

HIGH COURT OF AUSTRALIA

BLOODYCHROME CJ,
NEATSAUCER, WILHELMUS JJ

In the matter of questions referred to the High Court of AustraliaSim pursuant to Pages 7 to 9 of the AustraliaSimStanding Orders.

AustraliaSim Senate v. 12MaxWild

[2021] HCA 10

Date of Hearing: 07, 08 & 09 June 2021

Date of Judgment: 09 June 2021

ORDER

1. *That 12MaxWild be found guilty of intentionally breaching the Activity Requirements required for the Senate in the specified timeframe*
2. *That 12MaxWild be warned due to this being their first instance of inactivity within the term of the Parliament*

Representation

tbyrn21 and model-amn appeared as *amicus curiae*.

No appearances from the respondents

No appearances from either plaintiff.

No appearances from the Attorney General

Facts of the Case

- 1 As per *the Standing Orders of the AustraliaSim Parliament*, Pages 7 to 9, an Activity Check must be conducted once every fourteen days excluding the periods as outlined by the said Standing Orders.
- 2 The Standing Orders give the judiciary a duty to consider all referrals and determine the required actions to be taken, either a warning or an expulsion from Parliament for Members of Parliament or Senators breaching the Activity Requirements.
- 3 The President of the Senate conducted Activity Checks for the Australian Senate for the period commencing from the 20th of May 2021 to 03rd of June 2021 and has found one incumbent Senator. This Court has therefore been asked to consider the referrals of the said Senator.

Extraneous Factors

- 4 First up, are there any extraneous factors that make the Senator unable to debate, now this has a very strict meaning under the Standing Orders, and this Court has taken an incredibly high standard earlier, an example would be *Re: MattMonti*.
- 5 We do notice that there has neither been a submission from the Respondent, or any authorized individual from the Respondent to provide us with any context, on any existing extraneous factors making them unable to debate.
- 6 Neither have they proved that the President was wrong in their judgement, and due to the Court seeing no other reasoning, or factor to not provide an exemption, we do find the individual guilty and issue the first warning as per procedure.

Amicus Curiae's Submissions

- 7 However, before I move to the issue of the Orders, I have decided to briefly address the concerns raised by the Amicus Curiae in their short and brief submission to the Court. I do commend them for coming up and indeed show my surprise considering how Activity Check cases normally have empty courts.
- 8 Now coming to their argument, the first element is law. They do not cite any proper law to somehow provide a proper reason for their case. Yes, they make a fair and a more emotional case, but in Courts of Law, evidence and statute run the game, not emotion. But yes, I read the Standing Orders and found one relevant passage to their case, which is below.

Notes on Activity Requirements - Requirement 1

To comply with requirement 1, a MP or Senator must debate one item of business every 14 days. This 21-day period is a fixed period, starting from the date of swearing in and resetting every 14 days. MPs and Senators who are elected after the start of term (due to a by-election, supplementary election or vacancy etc.) are exempt from the 14-day period they swear in.

- 9 Now, we must understand that Senator 12MaxWild was sworn in on the 17th of May, filling the vacancy caused on the 15th, by the unfortunate passing away of Griffonomics. The Activity Requirement period starts from the 20th, based on the report by the President of the Senate and therefore, the Senator has faulted with a certain level of knowledge as an appointed Senator and we reach the conclusion as before.

Orders

- 10 Therefore, I propose that the Court make the following orders:
1. *That 12MaxWild be found guilty of intentionally breaching the Activity Requirements required for the Senate in the specified timeframe*
 2. *That 12MaxWild be warned due to this being their first instance of inactivity within the term of the Parliament*