

**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 Ferrara  
Plaintiff

and

Commonwealth of Australia  
Defendant 1  
State of Victoria

And

Ors

**APPLICATION FOR A CONSTITUTIONAL OR OTHER WRIT**

**URGENT ON GROUNDS: IMMINENT IRREPARABLE HARM**

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

**PART I: ORDERS SOUGHT**

**Immediate and Urgent Relief**

**Injunctive Relief to Prevent Jurisdictional Overreach by the Magistrates' Court**

1. Order Sought: An injunction preventing the Magistrates' Court from proceeding in a jurisdictional error.

Grounds: Procedural missteps include permitting actions contrary to statutory disclosure obligations, admitting evidence obtained through unauthorized surveillance, and disregarding principles of procedural fairness.

Legal Basis: Section 24 of the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, Section 138 of the *Evidence Act 1995 (Cth)*, and obligations under the ICCPR and CAT prohibit such jurisdictional errors.

Harm Mitigation Basis: Preventing further judicial missteps safeguards the Applicant's substantive rights, preserving fair trial guarantees.

**Writ of Prohibition Against Coercive and Intimidating Actions by Defendants**

2. Order Sought: A writ of prohibition directed at Defendants and their agents, restraining actions constituting harassment, intimidation, or coercion.

Grounds: Ongoing actions by Defendants threaten the Applicant's safety and mental well-being, necessitating immediate judicial protection.

Legal Basis: Section 75(v) of the *Constitution* enables the High Court to issue writs of prohibition to stop actions undermining individual rights (*Plaintiff S157/2002 v Commonwealth*).

Harm Mitigation Basis: Immediate relief halts further distress, safeguarding health and dignity.

### **Writ of Mandamus for Disclosure of Evidence**

3. Order Sought: A writ of mandamus compelling Defendants to provide complete disclosure of all relevant evidence, correspondence, and documents.

Grounds: Withholding critical documentation deprives the Applicant of procedural fairness and prevents effective defence preparation.

Legal Basis: The High Court's authority to enforce disclosure is established in *Ainsworth v Criminal Justice Commission*.

Harm Mitigation Basis: Access to documentation ensures the Applicant can mount a fair defence, reducing procedural inequities.

### **Writ of Mandamus for Provision of Immediate Medical Treatment**

4. Order Sought: A writ directing Defendants to provide urgent medical and psychological care for conditions exacerbated by procedural abuses and state actions.

Grounds: Denial of treatment breaches humane treatment obligations under Article 7 of the ICCPR and Section 75(v) of the *Constitution*.

Legal Basis: The High Court has the authority to compel necessary medical care (*Secretary, Department of Social Security v Haoucher*).

Harm Mitigation Basis: Immediate treatment alleviates suffering, ensuring the Applicant's capacity to engage in ongoing proceedings.

### **Short-Term Relief**

#### **Order Sought: Liberty to File Further Particulars**

5. The Applicant seeks liberty to file further particulars, including supplementary evidence, submissions, and additional grounds as may arise during the proceedings or as required for the effective determination of the matter.

### **Grounds**

Evolving Nature of Evidence: The complexities of the Applicant's case involve ongoing procedural developments, emerging evidence, and legal issues requiring supplementary clarification.

Fair Hearing Rights: Denying the Applicant the opportunity to provide further particulars would undermine procedural fairness and the Applicant's ability to present a full and comprehensive case.

Judicial Efficiency: Allowing further particulars promotes judicial economy by ensuring all relevant matters are fully articulated before the Court, reducing the need for piecemeal litigation.

### **Legal Basis**

High Court's Discretionary Power: The Court has inherent and statutory discretion to permit amendments and supplementary filings that serve the interests of justice, as affirmed in *Aon Risk Services Australia Ltd v Australian National University* (2009) 239 CLR 175.

Section 75(v) of the Constitution: The High Court's supervisory jurisdiction ensures that procedural rights, including the opportunity to provide further particulars, are preserved for effective judicial review.

Natural Justice: Principles of natural justice, as articulated in *Kioa v West* (1985) 159 CLR 550, require that parties be afforded the opportunity to present all relevant material supporting their claims.

### **Harm Mitigation Basis**

Ensures Comprehensive Adjudication: Granting liberty to file further particulars allows the Applicant to fully articulate all relevant legal and factual issues, ensuring a just outcome and minimizing the risk of oversight.

Protects the Integrity of Proceedings: Ensures that the Court has access to the most complete set of facts and arguments, safeguarding the procedural integrity of the case.

Facilitates Efficient Case Management: Avoids the need for separate applications for supplementary filings, promoting judicial efficiency.

### **Referral of Case to a Superior Court**

5. Order Sought: Referral of this matter to the Supreme Court of Victoria or the High Court due to procedural complexities and constitutional implications.

Grounds: Procedural misconduct, including biased decisions and jurisdictional overreach, warrants oversight by a superior court.

Legal Basis: Judicial oversight is aligned with the High Court's supervisory role as outlined in *AB v CD [2018] HCA 58*.

Harm Mitigation Basis: Referral ensures impartial adjudication, addressing systemic procedural defects.

### **Writ of Certiorari to Quash Unlawful Decisions**

6. Order Sought: A writ of certiorari to nullify decisions tainted by procedural bias or jurisdictional error.

Grounds: Procedural irregularities in lower court and administrative decisions undermine fairness and lawful authority.

Legal Basis: The High Court has jurisdiction to correct errors under *Craig v South Australia*.

Harm Mitigation Basis: Nullifying unlawful decisions protects the Applicant's procedural rights and ensures fairness.

### **Declaration of Procedural Unfairness and Administrative Misconduct**

7. Order Sought: A declaration affirming breaches of procedural fairness, statutory duty, and the Applicant's right to a fair hearing.

Grounds: Procedural obstructions and administrative misconduct prejudiced the Applicant's access to justice.

Legal Basis: Declaratory relief aligns with principles established in *Plaintiff S157/2002 v Commonwealth*.

Harm Mitigation Basis: Establishing accountability creates a procedural baseline, reducing future harm.

### **Partial Financial Relief to Address Misconduct-Induced Poverty**

8. Order Sought: An interim order providing financial relief to mitigate poverty caused by misconduct.

Grounds: Economic hardships linked to administrative failures and state actions have deprived the Applicant of basic resources.

Legal Basis: Compensation for state-induced damages is supported under equitable principles (*Carter v Egg and Egg Pulp Marketing Board*).

Harm Mitigation Basis: Financial relief improves living conditions and ensures basic dignity.

### **Mid-Term Procedural Safeguards**

#### **Injunction Against Retaliatory Actions**

9. Order Sought: An injunction prohibiting Defendants from retaliatory actions in response to this application or related complaints.

Grounds: Evidence of prior retaliation substantiates the need for protective intervention.

Legal Basis: Protective orders are consistent with procedural fairness doctrines (*Public Service Board of NSW v Osmond*).

Harm Mitigation Basis: Prevents further intimidation, safeguarding the Applicant's ability to seek legal recourse.

### **Order for Transparency and Accountability in Administrative Actions**

10. Order Sought: A writ of mandamus requiring Defendants to disclose decision-making criteria and procedural safeguards in adverse actions.

