

Skyring, in the matter of Skyring [2014] FCA 397

Citation: Skyring, in the matter of Skyring [2014] FCA 397

Parties: **ALAN GEORGE SKYRING**

File number: QUD 750 of 2013

Judge: **RANGIAH J**

Date of judgment: 23 April 2014

Catchwords: **PRACTICE AND PROCEDURE** – applicant declared vexatious litigant – application for leave to review decision of Registrar – whether applicant seeking to relitigate claims that have already been finally determined – whether leave to institute proceedings should be granted

Legislation: *Federal Court of Australia Act 1976* (Cth) ss 37AQ, 37AR, 37AS and s 37AT
Federal Court Rules 2011 (Cth) r 2.26

Cases cited: *In the matter of an application by Alan George Skyring* (unreported, HCA, 9 July 1985)
Ramsey v Skyring (1999) 164 ALR 378; [1999] FCA 907
Re Alan George Skyring v Commissioner of Taxation [1991] FCA 564
Re Skyring [2013] QSC 197
Re Skyring's Application (No 2) (1985) 59 ALJR 561
Skyring v Australian Electoral Commissioner [1999] FCA 113
Skyring v Commissioner of Taxation (Cth) (2007) 244 ALR 505
Skyring v Electoral Commission (Qld) [2001] QSC 80
Skyring v Federal Commissioner of Taxation (unreported, FCA, 19 August 1983)
Skyring v Ramsey [2000] FCA 774
Skyring, in the matter of Skyring [2013] FCA 997

Date of hearing: Heard on the papers

Place: Brisbane

Division: GENERAL DIVISION

Category: Catchwords

Number of paragraphs: 21

Counsel for the Applicant: The Applicant appeared on his own behalf

**IN THE FEDERAL COURT OF AUSTRALIA
QUEENSLAND DISTRICT REGISTRY
GENERAL DIVISION**

QUD 750 of 2013

IN THE MATTER OF ALAN GEORGE SKYRING

**BETWEEN: ALAN GEORGE SKYRING
 Applicant**

JUDGE: RANGIAH J

DATE OF ORDER: 23 APRIL 2014

WHERE MADE: BRISBANE

THE COURT ORDERS THAT:

1. The originating application filed on 30 October 2013 is dismissed.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

**IN THE FEDERAL COURT OF AUSTRALIA
QUEENSLAND DISTRICT REGISTRY
GENERAL DIVISION**

QUD 750 of 2013

IN THE MATTER OF ALAN GEORGE SKYRING

**BETWEEN: ALAN GEORGE SKYRING
 Applicant**

**JUDGE: RANGIAH J
DATE: 23 APRIL 2014
PLACE: BRISBANE**

REASONS FOR JUDGMENT

1 The applicant, Alan George Skyring, was declared a vexatious litigant in this Court by Sackville J on 6 July 1999: *Ramsey v Skyring* (1999) 164 ALR 378. Pursuant to s 37AQ(1) of the *Federal Court of Australia Act 1976* (Cth) (“the Act”), he cannot institute proceedings without obtaining leave under s 37AT(3).

2 On 16 October 2013, Mr Skyring attempted to file an originating application and supporting affidavit in the Queensland District Registry of this Court. The affidavit annexes three proposed originating applications and the application seeks leave to commence those proceedings. The Queensland District Registrar refused to accept Mr Skyring’s documents for filing.

3 On 30 October 2013, Mr Skyring filed an originating application and supporting affidavit seeking an order that leave be granted to review the Registrar’s decision. Presumably, Mr Skyring also seeks an order that his originating applications be accepted for filing.

4 Mr Skyring’s affidavit annexes a large amount of material, is difficult to navigate and is largely incomprehensible. His affidavit is replete with documents that appear to be irrelevant to his application. As a result, the process of delineating precisely what proceedings Mr Skyring wishes to institute has been arduous.

5 It is convenient at this point to attempt to summarise the various proceedings which
Mr Skyring seeks leave to institute.

The originating applications

6 It can be inferred from Mr Skyring's affidavit of 30 October 2013 that, in addition to
his application to review the Registrar's decision, he seeks leave to commence the three
proceedings referred to in his affidavit of 16 October 2013.

7 The first is characterised as a notice of appeal purporting to appeal from the judgment
of Collier J delivered on 2 October 2013: *Skyring, in the matter of Skyring* [2013] FCA 997.

8 The second proceeding is cast as a "re-presentation in updated form" of an originating
application presented in this Court on 21 August 2013. That application seeks an order
rescinding the order made by Sackville J declaring Mr Skyring to be a vexatious litigant and
compensation "in appropriate quantum, manner and form" for "general distress".

9 The final application is a further "re-presentation in updated form" of an application
presented in this Court on 2 December 1991, purporting to seek an order annulling Mr
Skyring's bankruptcy.

10 The decision of the District Registrar to refuse to accept Mr Skyring's applications for
filing was made pursuant to r 2.26 of the *Federal Court Rules 2011* (Cth). That rule provides
that a Registrar may refuse to accept a document if satisfied that the document is an abuse of
the process of the Court or is frivolous or vexatious.

