



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

This document was filed electronically in the High Court of Australia on 27 Apr 2021 and has been accepted for filing under the *High Court Rules 2004*. Details of filing and important additional information are provided below.

Details of Filing

File Number: M25/2021
File Title: Covington v. Covington & Anor
Registry: Melbourne
Document filed: Form 23 - Application for leave or special leave to appeal
Filing party: Applicant
Date filed: 27 Apr 2021

Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties and whenever the document is reproduced for use by the Court.

BETWEEN:

Ms. Covington

Applicant

and

Mr. Covington

First Respondent

Independent Children's Lawyer

Second Respondent

10

APPLICATION FOR [LEAVE OR] SPECIAL LEAVE TO APPEAL

The applicant applies for (leave or) special leave to appeal **a part only, of the judgment and the Orders** of the Full Court of the Family Court of Australia Hearing of 15 April 2021 and Orders given on 16 April 2021. The 'part-only' referred to is:

1. Dismissal of my application for orders to cease forced vaccinations pending High Court response
2. Justice McEvoy's existing orders removing (the Child) from her mother Ms. Covington during vaccinations
3. Full Family Court and Justice McEvoy's orders awarding costs against the applicant on grounds submitted (**Part IV: An order for costs, refers**).

20

Part I: The grounds of appeal and orders sought, are that the Full Court of the Family Court Hearing on (15 April 2021), dismissed my 'EMERGENCY' Interlocutory Injunction case, seeking orders halting forthwith, the planned forced vaccinations of my daughter, (the Child), pending the [High Court removal decision applied for on 26 February 2021](#). That HCA Removal application seeks High Court Constitutional Interpretation for and of, the claimed unlawfulness of these forced vaccinations, where the Full Family Court itself, acknowledged in its 15 April 2021 Hearing, that consent is not given and is withdrawn for any forced vaccinations.

30

The orders sought of the High Court in this application therefore are:

1. Orders for an Interlocutory Injunction immediately halting planned forced vaccinations of (the Child), pending the [High Court Constitutional Interpretation decision](#) applied for.

2. Orders that the Family Court's parenting arrangements Orders put in place (by justice McEvoy), removing (the Child) from her mother Ms. Covington during vaccinations; be immediately set aside until the High Court decides the substantive Constitutional Matter applied for Constitutional Interpretation.
3. Orders setting aside Family Court orders of costs awarded against the applicant on (on equity law) grounds, that she is self-represented due to financial hardship, and Mr. Covington's choice not to equally self-represent, and to choose expensive barristers with attendant high costs, is something she cannot be penalized by unlawful unjust enrichment (of Mr. Covington), when one person is enriched at the expense of another in circumstances that the law sees as unjust. And his barrister's request (in the 15 April 2021 hearing), that she be ordered to pay costs to deter her past and future lawful court rights, where the justice of this hearing correctly reminded her (in a personal censure), that costs awarding CANNOT be pursued as a punitive threat or penalty.

Part II: The leave or special leave questions to arise are, [High Court Justice Steward](#) 12 April 2021 orders, guided us to seek a proper remedy via the Full Family Court which has now dismissed our application 16 April 2021. Therefore, our lawful (constitutional s1XXiiiA) defence rights remedy being sought in that Federal Court, is fully exhausted. Consequently, we seek leave or special leave to appeal to the High Court Full Bench to intervene on this Constitutional Matter, in an ex parte hearing to save time in this emergency, where the planned full schedule of vaccinations for months to come, are proposed to commence this following week.

Part III: The statements of the applicant's argument in support of the grant of leave or special leave are as follows:

1. These forced vaccinations (where Informed Consent is not given and is fully withdrawn at law), planned to commence the following week; cannot lawfully proceed at all; because the lawful appeal processes of these 16 April 2021 orders have not elapsed/expired; and an appeal of these 16 April 2021 orders, (this application), is now made this day 23 April 2021 to the High Court of Australia.