Grounds: Procedural opacity obstructs the Applicant's ability to contest measures lawfully.

Legal Basis: Transparency requirements are integral to administrative law (*Ainsworth v Criminal Justice Commission*).

Harm Mitigation Basis: Ensures fair preparation, reducing procedural disadvantages.

### **Expedited Review and Procedural Accommodations**

11. Order Sought: Expedited review of procedural rights with accommodations for fair participation.

Grounds: Procedural disparities hindered representation and equitable participation.

Legal Basis: Procedural fairness mandates accommodations (*Plaintiff M70/2011 v Minister for Immigration*).

Harm Mitigation Basis: Accommodations ensure equitable participation and reduce procedural harm.

## **Part II: Concise Statement of Grounds of the Application**

### **1. Violation of Procedural Fairness and the Rule of Law**

**Grounds:** The Applicant has been systematically denied procedural fairness, evidenced by prolonged delays, lack of transparency, and obstruction to access essential evidence. These actions constitute a breach of the rule of law, obligating public authorities to act fairly.

**Legal Basis:** *Plaintiff S157/2002 v Commonwealth* (2003) 211 CLR 476 establishes procedural fairness as a constitutional requirement. Additionally, *Three Rivers District Council v Bank of England (No. 3)* [2001] UKHL 16 reinforces public authority duties to act with integrity and fairness, particularly where individual rights are impacted.

### **2. Denial of Constitutional Right to Access Justice**

**Grounds:** Repeated obstruction of the Applicant's access to justice, including barriers to legal representation and undue delays, constitutes a breach of the fundamental right to justice under Section 75(v) of the Constitution.

**Legal Basis:** *Aon Risk Services Australia Ltd v Australian National University* (2009) 239 CLR 175 emphasizes the necessity of timely and fair judicial remedies within the justice system. *Three Rivers* underscores that public authorities must not obstruct redress, warranting intervention.

### **3. Systematic Abuse of Power by Commonwealth Officers**

**Grounds:** Documented misuse of power by Commonwealth officers—including punitive measures and delays—suggests intent to harm and obstruct due process, violating the Applicant's lawful right to justice.

**Legal Basis:** *R v Hickman; Ex parte Fox and Clinton* (1945) 70 CLR 598 confirms the High Court's jurisdiction to address administrative abuses that threaten procedural justice. *Three Rivers* reinforces the duty of public bodies to act lawfully and with care.

### **4. State-Sanctioned Psychological Torture and Human Rights Violations**

**Grounds:** Patterns of psychological harm from the Defendants' conduct, including intimidation and denial of fair process, amount to psychological torture and inhumane treatment, infringing the Applicant's right to dignity and humane treatment.

**Legal Basis:** Under Section 75(i) and Article 7 of the ICCPR, Australia is obligated to prevent torture and inhumane treatment. *Donoghue v Stevenson* [1932] AC 562 establishes a duty of care to prevent foreseeable harm to one's "neighbour."

5. **Regulatory Bias and Breach of Duty in the Context of State Capture**

**Grounds:** The Applicant alleges regulatory collusion with private interests, failing in impartiality and undermining institutional integrity, infringing on constitutional protections.

**Legal Basis:** *Waters v Commonwealth* (1951) 82 CLR 188 establishes the duty of impartiality for regulatory bodies. *Three Rivers* confirms that public authorities must act transparently, particularly where bias risks individual rights.

6. **Unlawful Detention and Arbitrary Restrictions Without Due Process**

**Grounds:** Arbitrary restrictions and administrative detentions imposed on the Applicant violate due process, constituting unlawful detention and infringing on the right to liberty.

**Legal Basis:** *Dietrich v The Queen* (1992) 177 CLR 292 safeguards due process constitutionally, while *Donoghue v Stevenson* reinforces that individuals must be free from arbitrary harm, mandating prevention of unnecessary harm.

7. **Economic Abuse and Coercive Control by State Entities**

**Grounds:** The Applicant has experienced economic restrictions and coercive state actions, including employment denials and deprivation, exerting undue control over livelihood, infringing economic freedom and autonomy.

**Legal Basis:** *Australian Broadcasting Corporation v Lenah Game Meats Pty Ltd* (2001) 208 CLR 199 confirms the individual right to autonomy and freedom from undue interference. *Three Rivers* supports protection from unjust harm by public bodies.

8. **Failure to Protect the Applicant's Dignity and Welfare (Duty to Neighbour)**

**Grounds:** By denying essential protections and accommodations, the Defendants have failed in their duty to uphold the Applicant's dignity and welfare.

**Legal Basis:** *Minister for Immigration and Multicultural and Indigenous Affairs v B* (2004) 219 CLR 365 affirms the duty of care by government authorities. *Donoghue v Stevenson* requires one to avoid foreseeable harm, mandating protection from harmful actions.

**Mid-Term Orders for Procedural Integrity and Evidence Preservation**

9. **Failure to Comply with Duty of Disclosure and Transparency**

**Grounds:** The Applicant's procedural rights have been hindered by Defendants' consistent withholding of key evidence necessary for a fair defense.

**Legal Basis:** *Ainsworth v Criminal Justice Commission* (1992) 175 CLR 564 supports disclosure for fair proceedings. *Three Rivers* further underscores the foundational requirement for transparency from public authorities.

10. **Misuse of Judicial Process and Apparent Bias**

**Grounds:** Evidence indicates judicial manipulation against the Applicant, resulting in unjust outcomes and perceived bias.

**Legal Basis:** *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337 supports judicial impartiality, while *Three Rivers* highlights the harm bias brings to judicial legitimacy, especially when prejudicial.

#### 11. **Public Interest Grounds Under Actio Popularis**

**Grounds:** The Applicant raises issues of public concern, highlighting procedural deficiencies within institutions, requesting recognition of public interest standing.

**Legal Basis:** *Truth About Motorways Pty Ltd v Macquarie Infrastructure Investment Management Ltd* (2000) 200 CLR 591 supports actio popularis in public interest cases, particularly where procedural fairness is compromised.

#### 12. **Constitutional Remedy for Systemic Procedural Failures**

**Grounds:** The Applicant contends that only the High Court, under original jurisdiction, can redress these systemic failures, upholding constitutional principles.

**Legal Basis:** Section 75(v) grants the High Court jurisdiction over Commonwealth officer abuses. *Kable v Director of Public Prosecutions (NSW)* (1996) 189 CLR 51 underscores the Court's role in addressing power abuses.

#### 14. **Evidence of State Capture and Institutional Complicity**

**Grounds:** Evidence points to coordinated efforts shielding institutions from oversight, subverting accountability mandates. Documented procedural obstructions suggest institutional bias infringing Plaintiff's rights.

**Key Evidence:** Dismissed complaints by oversight agencies and procedural neglect by Victoria Police indicate systemic failure (UID LAW\_INT\_CPTRE\_AUS\_STATE\_1A3F2D).

- **Legal Basis:** Under s 75(v) of the Constitution, procedural integrity is paramount, ensuring oversight and accountability against bias or capture.

