

IN THE HIGH COURT OF AUSTRALIA

Registry : Brisbane
No : B13/2014

BETWEEN :

Applicant : Peter Markan

and :

Respondent : Bar Association of Queensland

RE: Appeal CA 7082 of 2013

SC No 6041 of 2013

10

WRITTEN CASE

Part I:

1. Although this Application is in the personal matter it highlights the fundamental problem with oligarchical arrangements in legal system in Queensland/Australia and the corruption, rottenness and depravity of the anglo 'legal' system which passed it's 'use by date'.

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2. I have asked 'the law' for protection and 'the law' failed in its duty to protect me and to provide justice thus promoting the idea that the crime, when committed by lawyers, pays. The fact that Queensland legal system is the monopoly of lawyers helps them to avoid responsibility.

3. The judges are in fact 'barristers' assigned to play the role of make believe 'judges' and responsibility for protecting lawyers interests. The cartel arrangements between judges and lawyers against the rest of the society are criminal acts committed by 'lawyers mafia'.

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4. In this Appeal I want to raise the issue of hypocrisy of Queensland 'judges' when it comes to the respect for the laws and even their own 'authorities' which are quoted extensively to 'justify' making decision BUT disregarded completely when inconvenient. Such conduct appears to be prevalent way among Queensland judiciary when administering 'justice' and due to 'immunity' is practically un-punishable.

Part II:

5. 27.10.2008 - I was convicted in District Court in Southport by judge Leanne Clare to 4 years imprisonment for breaking the hand of the person who attacked me. (DC 286 of 2008)

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6. November 2008 - I engaged for the Supreme Court appeal lawyer Peter Russo with barristers Tim Carmody and Douglas Wilson. Peter Russo, was promising to do what I wanted to be done until I signed the release of the fee money from the trust account and then, he (and his 2 barrister accomplices) sabotaged the appeal by not bringing important matters for judges attention and abandoned the sentence appeal without my knowledge or permission. It was done in such manner that I could not object or prevent it. (R v Markan [2009] QCA 110)

APPLICANT'S Written Case
High Court of Australia
Peter Markan v Bar Association of Queensland
NUMBER: B13/2014
Form 18

Name: Peter Markan
Address:
Phone:
Email: justiceaction@gmx.com

7. June 2009 - I lodged complaint against conduct of lawyer Peter Russo with Legal Services Commission. LSC dismissed my complaint. (NONE OF THE ALLEGATIONS CAN BE SUBSTANTIATED)
8. November 2009 - I applied in Supreme Court for judicial review of LSC decision - judge Philippides did not find anything unusual with such conduct. (NONE OF THE ALLEGATIONS CAN BE SUBSTANTIATED) (8190 of 2009)
- 10 9. November 2009 - I engaged lawyer John Paul Mould and barrister Paul Smith for the appeal to High Court. They took A\$ 5500 for promising to give 'legal advice' about matters suggested by me for the appeal. In return for my money I received 3 letters with rubbish in them purporting to be legal advice and no 'legal opinion' about the issues I asked about. Money was withdrawn from the trust account without my permission.
- 20 10. May 2010 - I lodged complaint against lawyer John Paul Mould with Legal Services Commission. LSC in a typical bureaucratic ploy to divert attention from the core issue to a trivial one reluctantly agreed to prosecute JPM for minor breach ONLY which was intended to camouflage the major dishonesty of JPM. Almost THREE YEARS later even such symbolic slap on the wrist has not been done. My core complaint was dismissed. (NONE OF THE ALLEGATIONS CAN BE SUBSTANTIATED)
11. May 2011- I applied for judicial review of Legal Services Commission decision in Supreme Court - judge Atkinson did not find anything unusual with such conduct (NONE OF THE ALLEGATIONS CAN BE SUBSTANTIATED) (Markan v Legal Services Commission [2011] QSC 338)
- 30 12. May 2011 - I lodged complaints about conduct of barristers Paul E. Smith, Tim Carmody and Douglas Wilson to Bar Association of Queensland. In spite of reminders I did not receive any correspondence. Complaints later dismissed. (NONE OF THE ALLEGATIONS CAN BE SUBSTANTIATED)
13. February 2013 - I started in Supreme Court the proceedings against Bar Association of Queensland. My application for selection of the suitable person as trial judge was dismissed and my claim against Bar Association of Queensland was dismissed as well. (Markan v Bar Association of Queensland (No 1) [2013] QSC 108) (Markan v Bar Association of Queensland (No 2) [2013] QSC 109) (Markan v Bar Association of Queensland [2013] QSC 146)
- 40 14. April 2013 and June 2013 - I appealed to Supreme Court both decisions - selection of the trial judge and dismissal of my claim against Bar Association of Queensland. Both appeals were dismissed. (Markan v Bar Association of Queensland [2013] QCA 379)
15. June 2013 - the Invoice to BAQ for my service to them of 'public ridicule' and 'public humiliation' was not paid forcing me to instigate the Court action to recover the money due to me.
16. 26.07.2013 - my application for the selection of suitable person as the trial judge (based on the provisions of Article 14 of The International Covenant on Civil and Political

Rights) was rejected.

