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Right to Know



FOI Request for Internal Review

[Brett Wilson](#) made this Freedom of Information request to [Federal Court of Australia](#)

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Response to this request is **long overdue**. By law, under all circumstances, [Federal Court of Australia](#) should have responded by now ([details](#)). You can **complain** by [requesting an internal review](#).



Brett Wilson May 11, 2020



[Sent](#)

Dear Federal Court of Australia,

Please be aware of the following communications, as I have requested you acknowledge my request for an internal review via an email and PDF document that I sent to the Federal Court Registry on 01 May 2020:

Dear Customer Service, Federal Circuit Court.

A private email via gmail, was sent to the Federal Court of Australia on 01 May 2020 with a new submission in the form of a PDF document with a statement of reasons for a request for internal review to be conducted by the Federal Court of Australia, not by the Federal Circuit Court. The PDF document I sent to the Federal Court Registry was care of the Federal Court of Australia's FOI Officer and could not be loaded onto the Right to Know electronic platform.

You can disregard the request, but please forward this on to the Federal Court, like you did before.

Yours sincerely,

Brett Wilson

From: Customer Service
Federal Circuit Court of Australia

May 06, 2020
UNCLASSIFIED
Dear Mr Wilson

Your below email withdrawing the request for internal review by the Federal Circuit Court is noted. I will forward your email to the Federal Court of Australia for completeness.

Kind regards
Mike

Federal Circuit Court of Australia
PO Box 9991 in your capital city
p. 1300 352 000 | e. [\[email address\]](#)

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As you can see, this request for an internal review has been sitting with your Federal Court Registry for some 10 days now without a reply.

It is requested that you respond so that I am aware you have received my request and IAW your obligations as to Internal Reviews and time, under the FOI Act.


Yours faithfully,

Brett Wilson

https://www.righttoknow.org.au/request/foi_request_for_internal_review#

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[Report](#)

 Brett Wilson June 02, 2020

 [Sent](#)

Attention: Acting Deputy Principal Registrar Federal Court of Australia, Mr Scott Tredwell

Thank you for your FOI Response dated 29 May 2020, sent to my gmail address and admitting "the Federal Court is not operating as a Crown Court" under Crown Jurisdiction and therefore allegedly holds NO AUTHORITY under Chapter III of the Constitution of the

Australian Commonwealth 1901 as proclaimed and gazetted.

You also totally conveniently ignored the public interest test and discretionary powers as an administrator and decision maker in relation to access of documents and the FOI Act – SECT 3A of which I brought to your attention. You also ignored case precedent that I had raised regarding my FOI Request giving “proper and genuine and realistic consideration to the merits of my request and be ready in a proper case to depart from applicable policy.”

Also from your published Court hierarchy or chain of command and management structure on your web site, it is clear the Chief Executive Officer, a position found in an independent legal entity, such as a company, has been placed above the Court and Tribunals in the Federal Court of Australia hierarchy, which I allege further invalidates the court as a lawful Ch III Court under the Constitution of the Australian Commonwealth as proclaimed and gazetted in 1901 and not the Australian constitution FICTION that you claim the court operates under. See the following organisational link:

<https://www.fedcourt.gov.au/about/corpor...>

Your response destroys my and the public confidence in the Federal Court's application of the rule of law and judicial integrity, the Federal Court Judiciary having allowed the removal of the Crown from the courts processes and remaining silent about its removal without any protest, assumes judicial misbehavior and direct breach of Covering Clause 5 of the Constitution of the Australian Commonwealth which deserves parliamentary attention.

Your correspondence - FOI Response confirms to me, the Federal Court of Australia is operating as a Court established under Chapter III of the Australian Constitution which is a separate Constitution (an evil twin constitution) created without Commonwealth authority using the required Sect 128 Referendum process, a mandatory requirement to alter or amend the Constitution of the Australian Commonwealth established in 1901, or to create a new Constitution operating under a similar name by omitting the title or word of significant importance being "Commonwealth" from the Constitution which is now a controversy that requires further scrutiny and investigation.

If the Federal Court is not acting as a “Crown Court” as you have articulated in your 29 May 2020 FOI Response i.e. it is not operating under Crown Authority, I am of the assumption the Federal Court of Australia is not acting Constitutionally under a Ch III mandated position within the Australian Commonwealth legal system.

Your response confirms to me, the Federal Court of Australia is an unlawful private court under the "Ultra Vires" Australian Constitution created beyond power and without the authority of we the people and is not acting judicially within Commonwealth authority, this is incompatible with the exercise of judicial power of the Commonwealth and undermines the institutional integrity of the Federal Court of Australia.

The administration of justice has from earliest times been regarded as the pre-eminent

function of the Crown. "It is therefore from the Crown that all jurisdictions in the kingdom emanate." It is true that the Crown cannot now, of itself and without the sanction of a Statute, create any new court. Reference: THE CROWN AS THE SOURCE OF LEGAL POWERS IN AUSTRALIA By J. B. HARPER, M.A., LL.M. p. 310.