2. These forced vaccinations (where Informed Consent is not given and is fully withdrawn at law), planned to commence this coming week; cannot lawfully proceed because the 15 April 2021 Full family Court Hearing has acknowledged in this hearing, that the s51(xxiiiA) rights defence matter has been [applied for Removal to the High Court of Australia on 26 February 2021](#) for the proper Constitutional Interpretation, where the Family Court has no grant of power to hear, to decide or to rule orders with a Constitutional Matter afoot. Therefore, the High Court now has the matter before it for its Constitutional Interpretation of the s51(xxiiiA) rights raised in its sole Original Jurisdiction over this Constitutional Matter.
3. The 16 April 2021 orders of the Full Family Court (and of justice McEvoy), to force-vaccinate (the Child) where consent is not provided; renders these orders fundamentally invalid and unlawful under s51(xxiiiA) provisions of our Constitution; and is what is in substantive (High Court) Constitutional dispute in this matter.
4. These orders only had legal effect by mutual consent of both parties, at the time they were made on 3 December 2020, (and not given under Informed Consent due to Intimidation and Coercion and Duress against the applicant); however, subsequent to that point in time, and on 6 December 2020 (and repeatedly advised thereafter to the Family Court); consent has also been notified as withdrawn. Therefore, the orders made by Justice McEvoy and the Full Family Court are null and void ab initio; and have no legal effect.
5. The Full Family Court's 15 April 2021 Hearing presiding justice's statement (acknowledging the applicant's full Consent Withdrawal is made) QUOTE: **"The fact that the mother sought to subsequently withdraw her consent** does not in any way invalidate the order, or change its binding effect" ENQUOTE, (Orders: REASONS page 9, para 44 refers), is flawed, **which has no basis in law.**

Such a flawed, misguided, and erroneous unsupported statement **provides no legitimate lawful premise, that demonstrates at law, that informed consent to any/all medical services is 'not' mandatory; under the sacrosanct doctor/patient lawfully binding contract, or, that any consent 'cannot' be withdrawn at any time,** including during any phase of any medical service, including during a surgery.

6. The applicant's legal premise, refuting this flawed, misguided and erroneous unsupported statement on a question of superior HCA settled law, cites the Constitutional provisions s51(xxiiiA) and its supporting settled Constitutional s51(xxiiiA) High Court case law (re Consent being required) [Breen V. Williams HCA \(1996\) BRENNAN CJ Decisions: Contract: 3. refers](#), ALWAYS, requiring full consent for ANY Medical Services.
7. In addition, matching High Court case law (re full patient-guarantee against 'ANY FORM' of Civil Conscription of ANY Medical Services) [Wong V. Commonwealth HCA 2009 \(Kirby J: Paras 124, 125, 126, 127, 128 refers\)](#); which defines s51(xiiiA) provisions as a full guarantee against ANY FORCED Medical Services fully applying DIRECTLY to PATIENTS as well as doctors.
8. The Full Family Court does NOT address at statute law, or case law, concerning the applicant's 'FACT' led legal argument that consent WAS withdrawn, and it and no court or court orders can prohibit withdrawal of consent at any time to ANY Medical Services. Consent was also not given due to great Intimidation, Duress and Coercion applied to the applicant to consent as previously stated.
9. The following Full Family Court statement is false (Orders: REASONS page 5, para 55 refers) QUOTE: "The vaccination of the child is, in these circumstances, entirely lawful. The mother's contention that somehow for the vaccinations to proceed would be an assault and battery and in breach of the patient-doctor relationship is entirely misconceived, erroneous, and must be rejected" [at 14]" ENQUOTE. This statement relies for its inferred, and false lawful premise, (page 9 para 42 refers), that its authority is its own (inferior to the High Court) jurisdictional grant of power; and its own (inferior to the High Court) Family Court (untested in the High Court) case law, as cited QUOTE: "The Family Court of Australia has the jurisdiction to make an order providing for a child to be vaccinated (Mains & Redden [2011] FamCAFC 184" ENDQUOTE. This statement is misconceived, erroneous and its effect renders this position nugatory at law against s51(xiiiA) HCA case law cited by the applicant. In applicable jurisprudence, this is due to its inferior jurisdiction of the family Court on this s51(xxiiiA) Constitutional matter raised.

