

SUPREME COURT OF QUEENSLAND

CITATION: *Kerr v Legal Services Commission* [2026] QCA 184

PARTIES: **KERR, Robert John**
(applicant)
v
LEGAL SERVICES COMMISSION
(respondent)

FILE NO/S: CA No 3 of 2026
DC No 4 of 2024

DIVISION: Court of Appeal

PROCEEDING: Application for Leave s 118 DCA (Criminal)

ORIGINATING COURT: District Court at Rockhampton – [2025] QDC 187 (Clarke DCJ)

DELIVERED ON: 25 September 2026

DELIVERED AT: Brisbane

HEARING DATE: 18 September 2026

JUDGES: Bond JA, Boddice JA, Doyle JA

ORDERS: **1. Leave to appeal be refused.**
2. The applicant pay the respondent's costs, assessed on the standard basis.

CATCHWORDS: PROFESSIONS AND TRADES – LAWYERS – UNQUALIFIED PERSONS AND DISQUALIFIED PRACTITIONERS – ACTING AS SOLICITOR – where the applicant was convicted in the Magistrates Court of one charge of engaging in legal practice when not admitted as an Australian legal practitioner and one charge of representing that he was entitled to engage in legal practice when he was not entitled do so, pursuant to s 24 and s 25 of the *Legal Profession Act 2007* (Qld) – where the applicant was ordered to pay a \$4,000 fine and convictions were recorded – where the applicant appealed the Magistrate's decision to the District Court – where the District Court judge found there had been no misapplication of principle or error in the Magistrates decision – where the applicant appeals the decision of the District Court – whether the District Court judge erred in dismissing the applicant's appeal

Legal Profession Act 2007 (Qld), s 24, s 25

Cornall v Nagle [1995] 2 VR 188; [1995] VicRp 50, applied
Hili v The Queen (2010) 242 CLR 520; [2010] HCA 45, applied

Legal Services Commissioner v Walter [2011] QSC 132, applied
McDonald v Queensland Police Service [2018] 2 Qd R 612; [2017] QCA 255, applied
Raghoobar v Legal Services Commissioner [2023] QCA 191, applied

COUNSEL: The applicant appeared on his own behalf
 M J Wilson for the respondent

SOLICITORS: The applicant appeared on his own behalf
 Legal Services Commission for the respondent

- [1] **BOND JA:** I agree with the reasons for judgment of Boddice JA and with the orders proposed by his Honour.
- [2] **BODDICE JA:** On 26 November 2025, the primary judge dismissed an appeal brought by the applicant, pursuant to s 222 of the *Justices Act 1886* (Qld), in relation to his conviction by a Magistrate on 6 November 2024 of two offences under the *Legal Profession Act 2007* (Qld) (**the Act**) and his sentence.
- [3] The applicant seeks leave to appeal that decision pursuant to s 118(3) of the *District Court of Queensland Act 1967* (Qld).
- [4] A grant of leave in such circumstances is not to be granted lightly. The applicant has already had the benefit of two judicial hearings. Leave will only be granted where an appeal is necessary to correct a substantial injustice to the applicant and where there is a reasonable argument that there is error to be corrected.¹
- [5] Neither is established in the present application. Leave to appeal should be refused.

Offences

- [6] The two offences concerned conduct by the applicant between 22 November 2022 and 12 July 2023. At the time, the applicant was admitted as a legal practitioner, but did not hold a practicing certificate in Queensland or elsewhere. The applicant was therefore not an Australian legal practitioner as defined in s 6(1) of the Act.
- [7] The first offence concerned a breach of s 24(1) of the Act. The applicant was found to have engaged in legal practice in Queensland when he was not an Australian legal practitioner, on diverse dates between the relevant dates. The second offence concerned a breach of s 25(1) of the Act. The applicant was found to have, between the relevant dates, represented that he was entitled to engage in legal practice when he was not entitled to do so.
- [8] The factual circumstances of both offences concerned an elderly woman who had spoken to the applicant when he was working in a voluntary capacity at a community legal centre in 2018. That centre had provided a letter of demand on the elderly woman's behalf, in respect of a dispute about unpaid wages and loans. When that letter was not responded to, the community legal centre had advised the elderly woman that they could provide no further assistance.

¹ *McDonald v Queensland Police Service* [2018] 2 Qd R 612 at 625 [39(c)]–[39(e)].

