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Gareth Ward Faces Imminent Expulsion from NSW Parliament Following Failed Legal Bid

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Convicted rapist Gareth Ward is set to be expelled from the New South Wales (NSW) Parliament after losing a last-minute legal effort to prevent the move. The former Liberal and now independent Member of Parliament (MP) for Kiama had sought an injunction to block his removal, but the Court of Appeal rejected his case on Thursday, clearing the way for a vote expected to take place Friday.

Ward, who is currently held in Silverwater Correctional Complex and awaiting sentencing in September, was found guilty in July of multiple sex offences. These include three counts of indecent assault and one count of sexual intercourse without consent, stemming from incidents involving two young men in 2013 and 2015. He has lodged an appeal against the convictions.

The urgent court hearing was held after Ward's legal team filed for an injunction against Ron Hoenig, the leader of the Legislative Assembly, in an attempt to stop parliamentary proceedings aimed at expelling him. Chief Justice Andrew Bell, presiding with Justices Anna Mitchelmore and Jeremy Kirk, dismissed the argument that expelling Ward would be punitive or outside the parliament's authority.

In delivering the judgment, Chief Justice Bell stated that the notice of intention to appeal had no bearing on the Assembly's right to expel a member. "There was no evidence to support the assertion that a resolution to expel the plaintiff would be punitive in scope," Bell said.

The Minns-led Australian Labor Party (ALP) government and the opposition have both signaled support for the motion to expel Ward, which is expected to pass with overwhelming support. Although no action was taken on Thursday night, the motion is set to be introduced and voted on when the Legislative Assembly convenes on Friday.

Ward's legal counsel, Peter King, argued in court that the parliament was effectively acting as a "kangaroo court" and that expelling his client before sentencing was unjust. King also compared Ward's absence from parliament to that of an MP suffering from a serious illness, suggesting that disqualification based on non-attendance could be equally applied in such cases.

He further asserted that expulsion would amount to punishment, especially because it would force a by-election and deny Ward the chance to recontest his seat. "It's not... justice according to law to say to someone, 'well you've been convicted, we're now going to punish you by expelling you from the parliament,'" King argued.

In response, Craig Lenehan, Senior Counsel representing Hoenig, maintained that the parliament was within its rights to act. "It's obviously open to a legislative body to form a view that a member convicted by a jury of a serious sex offence should be expelled," Lenehan told the court. He dismissed the notion that the expulsion was motivated by any improper or punitive purpose.

Lenehan also rejected the comparison to illness-related absences, emphasizing that conviction for serious criminal conduct presents a distinctly different situation that impacts the integrity of the parliament.

While the NSW Parliament holds the power to expel a sitting member for conduct deemed unworthy or damaging to its reputation, it cannot lawfully do so for the purpose of

punishment. The threshold is whether the member's behavior undermines public trust in the institution.

The case raised significant constitutional questions over the separation of powers, as Ward's legal action attempted to prevent the legislature from exercising its internal disciplinary powers. However, the court found no legal basis to interfere with the Assembly's function.

Ward's only remaining legal avenue is an appeal to the High Court of Australia. However, unless that court intervenes, the expected vote on Friday will see him removed from office.

This marks a rare instance in NSW political history where a sitting MP faces expulsion following a criminal conviction.