11 The District Registrar decided not to accept the document purporting to be a notice of
appeal from the judgment of Collier J on the basis that the judgment was interlocutory and
leave to appeal had not been obtained as required under s 24(1A) of the Act. The District
Registrar considered that the other two applications sought to relitigate claims that had
already been heard and determined by the Court. The District Registrar decided that each of
the proposed applications was vexatious and an abuse of the process of the Court.

The applicant's submissions

12 It can be discerned from Mr Skyring's affidavit that he seeks to challenge the decision
of the District Registrar on the basis that it:

is ultimately founded on the **'massive misapprehension' on the part of the Commonwealth authorities generally, and the Registry of this FCA in**

particular.

(Format in original.)

13 Mr Skyring asserts that there has never been a final determination in Australian courts as to the “ultimate fundamental law of this land”. The proper determination of this question, he claims, is essential in order to decide his related contention that it is beyond the Commonwealth’s constitutional power to legislate so as to make paper money legal tender, rather than gold and silver coin. Mr Skyring summarises the present application as follows:

the matter to be ‘clarified’ immediately by these proceedings is, which of the ... *Laws* precisely is the ‘ruling’ *Law* in this country *i.e.* the *Common Law of England* or the *Law Merchant of Europe* **and that determination CAN be made ‘very quickly and efficiently’ by a ruling given on this vital matter of legal tender**, on the basis that, **under the *Law Merchant of Europe*, ‘PAPER MONEY’ IS INDEED ‘LEGAL TENDER’,** whereas **under the *Common Law of England*, ‘PAPER MONEY’ IS NOT NOW AND NEVER HAS BEEN LEGAL TENDER in countries governed by that LAW.**

(Format in original.)

14 Each of Mr Skyring’s proposed proceedings, including his challenge to the District Registrar’s decision, is based on this argument.

Consideration

15 By operation of s 37AS(2) of the Act, the Court is required to dismiss an application under s 37AR if it “considers the proceeding is a vexatious proceeding”. Pursuant to s 37AS(3), such a proceeding can be dismissed without an oral hearing regardless of whether or not the applicant consents to such course being taken. I have adopted this approach in determining Mr Skyring’s application.

16 In the application before Collier J, Mr Skyring sought to file an application challenging the validity of the Federal Election held last September. The Australian Electoral Commissioner is authorised by s 170(3) of the *Commonwealth Electoral Act 1918* (Cth) to accept “nomination deposits” in the form of bank cheques and “Australian notes”. Mr Skyring claims he is aggrieved by such acceptance, as payment in either form is prohibited on constitutional and other grounds.

17 The arguments concerning the constitutionality of paper money as legal tender have been agitated by Mr Skyring on numerous occasions, not only in this Court, but also in the High Court and the Supreme Court of Queensland: see *Re Skyring’s Application (No 2)*

(1985) 59 ALJR 561, upheld by the Full Court in *In the matter of an application by Alan George Skyring* (unreported, HCA, 9 July 1985); *Skyring v Federal Commissioner of Taxation* (unreported, FCA, 19 August 1983); *Re Skyring* [2013] QSC 197. He has also previously attempted to mount such a challenge in the context of electoral nomination deposits in respect of a number of state and federal elections: *Skyring, in the matter of Skyring* [2013] FCA 997; *Skyring v Electoral Commission (Qld)* [2001] QSC 80; *Skyring v Australian Electoral Commissioner* [1999] FCA 113.

18 As to his application to rescind the vexatious proceedings order made by Sackville J against him, Mr Skyring asserts that such order has no “proper basis in law” and is not “legally sound”, and accordingly seeks compensation (presumably in gold and silver coin) for “general distress”. An appeal against that order was dismissed by the Full Court: *Skyring v Ramsey* [2000] FCA 774. Mr Skyring has also in the past attempted to commence proceedings to annul his bankruptcy. That claim has also been litigated and ultimately determined against Mr Skyring by the Full Court: *Re Alan George Skyring v Commissioner of Taxation* [1991] FCA 564; *Skyring v Commissioner of Taxation (Cth)* (2007) 244 ALR 505.

19 Mr Skyring’s submission that there has been no final determination of the constitutionality of paper money as legal tender does not stand up to scrutiny. This issue has been conclusively determined. His obstinacy in continuing to attempt to commence proceedings which seek to reagitate the issue does not change that fact.

20 I am satisfied that the application to review the decision of the District Registrar and each of the three proceedings that Mr Skyring wishes to commence are no more than attempts to relitigate issues that have already been exhaustively and finally determined in this Court and in other courts.

21 The originating application filed on 30 October 2013 is vexatious. It must be dismissed.

I certify that the preceding twenty-one (21) numbered paragraphs are a true copy of the Reasons for Judgment herein of the Honourable Justice Rangiah.

Associate:

Dated: 23 April 2014