#### 15. **Subversion of Legal Process and Obstruction of Justice**

**Grounds:** Defendants' actions collectively obstruct justice and undermine procedural fairness, denying the Plaintiff impartial tribunal access and breaching fair process principles.

**Notable Precedent:** *Waters v Commonwealth* (1951) prohibited government actions exceeding statutory authority, relevant to procedural obstructions here.

#### 16. **Violations under the Doctrine of Public Trust**

**Grounds:** Judicial impartiality is compromised by outside interests. Inaction on credible allegations suggests misfeasance, undermining public trust.

**Legal Doctrine:** *Three Rivers DC v Bank of England* affirmed abuse of power violates public trust, relevant to the Plaintiff's allegations of institutional bias.

#### 17. **Failure to Uphold Constitutional Duties and Risk of Irreparable Harm**

**Grounds:** The Plaintiff's access to justice has been obstructed through deliberate procedural barriers and denial of due process, causing profound harm to constitutional rights. Immediate intervention by the High Court is essential to prevent further damage to the Applicant's rights.

**Legal Basis:** Section 75(v) grants the High Court jurisdiction to prevent abuse of public office and ensure accountability. The need to uphold constitutional duties is echoed in *Kable v Director of Public Prosecutions (NSW)* (1996), where the High Court emphasized its supervisory role in addressing governmental overreach.

**Basis to Mitigate Harm:** By addressing these constitutional breaches, the Court can prevent further harm to the Applicant, ensuring fair access to judicial remedies and procedural fairness.

#### 18. **Immediacy of Irreparable Harm Requiring High Court Review**

**Grounds:** The Plaintiff faces immediate and irreparable harm due to procedural biases, administrative misconduct, and failures by regulatory bodies. The urgency of these claims necessitates direct review by the High Court to provide prompt redress and halt further harm.

**Legal Basis:** Section 75(v) of the Constitution authorizes the High Court to issue writs against Commonwealth officers to safeguard individuals against administrative abuses. This jurisdiction ensures protection from imminent harm, providing timely intervention.

**Basis to Mitigate Harm:** Direct High Court intervention would prevent prolonged harm and enable immediate protections to be established, crucial for maintaining constitutional safeguards and procedural integrity.

#### 19. **Enforcement of Civil and Criminal Processes Across State Boundaries**

**Grounds:** The Plaintiff's claims reveal failures in the enforcement of civil and criminal processes across jurisdictions, underscoring the need for consistent application of justice nationwide. Lower courts lack the jurisdiction to address interstate enforcement issues comprehensively.

**Constitutional Provision:** Section 51(xxiv) empowers the Commonwealth to ensure seamless execution of judicial processes, underscoring the High Court's role in upholding uniform justice. Cross-jurisdictional coherence is critical to preventing harm caused by inconsistent legal standards.

**Basis to Mitigate Harm:** High Court oversight will ensure uniform enforcement, preventing jurisdictional discrepancies that could obstruct justice and protecting the Plaintiff's right to a fair process across state lines.

#### 20. **Judicial Integrity and Recognition of State Laws and Judicial Acts**

**Grounds:** The Plaintiff's right to fair treatment and consistent application of judicial orders across jurisdictions is essential to preventing procedural discrepancies and perceived bias.



High Court intervention can uphold federal principles ensuring fairness across State boundaries.

**Constitutional Provision:** Section 51(xxv) mandates Commonwealth recognition of State laws, judicial acts, and public records, facilitating impartial and uniform justice. The High Court's review is necessary to prevent biases that threaten fairness and judicial integrity.

**Basis to Mitigate Harm:** Addressing inconsistencies in judicial treatment will maintain procedural integrity across States, reinforcing public confidence in a fair and unbiased judicial system.

## 21. **International Obligations Under Ratified Treaties**

**Grounds:** The Plaintiff's case raises serious concerns of potential breaches of international human rights obligations, including treaties such as the UNCAT, ICCPR, and UNCAC, which Australia has ratified. High Court intervention is required to uphold these commitments.

**Constitutional Provision:** Section 51(xxix) empowers the Commonwealth to engage with external affairs, including obligations under international treaties. The Plaintiff seeks the High Court's role in enforcing protections against arbitrary detention, degrading treatment, and procedural inequities.

**Basis to Mitigate Harm:** The High Court's involvement ensures that Australia's international obligations are upheld, protecting the Applicant's rights against treatment that violates global human rights standards.

## 22. **Original Jurisdiction in Matters Arising Under International Treaties**

**Grounds:** The Plaintiff's claims align with Australia's obligations under treaties like the UNCAT and ICCPR, which protect against unfair treatment. Lower courts may lack authority to conclusively rule on international treaty obligations and constitutional interpretations.

**Constitutional Provision:** Section 75(i) grants the High Court original jurisdiction in matters arising under any treaty, empowering it to interpret Australia's obligations under international law. The Plaintiff seeks this jurisdiction to enforce rights to fair treatment, procedural justice, and institutional accountability.

**Basis to Mitigate Harm:** High Court jurisdiction ensures a robust interpretation of Australia's international obligations, upholding fundamental rights and preventing harm from violations of treaty-based protections.

## 23. **Commonwealth's Role in Ensuring Fair Legal Processes Across States**

**Grounds:** The Commonwealth's interest in equitable judicial conduct requires High Court oversight, especially where state-level procedural failings could compromise Plaintiff's rights.

**Constitutional Provision:** Section 75(iii) asserts the High Court's jurisdiction where the Commonwealth is a party, overseeing matters that implicate state-level judicial fairness. Ensuring uniform procedural standards across States aligns with the Commonwealth's duty.

**Basis to Mitigate Harm:** High Court review of these state-level processes is crucial to address procedural discrepancies, ensuring the Applicant’s right to an unbiased and fair legal process.

24. **Remedial Power to Issue Writs Against Commonwealth Officers for Procedural Justice**

**Grounds:** The Plaintiff seeks writs of mandamus, prohibition, and injunction to ensure procedural integrity, eliminate institutional bias, and address misconduct. Lower courts lack the remedial power required to fully address ongoing systemic harms.

**Constitutional Provision:** Section 75(v) empowers the High Court to issue writs against Commonwealth officers to enforce procedural fairness and accountability, critical in addressing administrative irregularities and institutional capture.

**Basis to Mitigate Harm:** This remedy will directly counter administrative biases, enabling comprehensive judicial oversight and ensuring fair procedural outcomes for the Plaintiff.

25. **Executive Power to Uphold “Peace, Order, and Good Government”**

**Grounds:** The Commonwealth’s executive power encompasses a responsibility to maintain judicial integrity and prevent systemic abuse. Lower courts may be limited in overseeing state compliance with these executive standards.

**Constitutional Provision:** Section 61 vests executive power in the Commonwealth, mandating the maintenance of constitutional order, justice, and government integrity. The Plaintiff’s claims necessitate High Court intervention to uphold these principles and address institutional misconduct.

**Basis to Mitigate Harm:** High Court oversight will ensure that executive powers are exercised lawfully and without procedural bias, upholding the Applicant’s rights and reinforcing government integrity.