The jurisdictionally superior High Court APEX Original Jurisdictional Constitutional powers, to hear and rule on the s51(xxiiiA) Constitutional Matter relied upon by the applicant, gives rights to appeal any orders of any Justice or Justices exercising the original jurisdiction of the High Court, under provisions of the [Commonwealth of Australia Constitution Act 1901 - SECT 73 \(i\) \(ii\)](#).

10

The reasons the applicant has sound legal grounds for appealing these misconceived and erroneous Family Court orders, are that this Constitutional Matter is soundly premised upon settled (jurisdictionally superior) Constitutional s51(xxiiiA) High Court case law (re Consent required), cite [Breen V. Williams HCA \(1996\) BRENNAN CJ Decisions: Contract: 3. refers](#), and High Court case law (re patient-guarantee against 'ANY FORM' of Civil Conscription of ANY Medical Services) cite [Wong V. Commonwealth HCA 2009 \(Kirby J: Paras 124, 125, 126, 127, 128 refers\)](#). These HCA case law findings and rulings defines the s51(xiiiA) provisions relied upon as providing a full guarantee against ANY FORCED Medical Services, as applying DIRECTLY to PATIENTS as well as doctors.

20

This reliance by the Full Family Court (and/or justice McEvoy) upon (the flawed, immaterial, misconceived and erroneous reasoning cited of) Mains & Redden [2011] FamCAFC 184 case law; is unreliable for these following reasons:

30

- ✚ s51(xiiiA) Constitutional provisions fully underpinned by HCA settled [Breen V. Williams HCA \(1996\) BRENNAN CJ Decisions: Contract: 3. refers](#) case law demands ALL Medical Services are VOLUNTARY and under Doctor-Patient contract law binding obligations requiring Informed Consent by the patient. NOTHING a puisne justice in an inferior court states or orders, overrides this Constitutional right; clearly enunciated in settled case law, specific HCA justices case law rulings are cited therein **Part V:** refers.
- ✚ s51(xiiiA) Constitutional provisions fully underpinned by HCA settled [Wong V. Commonwealth HCA 2009 \(Kirby J: Paras 124, 125, 126, 127, 128 refers\)](#) case law demands and provides a full guarantee against ANY FORCED Medical Services as applying DIRECTLY to PATIENTS as well as doctors. NOTHING a puisne

justice in an inferior court states or orders, overrides this Constitutional right clearly enunciated in settled case law, specific HCA justices case law rulings are cited therein **Part V:** refers.

✚ Both HCA settled [BreenV.Williams HCA \(1996\) BRENNAN CJ Decisions: Contract: 3. refers](#) and HCA settled [Wong V. Commonwealth HCA 2009 \(Kirby J: Paras 124, 125, 126, 127, 128 refers\)](#) case law underpins the Constitutional s51(xxiiiA) provisions, thereby invalidating ANY/ALL inferior court case law and/or any orders relied on under these misconceived and erroneous statements by the Family Court. NOTHING a puisne justice in an inferior court states or orders, overrides this Constitutional right clearly enunciated in settled case law, specific HCA justices case law rulings are cited therein **Part V:** refers.

10

✚ Both the Full Family Court (and/or justice McEvoy) relying upon their own (jurisdictionally inferior Family Court and HCA unchallenged) case law of Mains & Redden [2011] FamCAFC 184, is immaterial, as this case law cited has not been Constitutionally Challenged/Tested and therefore, sits in an empty legal vacuum until it has been so challenged and has overridden the s51(xxiiiA) settled [BreenV.Williams HCA \(1996\) BRENNAN CJ Decisions: Contract: 3. refers](#) case law providing the mandatory lawful requirement of Informed Consent for ANY Medical Services. Or by an HCA ruling overriding the requirement that ANY FORM of Civil Conscription of Medical Services is prohibited as defined by HCA settled [Wong V. Commonwealth HCA 2009 \(Kirby J: Paras 124, 125, 126, 127, 128 refers\)](#) case law. NOTHING a puisne justice in an inferior court states or orders, overrides this Constitutional right clearly enunciated in settled case law, specific HCA justices case law rulings are cited therein **Part V:** refers.

