

**Form 12 – Application for a constitutional or other writ**

Note: see rule 25.01.1.

IN THE HIGH COURT OF AUSTRALIA  
[MELBOURNE] REGISTRY

BETWEEN:

Reece Storme Ferrara  
Plaintiff

and

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Police Commissioner of Queensland  
State of Queensland  
Defendants

**APPLICATION FOR A CONSTITUTIONAL OR OTHER WRIT [r 25.01.1]**

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The Plaintiff applies for the relief set out in Part I below on the grounds set out in Part II below

**Part I:**

**RULES AND DECLARATIONS**

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1. Leave to dispense with compliance with the *High Court Rules 2004* at the discretion of the Court as it pleases. [r 2.02; r 2.03.3]
2. Leave to declare *prima facie Locus Standi* at the Court's discretion.
3. Leave to declare *Actio Popularis*.
4. Leave to Consider the Declaration of *Ius Cogens*.
5. Leave to dispense with Security of Costs [r 59.02] considering the principle of access to justice in the face of poverty.

**SEVERABLE ELEMENTS AND QUESTIONS OF LAW**

6. Orders to decide severable elements expediently pursuant to s 16 (c) and s 16 (d) of the *Judiciary Act 1903* [Cth] and [r 13.03] in conjunction with s 25A (1)(a) and s 25 (1)(b) notwithstanding remittal as the Court pleases.
7. Determination of questions of law within the cause presented.
8. Order indictments where material facts establish beyond reasonable doubt and in their Honours wisdom and discretion, acknowledging that a cause may contain civil and criminal proceedings at the Court's discretion.

## COMPENSATION AND DAMAGES

9. Summary Orders for compensatory general damages include loss of enjoyment of life, lost earning capacity, medical expenses, mental anguish, pain and suffering, encompassing non-economic loss.
10. Orders to award exemplary and or aggravated damages in response to the Defendants malicious conduct.
11. Orders for damages in negligence pursuant to duty by statute, s
12. Leave to appeal decision relating to costs incurred to defend charges by Queensland Police in the Magistrates Court of the District of Goondiwindi
- 10 Queensland where the Prosecution withdrew one week prior to trial after costs incurred by the Plaintiff.

## CONSTITUTIONAL WRITS

13. Order for a Writs of Prohibition directed to the Police Commissioner of Queensland Police Service (QPS) and its' agents arresting decision powers to determine complaints against Police in this cause.
14. Writ of Certiorari to quash several decisions made by QPS regarding the complaint against its officers.
15. Writ of Mandamus to compel the Commissioner of Police to refer the complaint to the Crime and Corruption Commission Queensland (CCC Qld).
- 20 16. Writ of Prohibition directed to the CEO of CCC Qld and its' agents arresting decision powers to determine complaints against QPS in this cause.
17. Writ of Certiorari to quash the decision to refer the complaint back to QPS according to the 'devolution principle' and subsequent decision not to investigate the complaint.
18. Writ of Mandamus to Investigate the complaint as Parliament intended—the purpose for which the CCC Qld was created and notwithstanding the consideration of a Public Inquiry.
19. Writ of Quo Warranto directed Hon. Mark Ryan, Minister for Police and Minister for Fire and Emergency Services, to expel from public office in the interest of
- 30 *Actio Popularis*.

## Part II:

20. The application does not contain information subject to suppression order [r 1.08.6]

21. The appropriate notifications have been met subject to r 5.01 – 5.04 and *Judiciary Act 1903* (Cth) s 78B.

### **ACTIO POPULARIS**

22. Fraud and misconduct within Public Office are in the Public Interest; hence, *Actio Popularis* should be declared.

23. The ‘devolution principle’ is controversial and asserted to be the mechanism that perpetuates systemic corruption within Queensland Police.

24. This cause shows *prima facie* battery, serious assault, then police prosecutor offered no evidence before the learned magistrate of the district of Goondiwindi  
10 March 30, 2023.

25. The elements of malicious prosecution have been met notwithstanding the assessment of malice. Additionally, conduct of Public Officers to conceal, derogate the Plaintiff’s legal and human rights and interfere with the natural course of justice.

26. Section s 5, s 42, 51 (xxiv), 51 (xxv), 51 (xxix), s 51 (xxxix), s 61, s 118, s 119 of the *Commonwealth of Australia Constitution Act* (“the *Constitution*”) support authority for *Actio Popularis*.

### **LOCUS STANDI**

27. Plaintiff has physical and psychological injuries at the hands of Police officers,  
20 public departments and the office of the Police Minister, Hon. Mark Ryan.

