

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMON LAW DIVISION

S ECI 2024 00654

IN THE MATTER of a proposed proceeding

B E T W E E N:

Jan Marek Kant

Applicant

- and -

The Commissioner of the Australian Federal Police
The CEO of the Australian Criminal Intelligence Commission
The Chief Justice of Australia
The Inspector-General of Intelligence and Security
The Australian Government Security Vetting Agency
The State of Victoria

Proposed

Defendants

REFUSAL

OFFICER:

R Ratcliffe.
Prothonotary

DATE MADE:

15 February 2024

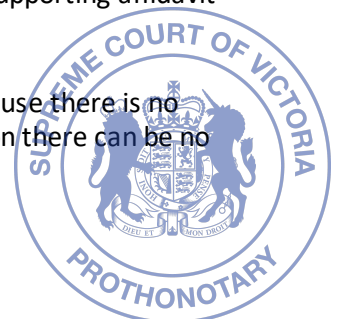
SUBJECT:

Application by the proposed plaintiff filed on
12 February 2023 and reviewed pursuant to Rule
28A.04(2) of the Supreme Court (General Civil Procedure)
Rules 2015.

Upon reading and assessing the proposed document/s of the applicant, the
Prothonotary has rejected the documents and refused to seal them because, if sealed,
they would be substantially irregular

Reasons for refusal

1. On 12 February 2024, Jan Marek Kant (the Applicant) filed a Summons with supporting affidavit by way of application for a leave to issue a writ of Habeas Corpus.
2. It is my view that the summons and affidavit are misconceived primarily because there is no evidence that the Applicant is held in detention. Without a provable detention there can be no requirement for a writ of habeas corpus.



3. In the Applicant's affidavit he states at paragraph 4 that "I believe that I am presently detained by officers of the Commonwealth" and then goes on to say, "I am not 'detained in custody' within the meaning of 104.2(5) of the Criminal Code."
4. In the Applicant's Summons he states that, "Insofar as it is presently unclear, the nature of the plaintiff's detention is expected to become apparent on examination of evidence taken from the defendants."
5. The Applicant's affidavit explains at length his suspicions that a control order, of the type identified in Division 104 of the *Criminal Code Act 1995 (Cth)* is in place against him. No such control order is produced nor is there any evidence that could reasonably lead to the conclusion that one exists. There appears to be no evidence that there are any restrictions on the Applicant's movement, finances or any other identifiable aspect of his life.
6. Much of the affidavit material lists the unsuccessful attempts made by the Applicant to find information about any control orders against him.
7. The Applicant sought a similar application for writ of habeas corpus to the High Court of Australia. This application for leave to issue a writ was refused by Kiefel CJ on 15 September 2023. The Applicant sought leave to appeal the decision of Kiefel CJ which was refused by Edelman J and Jagot J on 7 December 2023.
8. On 21 December 2023, the Applicant attempted to file a writ in this court naming "The Chief Justice of Australia" as the defendant. The claim sought damages against the Chief Justice for refusal to issue the Applicant's writ of habeas corpus. I refused to seal that writ and issued reasons for refusal on 29 December 2023.
9. Finally, even if there were Commonwealth control orders in place against the Applicant, it is unclear on what legal basis, the Applicant contends that a writ of habeas corpus to the Supreme Court of Victoria would have any utility to remove or amend such orders. The laws cited in the Summons range from 17th century British legislation to the Constitution Act 1975. None present a viable legal cause of action.
10. This application is clearly misconceived and therefore substantially irregular. I refuse to seal the summons and affidavit pursuant to r28A.04(2).

PRoTH

PROTHONOTARY