20

✚ An unfounded, misconceived, and erroneous statement by the Full Family Court (or justice McEvoy) that their own (jurisdictionally inferior Family Court and Constitutionally unchallenged) Mains & Redden [2011] FamCAFC 184 case law renders the applicant's legal rights as not existing, CANNOT be made or relied upon. This is because the Constitutional Matter it acknowledges is applied to the High Court is the SOLE appropriate Original Jurisdiction to

30

determine this Constitutional Matter; these inferior courts or puisne justices CANNOT so rule this way, as solely the High Court has this grant of power where a Constitutional Interpretation is required.

✚ S51(xxiiiA) provisions and supporting HCA settled [Breen V. Williams HCA \(1996\) BRENNAN CJ Decisions: Contract: 3. refers](#) and HCA settled [Wong V. Commonwealth HCA 2009 \(Kirby J: Paras 124, 125, 126, 127, 128 refers\)](#), are in full CONSTITUTIONAL conflict with the (Constitutionally unchallenged) immaterial inferior jurisdiction Mains & Redden [2011] FamCAFC 184 case law cited and relied upon; which therefore fails at law. NOTHING a puisne justice in an inferior court states or orders, overrides this Constitutional right clearly enunciated in settled case law, specific HCA justices case law rulings are cited therein **Part V:** refers.

10

10. Because this Constitutional Matter is now today 23 April 2021 applied to the High Court (appealing the Full family Court 16 April 2021 orders), respondent parties and the Royal Children's Hospital and any Treating Practitioners involved herein, are lawfully bound and notified by the following lawful high court mandatory cited statutory and settled case law which must be complied with:

20

- a. The Doctor-Patient relationship between the respondent parties and (the Child) in this case, is a VOLUNTARY contract in cited settled High Court case law, [Breen V. Williams HCA \(1996\) BRENNAN CJ Decisions: Contract: 3. refers](#), where the doctor undertakes by the voluntary contract between them to advise and treat the patient with reasonable skill and care.
- b. This contract is a voluntary agreement between the two or parties, enforceable at law.
- c. This contract between the parties is invalid, whereas it is entered into absent genuine understanding and consent, with fear, duress, or coercion applied to (the Child) patient.
- d. There is no agreement in this case, of (or as in legal terms referred to as) "the meeting of the minds", between the named parties or any registered health practitioner and (the Child) patient, whereas in this case, the mind of the patient is fully undecided under this voluntary contract.

30

We say, no doctors involved in this case, can therefore proceed to perform any medical service (upon the Child); unless they have obtained full informed consent, and to do so absent consent; is unlawful.

M25/2021

NOTHING a puisne justice in an inferior court states or orders, overrides this Constitutional obligation clearly enunciated in settled case law, specific HCA justices case law rulings are cited herein ANNEXURE A refers

11. The Family Court including the full bench Hearing of 15 April 2021 had no lawful grant of power or authority to pass any decision on the matter, because it is currently pending as a s(51xiiiA) matter removal to the High Court, pursuant to [sect 40 of the Judiciary Act 1903 \(Cth\)](#), as shown by [26 February 2021 HCA accepted \(form 17\)](#), in which a Constitutional Interpretation is applicable and required prior to any final judgement being made on the matter.

10

12. The Full Family Court 15 April 2021 Hearing fully acknowledged to the Royal Children's Hospital (Amicus Curiae Ms. Mann), representative; in its 15 April 2021 hearing; that this High Court process is fully underway by the applicant, and that the applicant reiterated in this Hearing that consent was not given for any Medical Services and that the applicant would appeal the 16 April 2021 orders to the High Court (this application).

20

13. The Full Family Court has therefore committed a jurisdictional error in this 15 April 2021 Hearing (and in Family Court prior hearings), because it has failed to comply with proper due process of law compelled under the provisions of [the Judiciary Act 1903](#), in this instance, a section 40 [Removal application to the High Court](#) being lawfully in train, as stated above.