(Markan v Bar Association of Queensland_No 6041 of 2013_UNREPORTED)

17. Mr Fryberg (as the judge) refused to recuse himself, in spite of admitting getting financial benefits and having extensive connection with BAQ which was the other party in the Court and he issued the order in favour of BAQ.

(Markan v Bar Association of Queensland_No 6041 of 2013_UNREPORTED)

18. February 2014 my appeal to SC Appeal Court in this matter was rejected.

10 (Markan v Bar Association of Queensland [2014] QCA 34)

19. When contacted State other legal (not judicial) institutions - Crime and Misconduct Commission, Department of Public Prosecutions, etc. - being lawyer dominated outfits they gave me the same type of responses.

(NONE OF THE ALLEGATIONS CAN BE SUBSTANTIATED)

Part III:

20. **My fight with lawyers mafia in Queensland has to be looked from the perspective of the reality of this legal/political system.**

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Lawyer-politicians have been the 'dominant influence' in English-speaking legislatures for centuries, and effectively remain an oligarchy creating perfidious 'laws' which intention is merely to pretend that 'rule of law' is maintained while in reality protecting the abuse of citizens by 'independent' institutions.

It is openly 2 tier system - one set of laws and rules for THEM and another one for US.

21. I brought in Supreme Court the issue of usage of so called 'authorities' in anglo legal system as the pretentious rubbish enabling 'judges' to 'justify' anything what they want. I quoted in Court, as 'legally recognisable basis', *EBNER* and I requested judges to ask an average person what he/she thinks about them considering themselves to be 'impartial' when 2 of the 3 judges are current members of BAQ which, in this case, **was the party 'before the court'.**

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22. *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337 at 344

'as to cause a fair minded lay observer to reasonably apprehend that his Honour might not bring an impartial mind to the resolution of the case'.

23. The fact of 2 of the judges being the members of the organisation which was the other party in court could have been good opportunity for 'a fair-minded lay observer' to express his/her opinion about judges professed impartiality? An opinion of such person would also clear my (and likely other people) concern about possible or presumed bias.

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24. There was clear uneasiness on the part of judges. Ms McMurdo said (hearing transcript 5-34) that such observer is '**hypothetical**'????

So, obvious question is – who knows what that, not real but hypothetical person thinks? Do Ms McMurdo and Mr Muir possess some kind of unusual gift to know what, eg, Micky Mouse or Donald Duck think??? – as they belong to the same category of creations as 'a fair-minded lay observer' in those people interpretation!

25. It was conscious, open and public show of disrespect of my rights - the right to the independent tribunal? It was typical anglo judges arrogance towards other people, particularly those who are not lawyers and not of anglo background.
26. It was show of hypocrisy by quoting so often in other cases this 'authority' as supposed 'test' of impartiality of judges and then refusing to subject themselves to such test.
27. If there is no objective 'test' it cannot be called 'test' but 'an opinion' at the best. Common understanding of the world 'test' implies some form of examination or experiment which is REAL and not 'hypothetical'. Dictionary definitions agree. Is Mr Muir a linguistic expert as well with authority to change the definition of the word 'test'?
28. In his comments ('judgement') Mr Muir is quoting some other guy saying that 'a fair minded lay observer' is 'taken to be reasonable'(14) – by what and who's criteria? The inference is that not me or my neighbour, or his neighbour or a person living in the next street can call someone 'reasonable' if that person says something what Mr. Muir does not like.
29. Judges (Muir) made highly offensive comments about an average Australian person, by formally and publicly declaring that such person is not able to be 'a fair minded lay observer' to make statements about judges. In his view it has to be a special (read - approved by him) person
- 'The fair-minded lay observer would be taken to know or understand "the strong professional pressures on [judges] (reinforced by the facilities of appeal and review) to uphold traditions of integrity and impartiality" and would not be "unduly sensitive or suspicious".'*
30. 30. An average Australian person is good enough to be selected to a jury and decide the fate of another average Australian person. Such average Australian is considered to be capable of understanding motives, moral and ethical issues, has sense of justice, be rational and logical ONLY when evaluating another 'average Australian'. He is considered to be able to understand the complexity of human nature, the depth of various emotions, particularly when dealing with 'crimes of passion', ONLY when evaluating another 'average Australian'. **But**, when it comes to looking at the conduct of an anglo 'judge' that 'average Australian' suddenly is not capable of utilizing of his/hers abilities.
31. It is disgusting to ALL reasonable people to be told by an unexceptional creature, who happens to be just a lawyer, what they are capable to understand and what not.
32. According to Mr Muirs '**a fair minded lay observer**' is not real - he is just an imaginary judge's friend and only they themselves can understand each other. **This is the official 'judgement' therefore it became 'law' and it will be used and quoted by others like him.**

33. The Supreme Court judges, particularly Muir, were in similar position like the judge Fryberg who was in charge of the hearing in the lower court. And like him before, they too choose to protect own mate by claiming that they cannot be subjected to any test of fairness or justness – which is supposed to be the basis of that legal system.

