

SUPREME COURT OF QUEENSLAND

CITATION: *Stevenson v McGrath & Ors* [2026] QSC 241

PARTIES: **DAMON STEVENSON**
(applicant)
v
CAMERON STUART ANTHONY MCGRATH
(ABN 77 418 561 768)
(first respondent)

QUEENSLAND CIVIL AND ADMINISTRATIVE
TRIBUNAL
(second respondent)

FILE NO/S: 2997/26

DIVISION: Trial division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 9 October 2026

DELIVERED AT: Rockhampton

HEARING DATE: 10 September 2026

JUDGE: Crow J

ORDER: **1. Application Dismissed**
2. No Order as to Costs

CATCHWORDS: PROCEDURE- JUDICIAL REVIEW- Where a review of a decision by the Queensland Civil and Administrative Tribunal is sought- Whether a referral to the Court of Appeal is appropriate under s49 of the *Human Rights Act 2019* (Qld).

COUNSEL: Mr Stevenson appeared on his own behalf
No appearances for Mr McGrath or QCAT
Mr Forrest for Attorney-General for the State of Queensland

SOLICITORS: Mr Stevenson appeared on his own behalf
No appearances for Mr McGrath or QCAT
Crown law on behalf of the Attorney-General

[1] On 28 July 2026, Mr Stevenson filed an application for orders in the nature of certiorari seeking judicial review of several decisions of QCAT. On 7 September 2026, Mr Stevenson filed a further application as follows:

- “1. The following questions are referred to the Court of Appeal under s 49 of the Human Rights Act 2019 (Qld):
 - (a) Whether, upon the proper construction of Chapter III of the Constitution and s 39(2) of the *Judiciary Act* 1903 (Cth), federal jurisdiction is vested exclusively in Chapter III courts and State courts, to the express exclusion of state tribunals such as Queensland Civil and Administrative Tribunal (QCAT), which have not been and cannot be invested with such jurisdiction by a State Parliament.
 - (b) Whether the applicant’s claims for relief under the *Competition and Consumer Act* 2010 (Cth) (“the CCA”), the Australian Consumer Law (ACL) being schedule 2 to the CCA, the *Business Names Registration Act* 2011 (Cth) and the *Privacy Act* 1988 (Cth) constitutes “matters” arising under laws of the Commonwealth within the meaning of s 76(ii) of the Constitution, thereby enlivening the jurisdiction of a Chapter III court and precluding determination by the QCAT.
 - (c) Whether the conferral of jurisdiction on QCAT by the *Queensland Civil and Administrative Tribunal Act* 2009 (Qld) (“the QCAT Act”) to determine disputes involving rights and liabilities arising directly under the CCA and the ACL, the *Business Names Registration Act* 2011 (Cth) and the *Privacy Act* 1988 (Cth) is beyond the legislative competence of the Queensland Parliament, as it purports to vest federal jurisdiction (in respect of a matter arising under Commonwealth law) in a body not meeting the requirements of Chapter III of the Constitution.
 - (d) Whether Crown Law acted in a manner compatible with and/or gave proper consideration to the applicant’s human rights under the *Human Rights Act* 2019 (Qld), specifically sections 15 and 31.
2. Set aside the decision of the QCAT GAR166-23 made on 26 November 2024 and in its place order that:
 - (a) the decision made on 11 September 2024 be quashed; and
 - (b) the first respondent, Cameron Stuart Anthony McGrath (ABN 77 418 561 768) pay the applicant’s costs.

