



**Common Law Division
Supreme Court
New South Wales**

Case Name: Prothonotary of the Supreme Court of New South Wales v Shane Dowling (No 3)

Medium Neutral Citation: [2018] NSWSC 784

Hearing Date(s): 28 May 2018

Date of Orders: 28 May 2018

Date of Decision: 28 May 2018

Jurisdiction: Common Law

Before: Lonergan J

Decision: Pursuant to s 7 of the Court Suppression and Non-Publication Orders Act 2010, I make an order suppressing the content of such parts of the Affidavit of Brett Frederick Thomson filed in Court today that are the subject of existing suppression orders made by Beech-Jones J on 3 February 2017 and 8 February 2017 and Justice Adamson on 6 April 2017.

Catchwords: CONTEMPT – suppression orders in contempt proceedings – where previous suppression orders made – where affidavit in notice of motion contains suppressed material

Legislation Cited: *Court Suppression and Non-publication Orders Act 2010* (NSW) ss 6, 7, 8, 12

Category: Procedural and other rulings

Parties: Prothonotary of the Supreme Court of New South Wales (Plaintiff)
Shane Francis Dowling (Defendant)

Representation: Counsel:
A Mitchelmore (Plaintiff)
Defendant, self-represented

Solicitors:
Crown Solicitors Office (Plaintiff)

File Number(s): 2017/94322

Publication Restriction: Pursuant to s 7 of the Court Suppression and Non-Publication Orders Act 2010, the content of such parts of the Affidavit of Brett Frederick Thomson filed in Court that are the subject of existing suppression orders made by Beech-Jones J on 3 February 2017 and 8 February 2017 and Justice Adamson on 6 April 2017 are suppressed.

EX TEMPORE JUDGMENT

- 1 In hearing an application today in respect of the defendant's Notice of Motion to lift all suppression orders made already in these proceedings, an affidavit of Brett Frederick Thomson of 25 May 2018 was tendered. Of necessity for the consideration of issues raised by the defendant's Notice of Motion, this affidavit contained within it a number of documents and material that has been made subject to the suppression orders, the subject of the Notice of Motion I am hearing today.
- 2 During argument it became evident that it was necessary to make a non-publication order over that material to ensure that copies of it, within Mr Thomson's affidavit, were appropriately protected by fresh suppression orders. I now provide reasons for the order I made to that effect shortly before 11.30 today.
- 3 Section 6 of the *Court Suppression and Non-publication Orders Act 2010* (NSW) requires that the Court always takes into account, in making any suppression or non-publication order, the primary objective of the administration of justice to safeguard the public interest in open justice.
- 4 Section 7 provides that a court may make a suppression or non-publication order on grounds permitted in the Act, prohibiting disclosure of certain material.
- 5 Section 8 provides the grounds for making such an order.
- 6 I am of the view that pursuant to s 8(1)(a) of the Act, the suppression order I made is necessary to prevent prejudice to the proper administration of justice. In particular, the documents over which the suppression order I made today applies are documents that are relevant to contempt proceedings before this court. The purpose of suppression orders made previously over this material was clearly expressed to be in amelioration of the contempt of court associated with that material.

- 7 In order to prevent the prejudice to the proper administration of justice, it is in my view necessary that I make an order protecting copies of that same material within the affidavit of Mr Thomson upon the same reasoning and grounds set out in the judgments of Beech-Jones J on both 3 and 8 February 2017.
- 8 Section 12 of the Act requires that any suppression or non-publication order operate for a period no longer than is reasonably necessary to achieve the purpose for which it is made. I am of the view that, given the circumstances, the order is to remain in place until further order of this court, given the subject matter and the nature of the contempt proceedings still in progress before this court.

I certify that this and the³.....
preceding pages are a true copy of
the reasons for judgment herein of
Justice Lonergan.

Dated: 30/5/18

Associate: *Quillans*