The formal source of the judicial power in this Commonwealth, as in England, remains vested in Her Majesty the Queen, the source of power promulgated under the provisions of Covering Clause 2 of the Constitution Act referring to the Queen and shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom.

The judicial power of the Federal Court of Australia does not remain vested in the Chief Executive Officer (CEO) of the Federal Court of Australia (a non-registered entity), where I allege the Federal Court Writs commissions and processes are unlawfully issued by the authority of a CEO or a delegated officer with the powers of a CEO, where these things must be issued by the authority of our Sovereign in the Sovereignty of the United Kingdom as listed at Covering Clause 2 of the Constitution of the Australian Commonwealth. I allege this process is repugnant to a Ch III Court IAW the Constitution of the Australian Commonwealth established as proclaimed and gazetted in 1901.

The doctrine of the Common Law provides, all executive power resides formally in the King, in our case the Queen, and all executive action proceeds from him or her, and not from a Public Servant or Chief Executive Officer.

"In the Commonwealth the executive power, like the legislative and judicial powers, is put on a statutory basis. The King, it is true, remains the formal repository of the power; but in two respects the section so vesting the power in him suggests limitations on it. In the first place, the power vested is to be "exercisable by the Governor-General," and it is possible that these words have the legal effect of preventing the Sovereign from exercising the power in person. Secondly, it provides that the power "extends to the execution and maintenance of this Constitution and the laws of the Commonwealth." Reference: THE CROWN AS THE SOURCE OF LEGAL POWERS IN AUSTRALIA By J. B. HARPER, M.A., LL.M. p. 311.

The legal basis of the executive powers of the Crown in Australia has been discussed by Griffith C.J. in *R. v. Kidman*.¹⁵ "It is clear law," he says, "that in the case of British Colonies acquired by settlement the colonists carry their law with them so far as it is applicable to the altered conditions." This, he continues, "undoubtedly included all the Common Law relating to the rights and prerogatives of the Sovereign in his capacity of head of the Realm."

Whilst judges are independent of executive government, the administrative staff like CEO's who support the courts are public servants who ultimately answer to the Secretary of the Department of Justice, and thus to executive government. This derives from long standing practice. Courts are an arm of government under the Crown, and thus the Crown needs to provide the means for courts to undertake their functions which proves the Crown is the

source of power and authority for all court processes and orders.

On page -3- of your 29 May 2020 FOI Response "Request for an additional document" you claim the basis of my request is not clear as to what I am seeking. I made it quite clear that I was requesting a copy of the Court Order – Judgment, of *Kline v Official Secretary to the Governor-General* [2012] FCAFC 184. i.e. an Order – Judgment made under Crown Authority with Seal. This document cannot be located in the public domain, as the link you provided links to a judgment made without Crown authority.

It is reasonable for me to assume the document or Crown Court Order I seek, could be Statutory defined as a Commonwealth Record and property of the Commonwealth, a court record, the physical custody of which is within the lawful power of control of a specified functional unit of government, if the Federal Court can be defined as a Judicial Department of Government, a crown court record which might be otherwise discoverable under the FOI Act, be that document is of an administrative nature or not, and if it existed? But clearly it does not.

As you have admitted the Federal Court of Australia is not a Court operating under Crown authority, I can not understand how this exclusive jurisdiction IAW Sect 77 of the Constitution of the Australian Commonwealth and traditionally remaining under Crown authority, could have been lawfully removed some time after Federation by the Parliament, without a Referendum IAW Sect 128 of the Constitution of the Australian Commonwealth?

It is beyond the Parliaments power to make laws that might remove Crown jurisdiction (our Sovereign) from the Federal Court of Australia, as the Sovereign is clearly defined in Covering Clause 2 of the Constitution of the Australian Commonwealth as our head of power and as explained above, is the source of law in this Commonwealth. Covering Clause 2 is a clause of an Imperial Act that can only be altered by the UK Parliament but only after a majority 'YES' vote from the majority under Sect 128 of the Constitution of the Australian Commonwealth, which has never occurred in this country since Federation.

You must know that "Public confidence in the courts arises from the public perception that judges are men and women of competence and unshakeable integrity." Courts for the People, Not People's Courts, Inaugural Deakin Law Oration (1995).

I may consider sharing this information and lodge a formal protest to my local member of parliament regarding the judicial integrity and accountability of the Federal Court of Australia being in question, and its judges and public servants having allegedly abused Constitutional process and power.

Yours faithfully,

Brett Wilson

https://www.righttoknow.org.au/request/foi_request_for_internal_review#

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Woomera Prohibited Area Advisory Board

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Queensland Department of Justice and Attorney-General

[Wilson , Human Rights Commissioner and the IPA](#)

Australian Human Rights Commission

FOI Request in accordance with the Victorian Freedom of Information Act 1982 (FOI Act)

Victorian Department of Justice & Regulation

FOI Request in accordance with the Victorian Freedom of Information Act 1982 (FOI Act)

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