- [2] The background to this matter is that Mr McGrath trading as Rogue Bathrooms provided a written quote to Mr Stevenson to undertake a bathroom renovation for a house owned by Mr Stevenson's father, Mr Hadenfeldt, for the sum of \$28,000. That offer was accepted orally on 28 June 2022 and works commenced on the bathroom renovations. Mr McGrath ceased carrying out such work on 25 August 2022. On 5 October 2022, Mr Hadenfeldt gave notice terminating the contract for many reasons. A claim was then made to the QBCC Scheme. After a series of decisions, the claim was accepted in full.
- [3] On 23 December 2022 the QBCC informed that Mr McGrath had accepted the claim in full. Mr McGrath then applied for internal review of the decision on 29 December 2022. QBCC issued its internal review decision on 31 January 2023 confirming the original decision that the claim was one for full acceptance. Mr McGrath then filed an application for a review of the decision to QCAT on 28 February 2023. By its decision made on the papers on 11 September 2024, the QCAT member reversed QBCC's decision, concluding that there was no proper building contract within the meaning of the Act and therefore the building contract has not been validly terminated so as to enliven a right to insurance.
- [4] The Queensland Government later moved to amend the Act to move the unfair situation that a consumer that had entered into a partly oral partly written contract be denied their right to insurance under the Act. It seems that it was during this period, despite Mr McGrath's success before QCAT on 11 September 2024, that QBCC in fact paid Mr Stevenson's claim in full. Further, QBCC affirmed that it would not take any steps to recover the claim from the homeowners.
- [5] As was recorded in the decision of Senior Member Lember on 24 June 2026, QCAT's view was that QBCC would be estopped from taking any steps to recover from the homeowners Mr Stevenson and his mother Ms Hadenfeldt, for any part of the claim which had in fact been paid in full. Mr Stevenson and Ms Hadenfeldt therefore enjoyed success in their claim.
- [6] Section 49 of the *Human Rights Act* 2019 (Qld) provides:

49 Referral to Supreme Court

- (1) This section applies if, in a proceeding before a court or tribunal—

- (a) a question of law arises that relates to the application of this Act; or
 - (b) a question arises in relation to the interpretation of a statutory provision in accordance with this Act.
- (2) The question may be referred to the Supreme Court if—
 - (a) a party to the proceeding has made an application for referral; and
 - (b) the court or tribunal considers the question is appropriate to be decided by the Supreme Court.
- (3) If a question is referred under subsection (2), the court or tribunal referring the question must not—
 - (a) make a decision about the matter to which the question is relevant while the referral is pending; or
 - (b) proceed in a way or make a decision that is inconsistent with the Supreme Court’s decision on the question.
- (4) If a question is referred under subsection (2) by the Trial Division of the Supreme Court, the referral is to be made to the Court of Appeal.
- (5) Despite any other Act, if a question arises of a kind mentioned in subsection (1), the question may only be referred to the Supreme Court under this section.

[7] It may be observed in terms of paragraphs 1(a), (b), and (c) of Mr Stevenson’s application filed 7 September 2026 that they do not raise any issue as to the proper interpretation of or application of the *Human Rights Act* 2019 (Qld). On that basis alone it is improper to make any referral to the Court of Appeal under s 49.

[8] As to paragraph 1(d), although reference was made to ss 15 and 31 of the *Human Rights Act* 2019, it was not apparent as to how any question of law arose. Mr Stevenson based his case on paragraph 17 of his affidavit filed 7 September 2026. In respect of that paragraph, Mr Stevenson claimed that his human rights under sections 15 and 31 had been breached because he was denied assistance by LawRight to assist him in his claims and that the person who made the decision to deny him assistance had a conflict of interest as she was a Crown Law employee. One of the difficulties which flows from this analysis is, as can be seen above, as Mr Stevenson has succeeded in respect of his primary claim, there would be no utility in referring the matter to the Court of Appeal pursuant to s 49, even if it could be established that there was a breach of Mr Stevenson’s human rights. I find it unnecessary for me to

decide the question of whether there was a breach of human rights, however, even if there was such a breach, it would be improper to refer the matter to the Court of Appeal under s 49 as there would be no utility in doing so.

- [9] As to paragraph 2 of the relief sought in the application of 7 September 2026, that relief was a condensed version of the relief sought in Mr Stevenson's application sought 28 July 2026.
- [10] Although Mr Stevenson makes many arguments, including arguments as to the constitutional validity of the QCAT as a State court exercising federal jurisdiction¹, Mr Stevenson faces the same difficulty he does in respect of his request for relief under the Human Rights Act. That is, there is no utility in the proceeding as Mr Stevenson and his mother, Ms Hadenfeldt, have in fact been vindicated by the QBCC by paying the claim in full. As relief in the nature of a prerogative order under s 41(2) of the *Judicial Review Act* 1991 is discretionary, it seems to me that even if Mr Stevenson were to succeed in his arguments, as there is no utility in making the orders sought and so it would be improper for orders in the nature of certiorari to be made.
- [11] In the end result, I order that the applications of 28 July 2026 and 9 September 2026 be dismissed with no order as to costs.

¹ In respect of which *Owen v Menzies* [2013] 2 Qd R 327 concludes that QCAT is a court.