

***Franklin v Commissioner of Police* [2018] NSWSC 310 (14 March 2018) – New South Wales Supreme Court**

‘Assault’ – ‘Scope of subpoenas’ – ‘Self-represented litigant’ – ‘Systems abuse’

Charges: Assault x 1.

Case type: Application

Facts: The Plaintiff was charged with assaulting his wife ([2]). The Plaintiff issued a number of subpoenas to the Commissioner of Police and a hospital, seeking material including all police records for the immediate proceeding, the victim, all attendances at their home, all records of complaints proceedings instigated by the Plaintiff against the police, copies of notebooks of certain officers, and copies of all internal police communications in relation to the proceedings ([3], [28]).

At a hearing on 5 April 2017 in a Local Court, the police objected to the subpoenas on the basis that they were too wide ([29]). The Plaintiff then issued two more subpoenas to prosecution witnesses, which were also objected to on the grounds of absence of legitimate forensic purpose and public interest immunity ([34]). At a hearing on 18 and 19 July 2017, the magistrate allowed access to some documents but refused access to others ([36]).

Issues: The Plaintiff appealed against the Magistrate’s decision on 5 April 2017 on 5 grounds outlined at [37]. The Plaintiff appealed against the Magistrate’s decision on 19 July 2017 on 8 grounds outlined at [51].

Decision and Reasoning: The appeal was dismissed because there was no error of law and no basis for a grant of leave for the Plaintiff to rely upon the grounds of appeal ([46], [81]).

Justice Johnson appeared to refer to the Plaintiff being self-represented at [80]:

I provided the Plaintiff with ample opportunity at the hearing on 2 and 10 November 2017 to advance arguments in support of his claim for relief. I have considered those arguments in this judgment, perhaps in greater detail than is called for by the limited statutory avenue of appeal which is available. One reason for taking this approach was to resolve what appeared to be a heavily litigated issue by the Plaintiff at the interlocutory level ahead of the summary hearing in the Local Court. It is appropriate that the way be cleared for the hearing and determination of the charge against him.