14. The net effect of these jurisdictional failures is of course; that the Family Court has usurped the jurisdictional grant of powers of Constitutional Interpretation on this s51(xxiiiA) defence raised, which resides solely in the High Court itself. This is an ultra vires decision; wherein no Original Jurisdictional grant of power exists in this inferior jurisdiction on this s51(xxiiiA) Constitutional Matter so referred to the High court.

30

15. The Full Family Law Court 16 April 2021 order made, prohibiting any communication between a doctor and a potential patient, will automatically make null and void, the law-binding obligations of the Doctor-Patient relationship, therefore no medical service can be rendered lawfully in this case.

For this 15 April 2021 hearing court Ordered prohibition, refer:

M25/2021

Order: Viz. Reasons Page 5, para 19 (3.) “Vaccinations: The mother be restrained by injunction from contacting any medical practitioner, or their servants and agents, attended by Z for the purpose of giving effect to Orders 22 to 27 of the Final Orders”). And Reasons page 12 para 56, refers.

16. Notwithstanding any orders made by the Full family Court, respondent parties involved herein, should seek highest General Counsel legal advice upon their lawful obligations herein, as the Constitutional Matter of Consent not made to vaccinations (and repeatedly advised as withdrawn) as described herein has lawful obligations toward the applicant and (the Child).

Part IV:

An order for costs should not be made in favour of the respondent in the event that the application is refused, because I am a Centrelink pensioner who cannot find work as a musician and I am self-representing with no financial resources and renting a house and have no assets. And my entire life savings have been taken in legal fees having been forced to respond to Mr. Covington’s court actions in pursuing unlawful forced vaccinations through the courts that I did not ask for. In addition, to this destructive burden where I cannot pay; I am forced to defend my daughter’s rights and I do this myself as a self-representing applicant. Mr. Covington has these low-cost self-representing choices also, and because he has chosen to take on expensive lawyers and barristers as his high-cost choice, I cannot be held responsible in any way for his own high-cost choices; he can also act as a self-representing litigant as I do and have no costs at all. This vital Constitutional Matter has vast public interest negative impacts if not resolved to the letter of the law in High Court Constitutional justice, because it impacts tens of thousands of Australian children who are forced to be vaccinated by INVALID state no jab, no pay and no play laws, as a forced condition to attend school; which impermissibly contravenes s51(xxiiiA) of the Constitution.

Part V:

The list of the authorities on which the applicant relies are as follows:

- [BreenV.Williams HCA \(1996\) BRENNAN CJ Decisions: Contract: 3. refers](#)
- [Wong V. Commonwealth HCA 2009 \(Kirby J: Paras 124, 125, 126, 127, 128 refers\)](#)

Part VI: The constitutional provisions, statutes and statutory instruments applicable to the questions the subject of the application set out verbatim are:

- [The Commonwealth of Australia Constitution Act, \(The Constitution\)](#) Section 51(xxiiiA)
- [Public Health \(No Jab, no Play\) Act Victoria 2008](#) Division 7—
Immunisation_143A Application of sections 143B, 143C, 143D and 143E
- [The Judiciary Act 1903 \(Cth\)](#) Section 40(4)(a)
- [Clause 5 of the Australian Constitution](#): 5. Operation of the Constitution and laws
- [The Judiciary Act 1903](#), Section 40 (1)
- [The Commonwealth of Australia Constitution Act 1901](#); Section 76(i)
- [The Commonwealth of Australia Constitution Act 1901](#)Section 51
- [The Commonwealth of Australia Constitution Act 1901](#). Section 106,
- the [Commonwealth of Australia Constitution Act 1901](#) - Section 73 (i) (ii)).

Constitutional rights and obligations of the applicant and respondents are clearly enunciated in settled case law, specific HCA justices case law rulings are cited herein; ANNEXURE A refers.