28. Utilising the *prima facie* evidentiary beyond a reasonable doubt, Plaintiff has standing of *Locus Standi*.

29. Plaintiff has a disability that directly impairs his ability to complete the legal applications according to the executive dysfunction of ICD-11-06-6A05.2 attention deficit hyperactivity disorder (ADHD).

### **IUS COGENS**

30. The intentional and reckless denial of the Plaintiffs legal and human rights amounts to a declaration of *Ius Cogens*, the peremptory norm of International Law that stands above all laws, such conduct amounts to Torture and Cruel,  
30 Inhuman and Degrading treatment of punishment at the acquiescence, of Public Officials.

31. Despite the suffering of the Plaintiff, Public Officials showed callous indifference.

They continued to conduct themselves in the pursuit of their self-interests, abandoning the public interest or misinterpreting the foundational meanings relating to positive law, their ethical and moral obligations and finally, the oath of the Constitution,

‘swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors **according to law.**’

### CONSTITUTIONAL WRITS

32. The Minister for Police and Emergency Services, Hon. Mark Ryan, did or should, have known the unlawful conduct above and failed to act and Honour his obligations under the Constitution in service of the Public and its interests.

33. The Minister’s inadequate due diligence in identifying systemic corruption, communicating issues as they arose for general public debate, eliminating corruption by evidence-based methods and best practices then maintaining a corruption-free Police Service under his responsibility and duty. Additionally, failed to direct relevant agencies on receipt of complaints sent directly to the Minister’s office, hence lies **Quo Warranto** and **Actio Popularis**.

34. QPS, on multiple occasions, declared there was no wrongdoing by the officers. It did not meet the threshold of misconduct. They failed to activate the Public Interest Disclosure Act. All were occurring by direction or under the responsibility of the Police Commissioner. The QPS refused to investigate the complaint, including allegations of systemic corruption, hence lies Writs of **Prohibition**, **Certiorari** and **Mandamus**.

35. The Crime and Corruption Commission (“CCC Qld”) produced contradictory assessments of the cause.

*‘not enough to support the allegations’* dated November 4, 2021, then March 2023, *‘your allegations meet the threshold of police misconduct or corrupt conduct as defined in section 15 of the Crime and Corruption Act 2007’*.

36. The CCC Qld inaccurately interprets its role in investigating corruption, hence failing its obligations by statute and office. Accordingly, Plaintiff asserts Writs of **Prohibition**, **Certiorari** and **Mandamus**.

### Part III:

37. This cause should not be remitted as it lies in the original jurisdiction of the High Court of Australia by the authority of sections 51, 75, 78, 106, 109, 118 and 119 of the and the reflection of section 38 of the *Judiciary Act 1903* (Cth) and International Treaty.<sup>1</sup>

### Part IV:

#### *Prima Facie Locus Standi*

10 38. A/Sgt Dickinson and principal officers failed to comply with section 157C Public Health Act 2005 which indicates they **must** tell the person they are being detained and being taken to treatment or care and explain how that is going to happen.

39. At 00:00:32:20 - 00:00:37:15 Snr Cons. Scott Hill said,

"Mate So what's going to happen, QAS are going to come here. Okay. They're going. They're going to assess you."

40. They did not expressly state I was being detained for the purpose of transporting me to a public treatment or care facility **prior** to initiating the act of arrest that followed.<sup>2</sup>

41. They did not explain how being detained would affect me and how that would be carried out.<sup>3</sup>

20 42. As I had not been 'assessed' **my legal status** up until principal officers explicitly stated I was being detained under the Emergency Examination Authority **was one of a free citizen**, with all the liberties, responsibilities, and rights of all free citizens.

43. They did not take regard to the principals within the Mental Health Act 2016 or the Human Rights Act 2019.<sup>4</sup>

44. A/Sgt Dickinson **made utterances**<sup>5</sup> without reasonable evidence to indicate such a view, stated that I "...**pretty much just wants to blue**" at paragraph [5.10]. The meaning inferred by the term "blue" is a colloquial term for **wanting to fight**.

<sup>1</sup> Submitted at [65]

<sup>2</sup> Public Health Act 2005 s 157C (1)(a)

<sup>3</sup> Ibid. s 157C (1)(b)

<sup>4</sup> *Mental Health Act 2016* Part 2; *Anti-Discrimination Act 1991* ; *Human Rights Act 2019* s 9(c), s 11, s 13

<sup>5</sup> Criminal Code 1899 Definition: means and includes using or dealing with, and attempting to use or deal with, and attempting to induce any person to use, deal with, or act upon, the thing in question.

45. A/Sgt Dickinson **expressly provided his frame of mind, anticipatory thoughts of violence and motive for actions that followed.** Had he exercised diligence

to inquire as to the reason I did not want to go via ambulance, I could have advised that as I am a Paramedic, I feel ashamed and guilty to waste an ambulance resource better used for someone who needed it.