26. **Supremacy of Commonwealth Law Over Inconsistent State Law**

**Grounds:** The Plaintiff’s case presents inconsistencies between State actions and Commonwealth procedural laws. High Court oversight ensures that Commonwealth standards prevail, preventing harm from state-level procedural deviations.

**Constitutional Provision:** Section 109 mandates Commonwealth law supremacy over conflicting State law, allowing High Court intervention to prevent procedural inequities.

**Basis to Mitigate Harm:** By ensuring Commonwealth law takes precedence, the High Court will protect against arbitrary state actions that could undermine procedural fairness and the Applicant’s constitutional rights.

27. **Preservation of State Powers in Line with Commonwealth Law**

**Grounds:** States retain powers but must operate within Commonwealth constitutional limits, especially regarding procedural protections. Only the High Court can ensure State actions align with federal standards.

**Constitutional Provision:** Section 107 preserves State powers but requires alignment with Commonwealth law. The Plaintiff's case presents serious questions of State compliance with federal procedural standards.

**Basis to Mitigate Harm:** High Court oversight prevents procedural inconsistencies across jurisdictions, ensuring that State actions do not infringe upon Commonwealth protections guaranteed to all citizens.

## 28. **Recognition of Laws, Public Acts, and Judicial Proceedings Across States**

**Grounds:** The Plaintiff seeks consistent recognition and enforcement of procedural rights across States, addressing judicial and administrative discrepancies.

**Constitutional Provision:** Section 118 ensures full faith and credit for State laws and judicial proceedings, emphasizing procedural consistency. Delays in document access and procedural standards challenge this principle, necessitating High Court involvement.

**Basis to Mitigate Harm:** High Court adjudication ensures that procedural inconsistencies are minimized, reinforcing uniform rights to justice across States.

## 29. **Judicial Economy and Prevention of Duplicative Litigation**

**Grounds:** Addressing this matter directly in the High Court ensures judicial economy, reducing duplicative proceedings and providing comprehensive relief.

**Supporting Authority:** *North Australian Aboriginal Justice Agency Ltd v Northern Territory* (2015) 256 CLR 569 emphasizes judicial economy in complex cases, preventing further procedural complications.

**Basis to Mitigate Harm:** High Court jurisdiction prevents repetitive litigation, offering a singular, authoritative resolution to the Applicant's complex claims, thereby reducing resource strain on the judicial system.

## **Part III: Reasons Why This Application Should Not Be Remitted to Another Court. 1.**

### **Complex Constitutional and Procedural Questions Requiring High Court Oversight**

- **Argument:** This matter involves multifaceted constitutional issues, including jurisdictional errors, procedural fairness violations, and conflicts between state-imposed Family Violence Intervention Orders (FVIOs) and federal Family Law Act parenting orders. The High Court is uniquely positioned to address such questions under Section 75(v) of the Constitution.
- **Supporting Authority:** Plaintiff S157/2002 v Commonwealth (2003) 211 CLR 476 establishes the High Court's authority to intervene in jurisdictional errors and systemic breaches of procedural fairness. Additionally, the High Court's duty to interpret and enforce international obligations under Section 51(xxix) of the Constitution, particularly peremptory norms (*Ius Cogens*), reinforces its jurisdiction over breaches of the ICCPR and CAT.

- Reason for Non-Remittal: Lower courts lack the jurisdictional and interpretative authority to address the constitutional and international law dimensions raised in this case. Only the High Court can provide definitive resolution and establish authoritative precedents.

## **2. Public Interest in Addressing Systemic Procedural Misconduct**

- Argument: The allegations of systemic procedural misconduct, including unauthorized surveillance, registry obstruction, and institutional bias, raise critical public interest questions. High Court intervention is necessary to ensure judicial transparency and integrity, as emphasized in *AB v CD* [2018] HCA 58.
- Supporting Authority: The High Court's role in upholding public trust and procedural fairness was highlighted in *Truth About Motorways Pty Ltd v Macquarie Infrastructure Investment Management Ltd* (2000) 200 CLR 591, where systemic misconduct was deemed a matter of public interest.
- Reason for Non-Remittal: Resolving these systemic issues in a lower court would lack the scope, precedent-setting authority, and transparency required to restore public confidence in judicial processes.

## **3. Irreparable Harm and Vulnerabilities of Self-Represented Litigants**

- Argument: The Applicant, as a self-represented and vulnerable individual, has faced procedural disadvantages that heighten the risk of irreparable harm. Procedural denials, gaslighting, and obstruction by registry officials exacerbate these vulnerabilities, violating the right to equal protection under Section 24 of the Charter of Human Rights and Responsibilities Act 2006 (Vic).
- Supporting Authority: *Dietrich v The Queen* (1992) 177 CLR 292 acknowledged the adverse effects of limited legal representation on fair trial rights. The High Court is uniquely positioned to safeguard procedural fairness and protect vulnerable litigants from systemic exploitation.
- Reason for Non-Remittal: Lower courts are ill-equipped to address the compounded challenges faced by self-represented litigants. High Court oversight is necessary to ensure equal access to justice and to develop procedural safeguards for vulnerable individuals.

## **4. Unlawful Actions by Law Enforcement and Procedural Overreach**

- Argument: Victoria Police's alleged unauthorized triangulation of the Applicant's mobile device and misuse of evidence obtained through unlawful surveillance violate statutory and constitutional protections. These actions raise significant privacy concerns under the Telecommunications (Interception and Access) Act 1979 (Cth) and the Evidence Act 2008 (Vic).

- Supporting Authority: In *Bunning v Cross* (1978) 141 CLR 54, the High Court highlighted the importance of excluding unlawfully obtained evidence to deter police misconduct and protect judicial integrity.
- Reason for Non-Remittal: Addressing systemic privacy violations and procedural overreach requires the High Court's authoritative guidance to ensure consistent application of constitutional principles and statutory protections.

## **5. Constitutional Conflicts Between Federal and State Jurisdictions**

- Argument: The enforcement of state-imposed FVIOs that conflict with federal Family Law Act orders raises constitutional inconsistencies under Section 109 of the Constitution. The High Court is the only forum with jurisdiction to resolve these federal-state conflicts and clarify constitutional boundaries.
- Supporting Authority: *Momcilovic v The Queen* (2011) 245 CLR 1 underscored the High Court's role in adjudicating constitutional inconsistencies between federal and state laws.
- Reason for Non-Remittal: Lower courts lack the constitutional mandate to interpret and resolve jurisdictional conflicts, which necessitates High Court review to prevent future inconsistencies.

## **6. International Human Rights Obligations and Ius Cogens Norms**

- Argument: Alleged violations of international human rights standards, including cruel, inhuman, or degrading treatment, engage Australia's obligations under the ICCPR and CAT. The High Court must ensure adherence to these norms as per Section 51(xxix) of the Constitution.
- Supporting Authority: *Minister for Immigration and Multicultural Affairs v Al-Kateb* (2004) 219 CLR 562 affirmed the High Court's authority to interpret and enforce international obligations in domestic contexts.
- Reason for Non-Remittal: Lower courts lack jurisdiction to address breaches of international obligations, necessitating High Court oversight to ensure Australia's compliance with its treaty commitments.

