



## HIGH COURT OF AUSTRALIA

### NOTICE OF FILING

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#### Details of Filing

File Number: C7/2020  
File Title: UD v. The Queen  
Registry: Canberra  
Document filed: Form 27B - Appellant's chronology  
Filing party: Applicant  
Date filed: 11 May 2020

#### Important Information

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IN THE HIGH COURT OF AUSTRALIA  
CANBERRA REGISTRY

No C7 of 2020

BETWEEN:

**UD**

Applicant

and

**The Queen**

Respondent

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### APPLICANT'S CHRONOLOGY

#### PART I: CERTIFICATION

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1. It is certified that this chronology is in a form suitable for publication on the internet.

#### PART II: CHRONOLOGY

| Date             | Event   | Reference                           |
|------------------|---|-------------------------------------|
| 30 March<br>2020 | <p>The Applicant was due to stand trial on Indictment SCC 282 of 2019 dated 30 March 2020, with the trial listed to commence on 6 April 2020 before a judge and a jury of twelve.</p> <p>The Applicant and the Director of Public Prosecutions ('DPP') were sent an email from the associate to the trial judge in the following terms:</p> <p style="text-align: center;"><i>On behalf of the court I advise that the trial will not be proceeding as a jury</i></p> | <p>CRB1 [7]-[9]</p> <p>AFM1 [6]</p> |

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|              | <p><i>trial, but will remain listed. The parties should not at this stage assume that the matter will not proceed.</i></p>  |                                       |
| 1 April 2020 | <p>Counsel for the Applicant sent an email to the trial judge’s associate querying:</p> <p><i>In circumstances where [UD] has not made an election for a judge alone trial and the Court is not in a position to empanel a jury, can you please advise how the matter would proceed on Monday?</i></p> <p>Later that day, the trial judge’s associate responded, stating:</p> <p><i>The matter will only proceed on Monday if legislation is introduced rendering the matter a judge alone trial.</i></p> | <p>AFM2 [8]</p> <p>AFM3 [10]-[11]</p> |
| 2 April 2020 | <p>The ACT Legislative Assembly had introduced to it the <i>COVID-19 Emergency Response Bill 2020 (ACT)</i>. It foreshadowed the insertion into the <i>Supreme Court Act 1933 (ACT)</i> of s 68BA.</p>  |                                       |
| 3 April 2020 | <p>The Applicant’s matter was listed for mention before the trial judge. At the mention, the Applicant confirmed that he sought to be tried before a judge and jury of twelve. The trial judge foreshadowed the possible application of s 68BA, once enacted, to the Applicant’s proceeding. The matter was adjourned to 16 April 2020, on which day the parties would make submissions on s 68BA and its application to the Applicant’s trial.</p>   | AFM4 [13]-[22]                        |
| 8 April 2020 | <p>The <i>COVID-19 Emergency Response Act 2020 (ACT)</i> came into force <u>and the amendment to insert s 68BA into the <i>Supreme Court Act 1933 (ACT)</i></u> came into force.</p>  |                                       |

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| 9 April 2020  | The Applicant and the DPP were served with a s 68BA Notice that the Court proposed to have the Applicant tried by judge alone.  | CRB 2 [11]      |
| 14 April 2020 | Written submissions were filed with the Supreme Court of the Australian Capital Territory by the DPP addressing the proposed order. The DPP submitted that it would not be in the interests of justice, were the Applicant man ordered to be tried by judge alone. The submissions also raised the possibility that s 68BA is constitutionally invalid.   | CRB 3 [13]-[33] |
| 15 April 2020 | Written submissions were filed with the Supreme Court of the Australian Capital Territory by the Applicant. They spoke to the statutory construction of s 68BA, its application to the Applicant man’s proceeding, and to the possibility that s 68BA is <i>simpliciter</i> invalid.  | CRB 4 [35]-[47] |
| 16 April 2020 | The parties appeared before the trial judge. The Applicant sought removal of his proceeding to the Full Court, pursuant to s 13(2) of the <i>Supreme Court Act 1933</i> (ACT). The Application was refused. The trial judge determined to hear argument on the proposed order – on the assumption that s 68BA was valid – and to defer the question of the statute’s validity to a time after he had ruled upon its applicability to the Applicant’s proceeding. Following argument, the trial judge reserved his decision. | AFM5 [24]-[27]  |
| 20 April 2020 | The trial judge concluded that a judge alone trial ‘should be ordered’. However, his Honour determined that he would not (formally) make an order to that effect until the question of the statute’s validity had been resolved.  | CRB 5 [49]-[62] |
| 22 April 2020 | The Applicant filed an application for removal  |                 |

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|               | pursuant to s 40 of the <i>Judiciary Act 1903</i> (Cth).<br>That application was allocated High Court of Australia file number C6/2020.  |  |
| 28 April 2020 | The Director of Public Prosecutions of the Australian Capital Territory filed his Form 7 – Notice of Appearance in C6/2020.<br><br>The Attorney-General of the Australian Capital Territory filed a Form 1A – Notice of Intervention in C6/2020.   |  |
| 29 April 2020 | The Applicant, the Respondent and the Intervener appeared before Gordon J.   | <i>UD v The Queen</i><br>[2020] HCATrans 59<br>(29 April 2020) |
| 30 April 2020 | Gordon J granted the application for removal and made orders as to the timetable of documents to be filed by the parties.  | CRB 6 [64]-[67]  |
| 5 May 2020    | As a consequence of the cause being removed, the new file number C7/2020 was allocated to the matter.<br><br>The Attorney-General of the Australian Capital Territory filed a Form 1A – Notice of Intervention in C7/2020.<br><br>The Attorney-General of South Australia filed a Form 1A – Notice of Intervention in C7/2020. | CRB 8 [77]<br><br>CRB 9 [80]                                   |

Dated 11 May 2020



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