46. In paragraph [5.21] I **specifically requested** that I not be touched and **before I could finish saying, "I'll cooperate" the agitated A/Sgt Dickinson unlawfully assaulted me by using his left hand to grab my left arm with harmful Force.**

10 47. It is asserted that his actions were premeditated, if not specifically, then in a generalised manner. That he knowingly<sup>6</sup> provoked<sup>7</sup> me by intentionally disobeying my explicit request **not** to touch me. He knew or ought to have known the conduct was unlawful and amounted to assault.

48. However, his inability to control his anger saw him engage in the act anyway. He repeatedly placed his hands around my throat, and doing so was outside meaningful acts to perform lawful arrest, engaging the Criminal Code 1899 s 340 (1)(a) intent with aggravation, alternatively s 339 (1) Assaults occasioning bodily harm with aggravation.

20 49. The principal officers involved knew, or ought to have known, that his conduct was unlawful. All officers involved knew or ought to have known that the subsequent arrest was unlawful, and a duty to terminate the unlawful arrest would be an act promoting health and principles within applicable acts. In failing to engage in conduct to correct unlawful conduct, all assisting officers engaged the Accessories after the fact to offences Criminal Code 1899 s 544.

50. All principal officers failed to comply with their duties under s 255 (2) of the Criminal Code 1899 Persons arresting, s 290 Duty to do certain acts 'is or may be dangerous to human life or health', s 328 (1) Negligent acts causing harm where 'bodily harm' means any bodily injury which interferes with health or comfort.

51. A/Sgt Dickinson by submitting the charge of obstruct police did so knowing the charge was arbitrary with intent to intimidate and discourage complaint providing

<sup>6</sup> Criminal Code 1899 definition: knowingly, used in connection with any term denoting uttering or using, implies knowledge of the character of the thing uttered or used.

<sup>7</sup> Criminal Code 1899 s 268 Provocation

cause to pursue malicious prosecution<sup>8</sup>. He is alleged to have contravened the Public Service Act 2008

52. Snr Cons Jordan has contravened s 355 of the Criminal Code deprivation of liberty' by confining me to the "cage" when it was unlawful to do so. A/Sgt Dickinson and all principal officers became accessories after the fact to unlawful deprivation of liberty.

53. This colloquial term used by officers only further reinforces the breach of dignity particularly in his own admissions. To illustrate, after the serious assault causing bodily harm with aggravation, he then gets officers to consider my 'human rights' as an **after thought**.

54. This implies consideration that behaviour was inappropriate alternatively, that as a complaint was to ensue purposeful conduct to atone or 'cover up' or gaslight and manipulate, now that third parties are to be involved.

55. The other officers concerned have become Accessories after the fact within the meaning of s 544 of the Criminal Code.

56. All principal Officers contravened s 283 of the Criminal Code and used Excessive Force.

57. Queensland Police Service (QPS), under the responsibility and direction of the Police Commissioner, engaged in a conspiracy<sup>9</sup> to conceal wrongdoing and interfere with the natural course of justice. A/Sgt Stahlhut knows or ought to have known what constitutes an offence of assault.

58. He failed to exercise the duties of his rank position and office impartially and properly becoming an accessory after the fact and engaged in conduct that constitutes a breach of the public trust.

59. QPS engaged in a conspiracy to conceal wrongdoing of subordinates in collusion with the principal officers, the Commissioner either directly or vicariously by a failure of due diligence and the Crime and Corruption Commission QLD.

60. QPS allowed, assisted or facilitated the principal officer to leave the country with an inferred intention of escaping natural justice.

<sup>8</sup> Police Powers and Responsibilities Act 2000 Section 7(2); Ibid. examples 4 ...police officer deliberately holding a person in custody for questioning several hours after the end of a detention period with no intention of applying under this Act for an extension of the detention period..

<sup>9</sup> "Conspiracy An offence at common law and under statute characterised by an agreement between two or more people to carry out an unlawful act or to perform a lawful act by unlawful means" Ray Finkelstein and David Hamer, Lexisnexis 'Concise Australian Legal Dictionary' (LexisNexis Butterworths, 2020)

61. Complaint made and received by the CCC Qld dated, October 6 2021, October 13 2021 and several other emails into 2023.

62. November 4 2021 a determination was made that no investigation would occur and again February 3 2022. The Plaintiffs health declined rapidly from February 20 onwards to a period of absolute despair.

63. Once the prosecution material was received a submission was prepared and email dated March 14 2023 '**your allegations meet the threshold of police misconduct or corrupt conduct as defined in section 15 of the Crime and Corruption Act 2001**' contradicting QPS assessment and CCC Qld's initial assessments.