## **7. Inefficacy of Lower Courts to Address Systemic Issues**

- Argument: The Applicant's case demonstrates systemic procedural flaws, including registry obstruction and judicial bias, which lower courts have repeatedly failed to address. High Court intervention is essential to rectify these systemic issues and establish procedural safeguards.
- Supporting Authority: *R v Hickman; Ex parte Fox and Clinton* (1945) 70 CLR 598 established that public officials must act within lawful authority. The High Court is uniquely positioned to oversee systemic reforms and judicial accountability.

- Reason for Non-Remittal: Lower courts' limited scope and authority hinder their ability to address systemic misconduct and procedural failings comprehensively.

## **8. Judicial Economy and Need for Finality**

- Argument: Retaining jurisdiction avoids unnecessary delays and duplicative proceedings, ensuring efficient resolution of the overlapping procedural, constitutional, and international law issues in this case.
- Supporting Authority: *North Australian Aboriginal Justice Agency Ltd v Northern Territory* (2015) 256 CLR 569 emphasized judicial economy as a critical factor in resolving complex legal disputes.
- Reason for Non-Remittal: High Court intervention ensures timely resolution, establishes binding precedents, and prevents further procedural injustices.

## **9. Precedent for Vulnerable Litigants and Public Confidence**

- Argument: This case provides an opportunity for the High Court to establish binding precedent on the fair treatment of self-represented and vulnerable litigants, enhancing procedural safeguards and reinforcing public confidence in judicial processes.
- Supporting Authority: *Coleman v Power* (2004) 220 CLR 1 affirmed the High Court's role in setting precedent on contentious legal issues of national importance.
- Reason for Non-Remittal: Retaining jurisdiction allows the High Court to address systemic issues comprehensively, creating a precedent that protects vulnerable litigants and ensures procedural integrity.

## **Part IV: Factual Background**

### **Overview of Procedural Irregularities, Psychological Harm, and Public Interest Implications**

This section presents a comprehensive timeline of events, highlighting allegations of procedural injustice, institutional misconduct, and psychological harm caused by systemic denial of the Applicant's legal rights. Supported by documentary evidence, statutory references, and legal precedents, this background underscores the necessity for High Court intervention to address these intersecting constitutional and procedural issues. See the affidavit and related exhibits, prepared by plaintiff concerning s 133 of the Magistrates Court Act.

### **1. Coercion by Legal Aid Lawyer to Plead Guilty**

- Incident (2024 March):
  - The Applicant alleges coercion by a Legal Aid lawyer to plead guilty, disregarding potential defenses under the Telecommunications (Interception and Access) Act 1979 (Cth) and other statutory protections. The lawyer dismissed the Applicant's valid concerns, allegedly stating, "The magistrate is not going to see it that way," undermining confidence in state-funded representation and compelling the Applicant to self-represent.

- Supporting Evidence:
  - Personal statements from the Applicant detailing coercion and dismissed defenses.
  - Legal Precedent: Meissner v R (1995) 130 ALR 547 establishes that coercion to plead guilty constitutes a perversion of justice.
- Impact: This incident set a precedent for mistrust in the judicial process and exacerbated procedural disadvantages for the Applicant as a self-represented litigant.

## **2. Issuance of Family Violence Intervention Orders (FVIOs) and Procedural Bias**

- Procedural Flaws in FVIO Issuance (2021):
  - Victoria Police allegedly issued an FVIO based on improperly obtained evidence and disregarded prior reports of family violence against the Applicant. The Applicant asserts that the AFM expressed reluctance to proceed with charges, but this was ignored by police and judicial officials.
  - Supporting Evidence:
    - Police and court records showing procedural inconsistencies in the FVIO application process.
    - Emails from the AFM reflecting reservations about enforcement.
  - Impact: These actions violated Section 24 of the Charter of Human Rights and Responsibilities Act 2006 (Vic), reinforcing institutional bias against the Applicant.

## **3. Findings by VOCAT and Onset of PTSD**

- Victims of Crime Assistance Tribunal (VOCAT) Decision (September 2021):
  - VOCAT acknowledged the Applicant's injuries resulting from an assault by the AFM, validating claims of prolonged abuse. Medical records substantiate the Applicant's PTSD diagnosis, including nightmares and acute psychological distress.
  - Supporting Evidence:
    - VOCAT's decision and corroborating medical documentation.
  - Impact: These findings highlight systemic neglect in addressing the Applicant's victimization and the psychological harm caused by procedural failures.

## **4. Unauthorized Surveillance and Privacy Violations**

- Unlawful Triangulation of Mobile Device (2022):

- The Applicant alleges that Victoria Police intercepted communications and triangulated the Applicant's location without a judicial warrant, in breach of the Telecommunications (Interception and Access) Act 1979 (Cth).
- Supporting Evidence:
  - Body-worn camera transcripts and police records indicating unauthorized surveillance.
  - Chronological evidence of surveillance during remote travel.
- Impact: These actions contravened statutory privacy protections, resulting in procedural overreach and diminishing trust in law enforcement practices.

## **5. Psychological Breakdown and Arrest at Police Station**

- Incident at Greensborough Police Station (April 2022):
  - Experiencing acute psychological distress, the Applicant damaged an unoccupied police vehicle and demanded officers shoot him. The Applicant contends that detention following this incident lacked appropriate mental health assessments.
  - Supporting Evidence:
    - Police records and correspondence documenting detention conditions.
    - Evidence of omitted PACER mental health assessment details during court proceedings.
  - Impact: This treatment exacerbated the Applicant's PTSD, constituting inhuman treatment under Article 7 of the ICCPR and Article 1 of the CAT.

## **6. Registry Obstruction and Procedural Denials**

- Barriers to Accessing Records (2022-2023):
  - The Applicant experienced repeated procedural obstructions from the Heidelberg Magistrates' Court Registry, including delays and refusal to provide access to critical court records and disclosure documents.
  - Supporting Evidence:
    - Email correspondence documenting registry delays and refusals.
  - Impact: These actions violated Section 24 of the Charter, undermining the Applicant's procedural rights and ability to mount an effective defense.

## **7. Public Interest Concerns and Systemic Oversight**

- Eight Years of Unaddressed Complaints to IBAC (2016-2024):
  - The Applicant filed multiple complaints with the Independent Broad-based Anti-Corruption Commission (IBAC), alleging police misconduct and procedural



irregularities. The lack of response reflects systemic failures in oversight and accountability.

- Supporting Evidence:
  - Records of IBAC complaints and follow-up correspondence.
- Impact: The absence of institutional accountability necessitates judicial reform to restore public trust and procedural fairness.

## **8. Alleged Conspiracy and Evidence Withholding**

- Document Withholding by Registry Staff (2023-2024):
  - The Applicant alleges that registry officials, including Benjamin Luker, conspired to obstruct access to court records, citing limited retention periods for recordings. This obstruction reflects a broader pattern of institutional bias.
  - Supporting Evidence:
    - Emails from registry staff referencing procedural obstacles.
    - Official complaints filed by the Applicant detailing obstructions.
  - Impact: These actions violated principles of judicial transparency and accountability, necessitating intervention to uphold procedural integrity.

