 2022 affidavit addressed concerns about the behaviour of the Applicant's sister which is not relevant, and the Applicant's treatment as a patient in the ACT, which is also not relevant.

Conclusion

26. In respect of all of the six applications for personal violence restraining orders, the Applicant has failed to identify one personal violence offence that has been committed by any of the named Defendants. There is nothing in the evidence to suggest that such an act has been committed or is likely to be committed by any one of the Defendants. I find the applications are clearly untenable and cannot possibly succeed.
27. I therefore summarily dismiss each of the six applications pursuant to Rule 28.01.
28. My preliminary view is not to award costs against the Applicant, but I will hear from the parties if necessary where any application for costs is to be filed within 28 days.

Orders

1. The Application for a Personal Violence Order in this proceeding 22230461 is summarily dismissed pursuant to Local Court Rule 28.01;
2. The Applications for Personal Violence Orders in proceedings 22230458, 22230459, 22230460, 22230463, 22230464 are summarily dismissed pursuant to Local Court Rule 28.01;
3. Any application for costs is to be filed and served within 28 days.