## PUBLIC INTEREST DISCLOSURE

64. Submitted to the Defendants,

'This document is **to be considered an official submission of a** "Public Interest Disclosure" in relation to the matters pursuant to the final decision to dismiss my complaint by the Commissioner personally or vicariously under conduct of subordinates noting s 4.8 (4) of the Police Administration Act 1990.'

## INTERNATIONAL TREATY

65. [Int] Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 8 August 1989)<sup>10</sup>; [Int] Covenant on civil and political rights opened for signature 19 December 1966, 999 UNTS 171 (entered into force 13 November 1980)<sup>11</sup>; [Int] Convention of the rights of persons with disabilities opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 17 July 2008)<sup>12</sup>; Convention against corruption opened for signature 31 October 2003, 2349 UNTS 41 (entered into force 06 January 2006)<sup>13</sup>; Vienna convention on the law of treaties opened for signature 23 May 1969, UNTS 1155 (entered into force 27 January 1980)<sup>14</sup>

<sup>10</sup>satisfying the definition in Article 1 or, in the alternative, Article 16. Acknowledging or breach of Articles 2, 6, 10, 12, 13, 14, 15 and 16

<sup>11</sup> Acknowledging or breach of Articles 1, 2, 3, 5, 7, 9 (1), 9 (2), 9 (5), 10 (1), 16, articles 17, 23 (1), 25 (c), 26 and 50

<sup>12</sup> Acknowledging or breach of Articles 3, 4, 5, 7, 10, 12, 13, 14, 15, 16, 19, 22, 23, 25, 26, 27, 28 and 30

<sup>13</sup> Acknowledging or breach of the Conventions preamble; Articles 1, 2, 5 (2), 6 (1), 6 (1)(a), 6 (2), 7 (1), 7 (1)(a), 7 (1)(b), 7 (1)(d), 8 (2), 8 (3), 8 (4), 8 (5), 8 (6), 10, 10 (a), 10 (b), 30 (1), 30 (2), 30 (3), 30 (6), 30 (8), 30 (9), 30, 34, 35, 36 and 65 (1)

<sup>14</sup>Acknowledging Articles 1, 7, 11, 12, 14, 15, 16, 18, 24, 26, 27, 29, 31, 42 (1), 46 (1), 46 (2), 53, 64 and 84.



## QUESTIONS OF LAW

66. Submitted in application for special leave to appeal and a special case

### Part V:

67. What began as a desperate action to provide for the Plaintiff's family in the face of contraventions and rights, adverse actions, retaliation from employers in the resources sector and other failures of Public offices to abide by s 61 of the *Constitution* evolved.

10 68. Via overwhelming intimidation and exploitation of power advantage, the defendants engaged in organisational violence. QPS utilising maximal time to coerce the Plaintiffs withdrawal, in the face of Plaintiff asserting innocence from the event and communicated such to defendants on many occasions.

69. After knowledge the Plaintiff had paid a large sum to travel and present in person, the prosecution did submit *nolle prosequi* giving effect to action in malicious prosecution and recklessly causing further financial hardship to the Plaintiff already living in poverty. The prosecution having approximately 14 months to assess likelihood of successful prosecution.

70. In concealing conduct, the defendants punished the Plaintiff for exercising legal right. They contributed to breaking him psychologically and his will to live. The impairment of mind suffered led to several attempted suicides by Plaintiff.

20 71. They contributed to the destruction of Plaintiff's world beliefs, those of this country and reasonable expectations the laws of this land would be followed. The conduct amounts to Torture and Cruel, Inhuman and Degrading Treatment or Punishment. *Ius Cogens*.

### Part VI:

72. Plaintiff lives in poverty due to the conspiracy and corruption of Public Offices that intersect with the Mining and Resources private sector. As a result, Plaintiff can't gain access to legal rights despite exhausting avenues for representation; most significantly, a fair hearing should costs be required by security.

30 73. In the words of Hon. Justice Steven Rares, referring to the *Magna Carta* at cl. 40 in his speech at the Taking the Next Steps Symposium in 2015,  
'To no one will we sell, to no one will we deny or defer [i.e. delay] right or justice'

74. The imposition of costs payable would be a life sentence for indebtedness to others and is not dissimilar to a life sentence in prison.

Part VII: Refer to Annexure "RSF010A"

Part VIII: Refer to Annexure "RSF010B"

Dated April 12, 2023]

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.....(signed).....  
Reece Storme Ferrara

To: The Defendants

Commissioner for Queensland Police and the Attorney-General for the state of Queensland.

20 **TAKE NOTICE:** Before taking any step in the proceeding you must, within **14 DAYS** from service of this application enter an appearance and serve a copy on the Plaintiff.

The Plaintiff is self-represented.