## **9. Broader Public Interest and Systemic Implications**

- Judicial Transparency and Fairness:
  - The Applicant's case raises substantial concerns about the treatment of self-represented and vulnerable litigants, institutional accountability, and procedural fairness in the justice system.
  - Supporting Evidence:
    - Legal precedents including *AB v CD* [2018] HCA 58 and *Borg v R* [2020], highlighting systemic failures and procedural abuses.
  - Impact: High Court oversight is essential to address these systemic issues, ensure accountability, and uphold public confidence in judicial processes.

## **Part V: Legal Argument**

### **1. Procedural Fairness and the Rule of Law**

- Argument:
  - The Applicant contends that repeated procedural delays, obstructions, and denial of evidence access by Commonwealth and State entities constitute significant breaches of procedural fairness. Procedural justice is fundamental

to the rule of law, requiring governmental bodies to operate transparently and impartially. Prolonged case mismanagement and the denial of crucial documents undermine public trust in judicial processes.

- Legal Basis:
  - Plaintiff S157/2002 v Commonwealth (2003) 211 CLR 476: Establishes procedural fairness as integral to lawful public decision-making.
  - Ainsworth v Criminal Justice Commission (1992) 175 CLR 564: Highlights the importance of transparency in judicial processes.
- Precedents:
  - Craig v South Australia (1995) 184 CLR 163: Jurisdictional errors arising from procedural breaches void judicial actions.
  - Truth About Motorways Pty Ltd v Macquarie Infrastructure Investment Management Ltd (2000) 200 CLR 591: Reinforces the obligation of procedural transparency in matters of public interest.

## **2. Denial of Access to Justice**

- Argument:
  - The Applicant submits that systemic delays, obstruction of legal recourse, and denial of timely representation violated their constitutional right to justice. The Applicant's self-representation was necessitated by procedural obstructions and mistrust in state-funded legal aid due to perceived coercion.
- Legal Basis:
  - Aon Risk Services Australia Ltd v Australian National University (2009) 239 CLR 175: Establishes the necessity of timely and fair judicial remedies to preserve access to justice.
  - Section 24 of the Charter of Human Rights and Responsibilities Act 2006 (Vic): Guarantees the right to a fair hearing.

## **3. Misuse of Commonwealth and State Power**

- Argument:
  - Commonwealth and State officers engaged in procedural abuses, including unauthorized surveillance and coercive enforcement of Family Violence Intervention Orders (FVIOs), exceeding lawful authority. Such actions obstruct justice and undermine judicial integrity.
- Legal Basis:

- R v Hickman; Ex parte Fox and Clinton (1945) 70 CLR 598: Grants the High Court jurisdiction to address administrative abuses undermining procedural fairness.
- Momcilovic v The Queen (2011) 245 CLR 1: Confirms the High Court's role in resolving inconsistencies in legal authority between state and federal laws.

#### **4. Psychological Harm and Human Rights Violations**

- Argument:
  - Systemic procedural denial, intimidation, and deprivation of basic rights inflicted significant psychological harm on the Applicant, amounting to cruel, inhuman, or degrading treatment.
- Legal Basis:
  - Article 7 of the International Covenant on Civil and Political Rights (ICCPR): Prohibits inhuman or degrading treatment.
  - Dietrich v The Queen (1992) 177 CLR 292: Recognizes due process as foundational to protecting individual dignity.
- Precedents:
  - Donoghue v Stevenson (1932) AC 562: Establishes a duty of care to prevent foreseeable harm, applicable to procedural contexts.

#### **5. Regulatory Bias and Institutional Integrity**

- Argument:
  - The Applicant asserts that regulatory bodies failed to act impartially, influenced by external interests and systemic bias. This regulatory failure infringed upon the Applicant's procedural rights and undermined public trust in institutional integrity.
- Legal Basis:
  - Waters v Commonwealth (1951) 82 CLR 188: Emphasizes the duty of public authorities to act impartially and diligently.

#### **6. Unlawful Detention and Administrative Misconduct**

- Argument:
  - Restrictions and detentions imposed on the Applicant were arbitrary, lacking legal basis and due process. These actions constitute unlawful deprivation of liberty and violate constitutional safeguards.
- Legal Basis:

- Section 75(v) of the Constitution: Grants the High Court authority to address unlawful actions by Commonwealth officers.
- *Dietrich v The Queen* (1992) 177 CLR 292: Confirms the necessity of due process to protect against arbitrary state action.

## **7. Evidence Admissibility and Unauthorized Surveillance**

- Argument:
  - Victoria Police engaged in unauthorized surveillance, triangulating the Applicant's mobile device without judicial approval, violating privacy rights. Evidence obtained unlawfully is inadmissible under statutory and common law protections.
- Legal Basis:
  - Telecommunications (Interception and Access) Act 1979 (Cth): Prohibits unauthorized interception of communications.
  - Section 138 of the Evidence Act 2008 (Vic): Mandates exclusion of improperly obtained evidence.
- Precedents:
  - *Bunning v Cross* (1978) 141 CLR 54: Emphasizes public interest in excluding unlawfully obtained evidence to deter misconduct.

## **8. Public Interest and Actio Popularis**

- Argument:
  - The Applicant's claims address systemic procedural issues affecting public trust and institutional accountability, raising actio popularis grounds. Procedural abuses and failures to uphold transparency harm not only the Applicant but also the broader public interest.
- Legal Basis:
  - *Truth About Motorways Pty Ltd v Macquarie Infrastructure Investment Management Ltd* (2000) 200 CLR 591: Supports judicial intervention in matters of public interest where systemic issues undermine procedural integrity.

## **9. Constitutional Conflicts and Federal Supremacy**

- Argument:
  - The enforcement of FVIOs without consideration of existing Family Law Act parenting orders created constitutional inconsistencies. The High Court must

resolve these conflicts under Section 109 of the Constitution, which affirms the supremacy of federal laws over inconsistent state legislation.

- Legal Basis:
  - Momcilovic v The Queen (2011) 245 CLR 1: Highlights the High Court's authority to resolve constitutional inconsistencies.

## **10. Judicial Accountability and Institutional Transparency**

- Argument:
  - The Applicant's case demonstrates judicial and institutional failures, including alleged document withholding, biased decision-making, and procedural obstruction by court registries. High Court oversight is necessary to ensure accountability and transparency.
- Legal Basis:
  - AB v CD [2018] HCA 58: Reaffirms the importance of judicial transparency and integrity to uphold public confidence.

## **11. Risk of Irreparable Harm**

- Argument:
  - Without High Court intervention, the Applicant risks ongoing procedural injustice, psychological harm, and deprivation of basic rights.
- Legal Basis:
  - Section 75(v) of the Constitution: Enables the High Court to prevent irreparable harm from unlawful governmental actions.
- Precedents:
  - Aon Risk Services Australia Ltd v Australian National University (2009) 239 CLR 175: Highlights the role of timely judicial remedies in preventing harm.

## **Conclusion**

The Applicant respectfully submits that the systemic procedural violations, unlawful actions, and breaches of constitutional and human rights obligations outlined above necessitate the High Court's intervention. Judicial oversight will ensure the protection of procedural fairness, institutional accountability, and public trust in the rule of law.

