



HIGH COURT OF AUSTRALIA

12 February 2025

COMMONWEALTH OF AUSTRALIA v MR STRADFORD (A PSEUDONYM) & ORS;
STATE OF QUEENSLAND v MR STRADFORD (A PSEUDONYM) & ORS;
HIS HONOUR JUDGE SALVATORE PAUL VASTA v MR STRADFORD (A PSEUDONYM) &
ORS
[2025] HCA 3

Today, the High Court unanimously allowed appeals from a judgment of the Federal Court of Australia. The appeals concerned three issues: (1) whether the effect of s 17 of the *Federal Circuit Court of Australia Act 1999* (Cth) was that an order made by a judge of the Federal Circuit Court of Australia imprisoning an individual for contempt was valid unless and until set aside, even though it was affected by jurisdictional error; (2) the scope of the immunity from or defence to civil suit for judges of the Federal Circuit Court; and (3) whether persons, who have a legal duty to enforce or execute orders or warrants made or issued in judicial proceedings, acting pursuant to a defective order or warrant made or issued by a court, are protected from liability for their actions.

In 2018, the first respondent, Mr Stradford, was convicted of contempt of court and sentenced to a term of imprisonment by the Honourable Salvatore Paul Vasta, a judge of the Federal Circuit Court. Upon being sentenced, Mr Stradford was escorted to a holding cell by guards employed by MSS Security Pty Ltd ("the MSS Guards"), a contractor engaged by the Commonwealth of Australia. Around half an hour later, Mr Stradford was collected from the court complex by officers of the Queensland Police Service ("the Queensland police officers") and transported to the Roma Street Watchhouse. Four days later, Mr Stradford was transferred to the Brisbane Correctional Centre where he was detained by officers of Queensland Corrective Services ("the Queensland correctional officers") until his release. In 2019, the Full Court of the Family Court of Australia upheld Mr Stradford's appeal against Judge Vasta's decision and set aside the declaration that Mr Stradford was in contempt of court and the order for his imprisonment.

The primary judge upheld a claim brought by Mr Stradford for false imprisonment against each of Judge Vasta, the Commonwealth, being vicariously liable for the conduct of the MSS Guards, and the State of Queensland, being vicariously liable for the conduct of the Queensland police officers and the Queensland correctional officers. His Honour held that the order for Mr Stradford's imprisonment and the warrant of commitment signed by Judge Vasta were affected by jurisdictional error and were invalid and of no legal effect such that there was no lawful justification for Mr Stradford's imprisonment. The primary judge concluded that Judge Vasta's actions were not protected by judicial immunity from civil suit. His Honour also rejected the Commonwealth's and Queensland's contention that, notwithstanding that the imprisonment order and warrant were invalid, the Commonwealth and Queensland were not liable to Mr Stradford because the MSS Guards, the Queensland police officers and the Queensland correctional officers acted pursuant to, or in accordance with, a warrant which appeared regular on its face.

The High Court allowed appeals brought by the Commonwealth, Queensland and Judge Vasta. In respect of the first issue, a majority of the Court held that s 17 of the *Federal Circuit Court of Australia Act* did not confer jurisdiction on the Federal Circuit Court, but merely expanded its powers to punish for contempt when exercising any jurisdiction otherwise conferred on the Court. Accordingly, s 17 did not provide Judge Vasta, the Commonwealth, or Queensland a defence to Mr Stradford's claim for false imprisonment. In respect of the second issue, the Court held that, under the common law of Australia, all judges of courts referred to in s 71 of the *Constitution* including any court of a Territory and any "court of a State" as referred to in s 77(iii) of the *Constitution* are either immune from or have a defence to civil suit arising out of acts done in the exercise, or purported exercise, of their judicial function or capacity. As Judge Vasta purported to perform such a function in convicting and sentencing Mr Stradford, he was not liable to Mr Stradford for false imprisonment. In respect of the third issue, since each of the Queensland police officers and the

Queensland correctional officers had a legal duty to enforce or execute orders or warrants made or issued by the Federal Circuit Court, and the MSS Guards were obliged to take Mr Stradford into custody, and there was nothing apparent on the face of the orders made and warrant issued by Judge Vasta which suggested that they were beyond power, the Commonwealth and Queensland were also not liable to Mr Stradford.

This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.