Evidence

- [9] At the hearing before the Magistrate, it was admitted by the applicant, that he later offered the elderly woman his assistance in a number of respects, including assessing when any action may become statute barred, assessing its viability, assisting in the drafting of required court documents and suggesting actions and searches that should be undertaken to progress that claim.
- [10] Subsequent to that interaction, the elderly woman filed a claim in the District Court. It was that proceeding that was the subject of both offences.
- [11] In respect of the first offence, the applicant admitted that he:
- (a) assisted the elderly woman by responding to her request to explain a conditional costs agreement from solicitors, which was subsequently executed;
 - (b) had engaged in discussions with and collated and provided documentation to those solicitors, at their request, to progress the elderly woman's claim;
 - (c) explained documents to the elderly woman, including the solicitors' preliminary advice, draft notice of appointment and draft offer to settle;
 - (d) provided a written document headed "Legal Opinion" to the elderly woman;
 - (e) submitted a complaint to the Legal Services Commissioner about the solicitors on the elderly woman's behalf; and
 - (f) drafted court forms and affidavits for the elderly woman to submit and file, as a self-represented litigant, on the solicitors' application to withdraw.
- [12] In respect of the second offence, apart from those admissions, undisputed evidence was led that the applicant:
- (a) offered to and also provided advice to the elderly woman about the solicitors' costs agreement;
 - (b) signed off in all emails and headed all correspondence to the elderly woman and the solicitors as "Robert Kerr LLB (Hons) GDLP, Lawyer, PhD candidate";
 - (c) communicated to the solicitors that he would be seeking redress on the elderly woman's behalf;
 - (d) offered to and also provided the written legal advice to the elderly woman, which included his qualifications and relevant accreditations as:
 - "1.1 Admitted as a Lawyer to the Queensland Supreme Court at Rockhampton on 10th October 2016.
 - 1.2 Awarded First Class Honours by Central Queensland University on 21st November 2017.
 - 1.3 Confirmed as a PhD candidate (Law) on 19th February 2021 by Central Queensland University.
 - 1.4 Engaged as a sessional academic with Macquarie Law School at Macquarie University on 22nd February 2021.
 - 1.5 Transferred to Charles Darwin University as a confirmed PhD candidate on 31st August 2021."

- [13] The written legal advice provided to the elderly woman included the following statement: “It is my considered legal opinion that the preliminary advice of [the solicitors] cannot be accepted for the reasons provided.” The document also advised the elderly woman against accepting a recommended settlement, calling it “inequitable”.

Decision below

- [14] The primary judge found that having regard to that evidence, which was not disputed, there was no error by the Magistrate in finding that the applicant fell within the term “engage in legal practice” in breach of s 24(1) of the Act. In doing so, the primary judge expressly recorded that he had applied an objective test about whether the applicant had engaged in legal practice. The primary judge found that whilst the applicant’s conduct related to only the elderly woman, it involved multiple different acts. The primary judge also found that the applicant’s engagement in legal practice was not absolved by reason of his evidence that he told the elderly lady that he was not entitled to represent her, or by reason of the fact that the applicant received no remuneration for his conduct.
- [15] The primary judge found that having undertaken a real review of the evidence, there was no error in the Magistrate’s conclusion that it had been proven, beyond reasonable doubt, that “the [applicant’s] conduct of providing written advices and opinions fell within the type of activity which would amount to engaging in legal practice, and of holding himself out as being entitled to do so.”

Consideration

Conviction

- [16] The primary judge’s conclusion in respect of each offence was plainly correct.
- [17] Contrary to the applicant’s submission, it was not necessary for the evidence to establish that the applicant had multiple clients or had received payment of remuneration in order to find that he had engaged in legal practice.
- [18] The requirement of engaging in legal practice will be proven if there is evidence of multiple activities, undertaken by the applicant, which involved conduct usually done by a solicitor, done in such a way as to justify the reasonable inference that the applicant was a solicitor, or by doing something which is required to be done only by those who have the necessary training and experience as a solicitor or barrister.²
- [19] The multiple acts undertaken by the applicant in relation to the elderly woman, including the provision of written advices and opinions headed as legal opinions, amply satisfied that requirement.

Sentence

- [20] The applicant was ordered to pay a fine of \$4,000. Convictions were also recorded.
- [21] The primary judge dismissed the applicant’s sentence appeal, finding that the sentencing Magistrate had not misapplied any principle and that it had not otherwise been shown that the sentence imposed was unreasonable or plainly unjust.³

² *Cornall v Nagle* [1995] 2 VR 188; *Legal Services Commissioner v Walter* [2011] QSC 132; *Raghoobar v Legal Services Commissioner* [2023] QCA 191.

³ *Hili v The Queen* (2010) 242 CLR 520.

- [22] The recording of convictions and the imposition of a fine of \$4,000 was a significant sentence, having regard to the fact that the applicant is a disability support pensioner, who had ceased and desisted when asked by the respondent and who had not received financial reward in respect of an elderly lady, where his intention was to assist that person. However, the primary judge was correct in concluding that such a sentence was neither unreasonable nor plainly unjust, or of itself evidenced any misapplication of principle.
- [23] The offences involved serious conduct, directly relevant to the administration of justice. Notwithstanding significant mitigating factors, the applicant's conduct called for a sentence in which general and personal deterrence, community protection and community denunciation loomed large. This was particularly so having regard to the applicant's obvious lack of insight into the wrongfulness of his conduct and the absence of any remorse.

Conclusion

- [24] The applicant has not established error by the primary judge, either in respect of his conviction or his sentence.
- [25] There is no basis upon which to conclude that a grant of leave is necessary to correct a substantial injustice to the applicant.

Orders

- [26] I would order:
1. Leave to appeal be refused.
 2. The applicant pay the respondent's costs, assessed on the standard basis.
- [27] **DOYLE JA:** I have read and agree with the reasons for judgment of Boddice JA and with the orders proposed by his Honour.