## **Part VI: Costs**

### **Financial Hardship and Dependence on Disability Support Pension**

44. The applicant respectfully submits that an order for costs would impose severe financial hardship, obstructing his ability to access justice. According to the Centrelink Income Statement dated **24 July 2024**, the applicant's primary income source is the Disability Support Pension (DSP), providing a base payment of \$851.49 per fortnight with essential supplements for daily living. Due to these limited financial resources, a costs order would unreasonably restrict the applicant's ability to pursue essential legal protections, contravening principles of fairness and accessibility in the justice system.

#### **Self-Representation Necessitated by Alleged Conflicts of Interest**

45. The applicant's decision to self-represent was compelled by perceived conflicts of interest with Legal Aid, impacting his ability to secure impartial representation. Self-representation has therefore been the only viable means to ensure procedural fairness. Costing the applicant for this necessity would impose a punitive financial burden and unfairly penalize him for defending his right to an unbiased defence.

#### **Public Interest and *Actio Popularis***

46. The applicant submits that this case raises substantial public interest concerns regarding judicial transparency, procedural fairness, and accountability for self-represented litigants facing systemic challenges. By invoking *Actio Popularis*, the applicant asserts that his actions serve a broader societal interest by advocating for procedural integrity within the judicial system. Supported by *Oshlack v Richmond River Council (1998) 193 CLR 72*, which established that litigants addressing issues of public concern may be exempted from costs, the applicant contends that a costs order would counteract the public interest benefits of addressing these systemic issues.

#### **Systemic Procedural Obstructions and Delays Beyond Applicant's Control**

47. The applicant asserts that procedural obstructions, including delays in accessing evidence and withheld records, extended the proceedings and complicated his legal position. These systemic obstacles, beyond the applicant's control, necessitate a fair review process without imposing a financial burden that would further disadvantage him. Awarding costs in this context would unfairly penalize the applicant for obstacles created by systemic issues rather than by any choice or delay of his own.

#### **Principles of Judicial Accountability and Access to Justice for Vulnerable Litigants**

48. In cases involving allegations of procedural misconduct and judicial accountability, penalizing applicants with costs may deter vulnerable individuals from seeking justice, especially in matters with systemic implications. Such deterrence could undermine public confidence in procedural fairness. Supported by **Locus Standi** principles, which reinforce the applicant's standing to pursue claims of public interest, the applicant contends that cost protections should be extended to ensure accessibility in cases that serve to uphold judicial

transparency. An order for costs, therefore, would counteract principles of accountability and deter similar claims from being raised, which is contrary to the High Court's responsibility to promote fair access to justice.

### **Consolidated Justification for Costs Exemption**

49. In light of the applicant's financial hardship, the necessity of self-representation due to perceived conflicts, the systemic procedural obstacles encountered, and the substantial public interest raised by this case, the applicant submits that a costs exemption is both fair and justified. Awarding costs would not only place an undue financial burden on the applicant but could also deter similarly situated litigants from pursuing important claims that serve to uphold procedural integrity and judicial accountability.

### **Part VII: Authorities Relied Upon**

The Applicant relies on the following authorities, emphasizing their relevance to procedural fairness, judicial oversight, bias, and the urgency of High Court intervention due to irreparable harm. Each cited authority provides foundational support for the claims raised in this application.

#### **Judicial Oversight and Procedural Fairness**

##### **1. Borg v The Queen [2020] HCA**

- Passage: Relevant paragraphs addressing procedural transparency and fairness.
- Relevance: Establishes that concealment of evidence and procedural delays constitute breaches of procedural fairness. The Applicant invokes this authority to argue that systematic delays and non-disclosure by court officials have obstructed justice and undermined procedural integrity.
- Support for Claim: Reinforces the Applicant's argument that delays and institutional misconduct have denied fair legal processes, necessitating urgent High Court intervention.

##### **2. AB (a pseudonym) v CD (a pseudonym); EF (a pseudonym) v CD (a pseudonym) [2018] HCA 58**

- Passage: Paragraphs addressing transparency, judicial accountability, and procedural fairness.
- Relevance: Emphasizes the High Court's duty to safeguard procedural integrity and public trust, particularly where systemic bias and procedural suppression are alleged.
- Support for Claim: Serves as a cornerstone for the Applicant's argument that institutional prejudice and procedural injustices demand High Court review.

##### **3. Plaintiff S157/2002 v Commonwealth of Australia (2003) 211 CLR 476**

- Passage: Paragraphs [14]-[17], [38]-[45].
- Relevance: Affirms the High Court's supervisory jurisdiction to correct jurisdictional errors and enforce procedural fairness.

- Support for Claim: Demonstrates the necessity for judicial review in cases of administrative and procedural errors that risk significant injustice.

#### **4. Ebner v Official Trustee in Bankruptcy (2000) 205 CLR 337**

- Passage: Paragraphs [6]-[15], [30]-[35].
- Relevance: Provides the test for apprehended bias, focusing on judicial impartiality.
- Support for Claim: Supports the Applicant's contention that perceived bias undermines the credibility of judicial outcomes, violating the right to a fair hearing.

#### **5. Kirk v Industrial Relations Commission of NSW [2010] HCA 1**

- Passage: Paragraphs addressing jurisdictional oversight and procedural limits.
- Relevance: Reinforces the High Court's role in ensuring that lower courts and administrative bodies do not exceed their legal authority.
- Support for Claim: Demonstrates the necessity of correcting jurisdictional errors and procedural breaches in the Applicant's case.

#### **6. Re Refugee Review Tribunal; Ex parte Aala (2000) 204 CLR 82**

- Passage: Sections addressing jurisdictional errors and the High Court's supervisory role.
- Relevance: Highlights the High Court's responsibility to intervene when procedural fairness is compromised.
- Support for Claim: Aligns with the Applicant's assertion that systemic errors and obstructions warrant judicial correction.

#### **Public Interest, Actio Popularis, and Access to Justice**

#### **7. Oshlack v Richmond River Council (1998) 193 CLR 72**

- Passage: Paragraphs discussing the protection of public interest litigants from costs.
- Relevance: Advocates for cost protection in cases of public significance, aligning with the Applicant's claims regarding systemic procedural reform.
- Support for Claim: Validates the Applicant's standing as a public interest litigant addressing broader procedural fairness issues.

#### **8. Truth About Motorways Pty Ltd v Macquarie Infrastructure Investment Management Ltd (2000) 200 CLR 591**

- Passage: Paragraphs supporting actio popularis principles.
- Relevance: Recognizes the importance of judicial oversight in addressing public interest concerns.
- Support for Claim: Strengthens the Applicant's standing by emphasizing the public implications of systemic procedural abuses.

#### **Necessity for Injunctive Relief and Procedural Safeguards**

#### **9. Mallard v R**

- Passage: Case discussing the implications of withholding exculpatory evidence.



- Relevance: Establishes the importance of transparency in preventing miscarriages of justice.
- Support for Claim: Supports the Applicant's request for injunctive relief to address procedural violations.

