



# DECISION

*Fair Work Act 2009*

s.603—Application to vary or revoke a FWC decision

## **Aged Care Award 2010**

(AM2020/99)

## **Nurses Award 2020**

(AM2021/63)

## **Social, Community, Home Care and Disability Services Industry Award 2010**

(AM2021/65)

JUSTICE ROSS, PRESIDENT  
DEPUTY PRESIDENT ASBURY  
COMMISSIONER O'NEILL

MELBOURNE, 15 AUGUST 2022

*Application to correct 'obvious error' – application dismissed.*

[1] In our decision<sup>1</sup> published on 19 May 2022 (the Decision) we dismissed an application by Mr Grabovsky seeking a direction under s.590(2)(b)<sup>2</sup> of the *Fair Work Act 2009* (the Act) for:

- him to submit an '*amicus brief*' by 2 August 2022,
- the applicants in matters AM2020/99, AM2021/63 and AM2021/65 to distribute copies of the '*amicus brief*' among 'Aged Care Workers, Members and non-Members of the corresponding unions' within 30 days, and
- the Commonwealth to distribute the '*amicus brief*' among 'government structures responsible for the Health and Aged Care' by 30 August 2022.

[2] On 1 June 2022, Mr Grabovsky made an application pursuant to s.603 of the Act seeking that the Commission revoke the Decision and issue a direction in similar terms to those set out at [1] above. On 4 July 2022, we issued a decision dismissing that application (the Section 603 Decision).<sup>3</sup>

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<sup>1</sup> [2022] FWCFB 77

<sup>2</sup> We understand that where Mr Grabovsky referred in his application to s.509(2)(b) of the Act, he meant s.590(2)(b).

<sup>3</sup> [2022] FWCFB 118

[3] On 5 August 2022, Mr Grabovsky made an application under s.602 of the Act seeking correction of ‘obvious errors’ in the Section 603 Decision (the ‘further review application’). In the further review application, Mr Grabovsky sets out the purported errors in the Section 603 Decision that he says are ‘objectively recognisable’ and should be corrected. These purported errors include, but are not limited to, ‘omission of information’ to hide the ‘fraudulent nature’ of official instruments created by Commission Members, and the systematic and wilful substitution of the law with the opinions of Commission Members.

[4] Section 602 of the Act is intended to be a statutory analogue for the ‘slip rule’ used by superior courts to correct certain errors in orders.<sup>4</sup> While not an exhaustive list, examples of when the ‘slip rule’ might be employed were said in *Re Timber and Allied Industries Award 1999*<sup>5</sup> and *Currububula & Paola v State Bank NSW*. *Currububula v State Bank NSW*<sup>6</sup> to include the amendment of unintentional errors, mistakes arising from inadvertence, clerical mistakes or errors arising from accidental slips or omissions.<sup>7</sup>

[5] The Full Bench has considered all of the material in Mr Grabovsky’s further review application and is not satisfied that the changes to the Section 603 Decision that Mr Grabovsky seeks are of a nature that fits within any of the scenarios above. We do not consider the Section 603 Decision to be affected by any obvious errors, defects or irregularities amenable to correction under s.602 of the Act.

[6] If Mr Grabovsky is dissatisfied with the Section 603 Decision and wishes to challenge it, the proper course is for him to apply for judicial review of it.

[7] The further review application is dismissed.

## PRESIDENT

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<sup>4</sup> *Inna Grabovsky v United Protestant Association NSW Ltd T/A UPA* [2019] FWCFB 3620 at [4].

<sup>5</sup> [2003] AIRC 1137

<sup>6</sup> [2000] NSWSC 232

<sup>7</sup> See also *Application by Snyder* [2019] FWCFB 8340