



## HIGH COURT OF AUSTRALIA

### NOTICE OF FILING

This document was filed electronically in the High Court of Australia on 12 Sep 2024 and has been accepted for filing under the *High Court Rules 2004*. Details of filing and important additional information are provided below.

#### Details of Filing

File Number: M80/2024  
File Title: In the matter of an application by Uncle Robbie Thorpe for spe  
Registry: Melbourne  
Document filed: Affidavit supporting extension of time, non compliance of seal  
Filing party: Applicant  
Date filed: 12 Sep 2024

#### Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties and whenever the document is reproduced for use by the Court.

IN THE HIGH COURT OF AUSTRALIA  
MELBOURNE OFFICE OF REGISTRY

IN THE MATTER of a proposed judicial direction, on the application of UNCLE  
ROBBIE THORPE

UNCLE ROBBIE THORPE  
Applicant

**AFFIDAVIT**

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I, Uncle Robbie Thorpe, Truth-Teller Fire-Keeper and Elder, of CAMP SOVEREIGNTY, "Kings Domain" near "Government House" and Shrine of Remembrance, affirm as follows:

1. I seek an order under Rule 2.02 dispensing with compliance of the requirement of Rule 41.01.4(a) that an application for special leave to appeal shall be accompanied by a copy of the sealed order of the court below.

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2. At 5.03 pm yesterday, Tuesday 3 September 2024 I received an email from Nicholas Roberts, Deputy Registrar (Legal), Court of Appeal, Supreme Court of Victoria, stating: "Dear Uncle Robbie Thorpe, I refer to your request for a sealed order in relation to the decision of Justice McLeish to refuse to direct the Registrar to accept the documents for filing. His Honour considers that it would not be appropriate to make an order because the Court's jurisdiction is not engaged by a request for such a direction. Accordingly there is no sealed order to provide to you."

3. I also seek an order under Rule 2.02 and Rule 41.02.2(a) dispensing with compliance of the requirement of Rule 41.02.1 that an application for special leave to appeal shall be filed within 28 day of the judgement below.

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4. I set out below my explanation of the failure to comply with the said Rule in this affidavit made pursuant to Rule 41.02.2(b).

5. On Friday 2 August 2024 Justice McLeish delivered judgement in this matter with the heading *In the Supreme Court of Victoria Court of Appeal*.

6. On Monday 5 August 2024 I submitted for filing a proposed application for leave to appeal this judgement to a Full Court of the Court of Appeal.

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7. At 5.35 pm on Thursday 22 August 2024 I received an email from the said Court of Appeal Deputy Registrar (Legal) Nicholas Roberts informing me that Judicial Registrar Mark Pedley, the Registrar of the Court of Appeal of the Supreme Court of Victoria, had rejected the proposed application for leave to appeal because there is no right of appeal (or right to seek leave to appeal) from such a judgement.

Date of document: 4 September 2024

Filed on behalf of the applicant

Emily Lloyd

Registrar

Neighbourhood Justice Centre

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8. At 9.10 am on Friday 23 August 2024 I emailed the Supreme Court Prothonotary Rod Ratcliffe with subject *Rule 60.03 Request to settle and seal orders, 23.8.24* and attached draft orders of Justice Richards 23 July 2024 and Justice McLeish 2 August 2024 for settling and sealing.

9. At 3.39 pm the same day I received an email from “Self-Represented Litigants Coordinator” stating: “These orders have not been made, the prothonotary is therefore unable to draw up an order pursuant to rule 60.03 of the Supreme Court (General Civil Procedure) Rules 2015.”

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10. At 8.15 am on Monday 26 August 2024 I emailed Prothonotary Ratcliffe with the same subject and same attachments and cc'd this email to the chambers of Justice McLeish (and also to the chambers of the trial judge Justice Richards and the defendants in the trial matter, Magistrates Court of Victoria and Attorney-General of Victoria).

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11. In my email I referred to the documentation attached to the draft orders for settling and stated that “in each instance there is no doubt the judge made an order” and that “in each instance there is no doubt that there is no properly authenticated order either by the judge or yourself.”

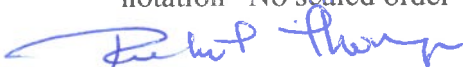
12. I further stated that “applications for leave to appeal require a copy of the order of the lower court” and asked two questions: “Is there a further procedure of the court not immediately apparent in the Rules to obtain these authenticated orders other than the written request made last week?” and “Are there criteria set out in the Rules or the Act by which to pre-determine when a binding decision of the court does not constitute an order of the court requiring authentication?”

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13. Having received no sealed orders and no response at all from the court in the next five days I then lodged my application for special leave to appeal at about midday on Friday 30 August 2024, the 28th day since the judgement of Justice McLeish on Friday 2 August 2024.

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14. At 5.35 pm on the same day, Friday 30 August 2024, I received an email from Deputy Registrar Rosemary Musolino stating that “... — the order of Richards J on 19/07/24. A copy of this document should be uploaded as a standalone document.” and “... While you have provided the reasons of McLeish JA, you have included the notation “No sealed order was provided”. You will need to approach the Court below




Emily Lloyd  
Registrar

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Neighbourhood Justice Centre

to see if a sealed order will be provided upon request, since a sealed order of the Court below is required under Rule 41.” The lodgement was thus rejected.

15. On Monday 2 September 2024 I emailed Prothonotary Ratcliffe and Registrar Pedley (“copy to trial judge and parties and court of appeal judge”) forwarding the  
10 said email from Deputy Registrar Musolino with the subject *Help! High Court requires sealed orders*.

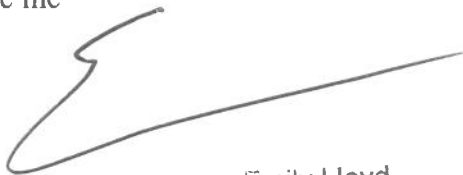
16. In my email I asked them to refer to “my urgent requests for sealed orders made to you” on Friday 23 August 2024 at 9.11 am and again on Monday 26 August 2024  
20 at 8.15 am “copies to chambers of McLeish JA and Richards J and ignored by you”. I noted that my application for special leave to appeal “is now out of time” and asked “Please provide sealed copies forthwith”.

17. The only response to date is set out in paragraph 2 above. I believe that no further response can be expected from the Supreme Court of Victoria.

Affirmed at Collingwood  
in the State of Victoria  
on 4 September 2024



Before me



Emily Lloyd  
Registrar  
Neighbourhood Justice Centre  
241 Wellington Street, Collingwood 3068