#### **10. Certain Children v Minister For Families and Children and Others (2016)**

- Passage: Sections on the right to humane treatment and safeguards for vulnerable individuals.
- Relevance: Highlights the need for protections against procedural exploitation of vulnerable individuals.
- Support for Claim: Justifies the Applicant's argument for procedural protections and oversight.

#### **11. Australian Constitution, Section 75(v)**

- Passage: Section 75(v) (entire provision).
- Relevance: Provides the constitutional basis for judicial review of Commonwealth officers' actions.
- Support for Claim: Reinforces the High Court's authority to address procedural and administrative irregularities affecting the Applicant.

#### **12. The Judiciary Act 1903 (Cth), Section 39B**

- Passage: Section 39B(1A).
- Relevance: Grants the High Court original jurisdiction to address claims against Commonwealth officers.
- Support for Claim: Establishes jurisdictional grounds for addressing the Applicant's claims of procedural misconduct.

#### **Concluding Authorities: Judicial Integrity and Public Trust**

#### **13. Batistatos v Roads and Traffic Authority of New South Wales (2006) 226 CLR 256**

- Passage: Paragraphs addressing delay in proceedings and its impact on fairness.
- Relevance: Illustrates the risks posed by procedural delays, reinforcing the need for High Court oversight.
- Support for Claim: Validates the Applicant's claims regarding the harm caused by systemic delays and procedural obstructions.

#### **14. R v Sussex Justices, Ex parte McCarthy [1924] 1 KB 256**

- Passage: Entire judgment.
- Relevance: Emphasizes that judicial proceedings must not only be fair but also appear fair.
- Support for Claim: Reinforces the Applicant's arguments about bias and procedural integrity.

## **Concluding Authority: Judicial Integrity and Public Trust**

The applicant concludes with *AB v CD [2018] HCA 58* as the thematic anchor, asserting that this case highlights the High Court’s duty to uphold procedural fairness and public trust. The applicant reinforces his position by invoking Justice Allsop’s words:

***“Power is power, it might be said. Yet there is something super-added, something meaningful, sometimes something menacing in the presence of state authority.”***

This closing encapsulates the critical importance of judicial review to maintain fairness, prevent procedural biases, and protect individual rights from unchecked state authority.

By relying on these authorities, the Applicant demonstrates the urgent need for High Court intervention to address procedural failings, ensure judicial transparency, and restore public confidence in the justice system.

## **PART VIII Constitutional Provisions, Statutes, and Statutory Provisions Applicable to Questions Raised in the Application**

### **Constitutional Provisions**

1. **Section 51(xxiv) – *The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States:***
  - This provision grants Parliament the authority to ensure that civil and criminal processes and judgments are executed throughout the Commonwealth, thereby facilitating the consistent enforcement of rights and judicial orders across jurisdictions.
2. **Section 51(xxv) – *The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States:***
  - This provision underscores the Commonwealth’s obligation to respect and enforce the laws and judicial decisions of individual States, essential in ensuring judicial integrity and fair treatment across State boundaries.
3. **Section 51(xxix) – *External affairs:***
  - This provision empowers the Commonwealth to engage with international obligations under treaties and conventions to which Australia is a signatory. The applicant invokes this section in light of international treaties Australia has ratified, including the UNCAT, ICCPR, UNCAC, UNCRC, and UNCRPD, which compel Australia to protect individuals from arbitrary denial of justice and procedural fairness.
4. **Section 75(i) – *Arising under any treaty:***

- The High Court’s original jurisdiction includes matters arising under any treaty, such as those obligations under the UNCAT (United Nations Convention Against Torture) and ICCPR (International Covenant on Civil and Political Rights), which support fair treatment in criminal proceedings and protection from arbitrary detention and denial of access to justice.

**5. Section 75(iii) – *In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:***

- This provision is invoked as the Commonwealth is implicated in enforcing fair legal processes across States. The applicant contends that the Commonwealth has a vested interest in ensuring that State-level judicial conduct aligns with national standards of fairness and transparency.

**6. Section 75(v) – *In which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth:***

- Under this provision, the High Court is empowered to grant a writ of mandamus, prohibition, or injunction against Commonwealth officers. The applicant seeks such intervention to prevent further procedural barriers and systemic injustices that may otherwise remain unchallenged.

**7. Section 61 – *Executive power of the Commonwealth:***

- The executive power of the Commonwealth, as vested in this section, is “exercisable by the Governor-General as the Queen's representative and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.” This power is invoked in the context of maintaining “*peace, order, and good government*,” ensuring judicial integrity.

**8. Section 109 – *Inconsistency of laws:***

- When a State law is inconsistent with a Commonwealth law, the Commonwealth law prevails to the extent of the inconsistency, and the State law is rendered invalid. Given documented procedural breaches by State authorities, the applicant argues that Commonwealth law, particularly procedural fairness principles, must prevail.

**9. Section 107 – *Saving of Power of State Parliaments:***

- This provision acknowledges the residual powers of State Parliaments. However, such powers must operate within the bounds of consistency with Commonwealth law, including procedural protections enshrined in the Constitution and statutes.

**10. Section 118 – *Recognition of laws, public Acts, and records:***

- This section mandates that full faith and credit be given throughout the Commonwealth to State laws and judicial proceedings. The applicant asserts that

the failure to provide timely access to essential court documents undermines this principle, rendering the proceedings inconsistent with recognized standards of justice and fairness.

#### **International Obligations Invoked**

##### **1. United Nations Convention Against Torture (UNCAT):**

- Article 13 mandates that each State Party ensures that any individual who alleges torture or ill-treatment in judicial or other official proceedings has the right to complain to, and to have their case promptly and impartially examined by, the authorities. The applicant argues that the systemic procedural barriers violate this provision, as they amount to a form of judicial mistreatment by hindering access to a fair hearing.

##### **2. International Covenant on Civil and Political Rights (ICCPR), Articles 9 and 14:**

- Article 9 prohibits arbitrary detention and emphasizes the right to fair procedures in detention cases, while Article 14 enshrines the right to a fair and public hearing. The applicant contends that procedural delays, denial of access to essential court records, and lack of impartiality compromise these protections.

##### **3. United Nations Convention Against Corruption (UNCAC):**

- Articles under UNCAC emphasize the importance of procedural transparency and the right to unbiased judicial processes. The applicant invokes these provisions to highlight the need for timely access to documentation and transparent processes.

##### **4. United Nations Convention on the Rights of Persons with Disabilities (UNCRPD):**

- This treaty underscores protections for individuals with vulnerabilities, particularly those navigating the legal system without counsel. The applicant, as a self-represented litigant, argues that the denial of fair access to records and representation violates the UNCRPD's mandate for equal access to justice.

Dated 20 November 2024

  
.....(signed).....

*Plaintiff*

To: The Defendant

**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.

**TO: ENTITY/ BODY CORPORATE/ MEMBERS OF PARLIAMENT**

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**5. Respondent Five**

ATTORNEY GENERAL HON. JACLYN SYMES MP

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**6. Respondent Six**

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**7. Respondent Seven**

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**9. Respondent Nine**

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The plaintiff is self-represented.