Dated 23 April 2021



.....
Applicant

To: The Respondents

Mr Covington Represented by Coulter Roach Lawyers 1.

Matthew Harper Independent Children's Lawyer 2.

TAKE NOTICE: Before taking any step in the proceedings you must, within **14 DAYS**

after service of this application, enter an appearance and serve a copy on the applicant.

The applicant is self-represented.

STATUTES/INSTRUMENTS RELIED UPON

- [Commonwealth of Australia Constitution Act, \(The Constitution\) Provisions Section 51\(xxiiiA\)](#). Viz. (xxiiiA) the provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, **medical and dental services (but not so as to authorize any form of civil conscription)**, benefits to students and family allowances.

- [Public Health \(No Jab,no Play\) Act Victoria 2008 Provisions Division 7—Immunisation](#)

10 Viz. [143A Application of sections](#)

[143B Obligation of person in charge of early childhood service: Provisions:](#)

The [person in charge](#) of an [early childhood service](#) must ensure that the enrolment of a child at the [early childhood service](#) is not confirmed unless the [parent](#) of the child has provided to the [early childhood service](#) an immunisation status certificate which indicates, in relation to a date not more than 2 months immediately before the date on which the child first attends the [early childhood service](#), that the child is [age appropriately immunised](#)

[143E Periodic production of immunisation status certificate: Provisions:](#)

- 20 (1) The [parent](#) of a child who attends an [early childhood service](#) must provide to the [person](#) in charge of the [early childhood service](#) an [immunisation status certificate](#) indicating that the child is [age appropriately immunised](#)—
- (a) within 2 months after the child attains a [prescribed](#) age; or
- (b) at intervals not exceeding the [prescribed](#) period.
- (2) The [person in charge](#) of an early childhood centre must take reasonable steps to ensure that a [parent](#) of a child who attends the [early childhood service](#) provides an [immunisation status certificate](#) in accordance with subsection (1).
- (3) A [parent](#) of a child attending an [early childhood service](#) is not required to comply with subsection (1) if—
- 30 (a) section 143C(1) applies in relation to the child; and
- (b) the relevant [immunisation status certificate](#) is to be provided during the 16 week period referred to in section 143C(2).

[145 Immunisation status certificates to be produced before attendance at primary school: Provisions:](#)

The [parent](#) of a child must give an [immunisation status certificate](#) in respect of each [vaccine-preventable disease](#) to the [person in charge](#) of each [primary school](#) that the child is to attend.

- Judiciary Act 1903 (Cth) Section 40(4)(b) provisions:

Viz. (b) the Court is satisfied that it is appropriate to make the order having regard to all the circumstances, including the interests of the parties and the public interest.

- COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT - CLAUSE 5 Provisions:

Viz. Operation of the Constitution and laws: This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in
10 the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.

- Judiciary Act 1903 Section 40(1) Provisions :Removal by order of the High Court:

Viz. (1) Any cause or part of a cause arising under the Constitution or involving its interpretation that is at any time pending in a federal court other than the High Court or in a court of a State or Territory may, at any stage of the proceedings before final judgment, be removed into the High Court under an order of the High Court, which may, upon application of a party for sufficient cause shown, be made on such terms as
20 the Court thinks fit, and shall be made as of course upon application by or on behalf of the Attorney-General of the Commonwealth, the Attorney-General of a State, the Attorney-General of the Australian Capital Territory or the Attorney-General of the Northern Territory.

- Commonwealth of Australia Constitution Act 1901 Section 76(i) Provisions: Additional jurisdiction

Viz. The Parliament may make laws conferring original jurisdiction on the High Court in any matter: (i) arising under this Constitution, or involving its interpretation;

30 Commonwealth of Australia Constitution Act 1901 Section 106 Provisions: Saving of Constitutions.

Viz. The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.

Commonwealth of Australia Constitution Act 1901 Section 73 (i) (ii) Provisions:

Appellate jurisdictions of the High Court:

Viz. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences:

- (i) of any Justice or Justices exercising the original jurisdiction of the High Court;
- 10 (ii) of any other federal court, or court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council;