34. So often propaganda claims that ‘the law is the law’ when implying need for obedience by ordinary people. But the same laws, which other people are required to obey, are clearly broken/disrespected by judges who show chauvinistic, racist, narrow-minded attitude towards other people in the society.

35. The court hearing was also in breach of due process of law as guaranteed to me by
- Observance of Due Process of Law - Statute 1368 - Imperial Act 3
- Liberty of Subject (1354)
which are the valid laws in this State - IMPERIAL ACTS APPLICATION ACT 1984
Queensland Legislation.

36. My right to the **independent and competent arbiter** as valid and legal requirement arises from the provisions of article 117 of the Australian Constitution and the unalienable possession of human rights as LEGALLY recognised and codified by **The International Covenant on Civil and Political Rights** and which are included in
• Australian Human Rights Commission Act 1986 - Schedule 2
• Charter of Human Rights and Responsibilities Act 2006 - VICTORIA
• Human Right Act 2004 - ACT

37. One of the main reasons for the lack of justice in ‘justice system’ are the current criminal arrangements in the selection of judiciary in Queensland.
The ‘legal’ excuse for such situation is the discriminatory, apartheid style provision of section 59 of the Constitution of Queensland 2001 - which should be repealed.
Constitution of Queensland 2001 - 59 Appointment of judges
(1) The Governor in Council, by commission, may appoint a barrister or solicitor of the Supreme Court of at least 5 years standing as a judge

38. This is also in breach of Statute of Monopolies 1623 - by giving monopolistic privilege to a specific group of people in the society.
This Statute is a valid law in this State - IMPERIAL ACTS APPLICATION ACT 1984 - Queensland Legislation

39. A person like myself cannot get through the protection racket created by lawyers mafia to its members and my every attempt in the fight against those criminals is paralysed.
The lesson I learned is that those so called ‘laws’ are used solely for the persecution of people outside of the lawyers mafia and judges are in fact acting like mafia dons ‘legally’ offering protection to compatriots in mafia by using so called ‘discretion’ allowing them to bypass all provisions of law applicable to other people.

40. Consistent with the rules of their society of mutual adoration - they are helping each other when trying to cover up the perfidy of the initial perpetrators, obeying their own code of silence and in effect disclosing the abyss of the corruption, depravity and rottenness of the whole system.

41. One of your guys, Lord Diplock in the GCHQ Case, commented about such conduct 'applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it.'

Part IV:

10 42. The issues I am bringing for This Court attention are of great public importance because of the preservation of the society trust in the fairness of the administration of justice and the fair and just conduct of the persons selected as the judges in performing their duties.

43. This Court decision is essential to the ultimate determination **why** people like me, with non anglo background and non lawyers, are discriminated against and have our rights abused/ignored by Queensland courts and socially dysfunctional 'legal system' not conforming with the natural laws.

20 44. Since the current arrangements in the selection of judiciary are **illegal monopolies** - operating under implied consent and power that they have usurped and otherwise stolen from the people (Australian CITIZENS) - I request This Court to declare that me and people like me **ARE** eligible for the selection to judiciary - as the branch of government.

Part V:

I do not own any property and have very limited income.

Part VI:

Appeal Book CA NUMBER: 7082/13

30 (Markan v Bar Association of Queensland (No 1) [2013] QSC 108)

(Markan v Bar Association of Queensland (No 2) [2013] QSC 109)

(Markan v Bar Association of Queensland [2013] QSC 146)

(Markan v Bar Association of Queensland_No 6041 of 2013_UNREPORTED)

(Markan v Bar Association of Queensland [2014] QCA 34)

Australian Human Rights Commission Act 1986 - Schedule 2 - International Covenant on Civil and Political Rights

Article 2

40 1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, **without distinction of any kind**, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

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Phone:

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- (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c) To ensure that the competent authorities shall enforce such remedies when granted.

10 **Article 3**

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 14

‘All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.’

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Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) **To have access, on general terms of equality, to public service in his country.**

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Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or **other status**.

Constitutional rights

117 Rights of residents in States

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A subject of the Queen, resident in any State, **shall not be subject in any other State to any disability or discrimination** which would not be equally applicable to him **if he were** a subject of the Queen resident in such other State.

Part VII:

I am requesting to supplement this summary with oral argument.

Signed by the applicant

Peter Markan

Dated : 31.03.2014

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