

SUPREME COURT OF QUEENSLAND

CITATION: *Hickey v State of Queensland* [2026] QSC 257

PARTIES: **SIMON HICKEY**
(applicant)
v
STATE OF QUEENSLAND
(first respondent)
COMMISSIONER OF POLICE
(second respondent)
A MAGISTRATES COURT OF QUEENSLAND
(third respondent)
THE DISTRICT COURT OF QUEENSLAND
(fourth respondent)

FILE NO/S: BS No 5126 of 2025

DIVISION: Trial Division

PROCEEDING: Originating Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 28 October 2026

DELIVERED AT: Brisbane

HEARING DATES: 13 and 26 May 2026, 14 July 2026, 8 October 2026

JUDGE: Kelly J

ORDER: **1. The originating application filed 6 November 2025 is dismissed**

CATCHWORDS: MAGISTRATES – ORDERS AND CONVICTIONS – SETTING ASIDE OR AMENDMENT OF ORDERS OR CONVICTIONS – ORDERS – GENERALLY – where a restraining order made against the applicant under s 359F of the *Criminal Code 1899* (Qld) prohibited, among other things, the publication of material online about a named person – where the restraining order was expressed to remain in force for five years – where a magistrate extended the restraining order for a further two years – where the applicant unsuccessfully appealed against that decision – where, in subsequent proceedings against the State of Queensland in the District Court, a judge rejected the applicant’s contention that no valid restraining order remained in force – whether the order extending the restraining order was affected by jurisdictional error or otherwise invalid

ADMINISTRATIVE LAW – PREROGATIVE WRITS AND ORDERS – GENERALLY – where the applicant sought declarations and orders in the nature of certiorari and prohibition – where the applicant contended that the restraining order had expired before the magistrate purported to extend it – where the applicant contended that the extension order was internally inconsistent as to its duration and void for uncertainty or, alternatively, invalid after one year until the court clarified its expiry date – where the applicant contended that an order made on 24 January 2023 was affected by jurisdictional error because the applicant had not been afforded procedural fairness – whether the applicant was entitled to the relief sought

Acts Interpretation Act 1954 (Qld), s 38(1)

Criminal Code Act 1899 (Qld), s 359F

Uniform Civil Procedure Rules 1999 (Qld), r 3(1), r 7, r 31(5), r 103, r 371(2)(f), r 388, r 660, r 661

Assistant Commissioner Condon v Pompano Pty Ltd (2013) 252 CLR 38, cited

Kioa v West (1985) 159 CLR 550, cited

Leigh v Bruder Expedition Pty Ltd (No 2) (2022) 13 QR 120; [\[2022\] QCA 267](#), cited

LPTD v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2024) 280 CLR 321, cited

Re Minister for Immigration and Multicultural and Indigenous Affairs; Ex parte Lam (2003) 214 CLR 1, cited

Roberts v Harkness (2018) 57 VR 334, cited

Rolleston Coal Holdings Pty Ltd v McDonald [\[2024\] QSC 310](#), cited

COUNSEL: The applicant appeared on his own behalf
G M Elmore for the second respondent

SOLICITOR: Office of General Counsel for the second respondent

A dispute about the variation of a restraining order

- [1] On 25 January 2018, a magistrate made a restraining order against the applicant (**Mr Hickey**) under s 359F of the *Criminal Code Act 1899* (Qld) (**the Code**). The restraining order prohibited Mr Hickey from contacting, directly or indirectly, a named person, going to the place where that person lived or worked, posting anything on the internet or in a public place about that person and required him to remove content on the internet or in a public place about the person. The final condition of the restraining order provided:

“The Order shall, unless it is sooner varied or revoked, continue in force up to and including 24th day of January 2023.”

- [2] On 16 January 2023, the second respondent filed an application to vary the restraining order by extending its operation for a further period of five years.¹ On 24 January 2023, the magistrate made an order extending the operation of the restraining order until midnight on 21 February 2023 unless otherwise ordered. On 21 February 2023, after a contested hearing, the magistrate delivered an *ex tempore* decision and made an order. The transcript of the decision reads as follows:

“I make the following order:

- (1) That the restraining order made by this court dated the 25th January 2018 is extended in its operation until midnight – I am going to pick the day of 1st of September because it was September when the book was published online – 1st September 2025. So, in effect that is just a bit over two years from now.”

- [3] The filed version of that order contains a notation “Pursuant to S.359F *Criminal Code*: For a period of 1 year.” Paragraph 1 then provides “The restraining order made by this court on 25/1/2018 is extended in its operation until midnight 1 September 2025.” The last paragraph provides “This Order shall, unless it is sooner varied or revoked, continue in force up to and including the 1st day of September 2025.”
- [4] Mr Hickey unsuccessfully sought to appeal to the District Court from the order of 21 February 2023. On 25 August 2023, Porter DCJ dismissed Mr Hickey’s appeal and found that there was no appeal to the District Court from an order under s 359F of the Code varying a restraining order.²
- [5] Later in 2023, Mr Hickey commenced a proceeding in the District Court against the State of Queensland (“the District Court proceeding”). Mr Hickey contends that in the District Court proceeding, the judge “treated the 21 February 2023 order as valid and operative” and Mr Hickey “as subject to a restraining order during the relevant period” and wrongly rejected Mr Hickey’s argument that there was no valid order in force after 24 January 2023.
- [6] On 30 October 2025, Mr Hickey commenced a proceeding in this Court against the State of Queensland in which he claims damages for false imprisonment and other injuries (“the 2025 damages proceeding”). In the 2025 damages proceeding, Mr Hickey alleges that on 21 February 2023, the magistrate “purported to extend the restraining order until 1 September 2025” in circumstances where the restraining order “stated an expiry date of 24 January 2023” and the filed version of the order “displayed conflicting information including two different expiry dates”.³ In the 2025 damages proceeding, Mr Hickey has placed into issue “the validity and currency of the order”.
- [7] By this originating application filed 6 November 2025, Mr Hickey contends that the 21 February 2023 order was “invalid and of no legal effect”. The application seeks the following relief:

¹ Affidavit of Sophie Taylor, filed 5 May 2026, SET-01 p 1 and SET-02 p 8.

² *Hickey v Commissioner of Police* (2023) 3 QDCR 191.

³ Affidavit of Sophie Taylor, filed 24 February 2026, SET-07 p 43.

- “1. A declaration that the restraining order purportedly made in the Magistrates Court ... on 21 February 2023 under s 359F of [the Code] is invalid and of no legal effect;
2. An order in the nature of certiorari quashing the decision of the District Court ... made on 31 October 2025, insofar as it treats the 21 February 2023 restraining order as valid;
3. A declaration that the District Court erred in law by treating the impugned restraining order as valid and operative, despite:
 - (a) being made after the expiry of the original 2018 order; and
 - (b) containing internally inconsistent terms as to duration;
4. An order that any decisions, findings or rulings made in reliance upon the validity of the restraining order—whether in civil or criminal proceedings—be reconsidered or set aside as tainted by jurisdictional error;
5. A declaration that any court, tribunal, or public authority in Queensland must treat the restraining order purportedly made on 21 February 2023 as having no legal effect, and as incapable of forming the basis for any criminal or civil liability or enforcement action;
6. Such further or other relief as the Court considers just;
7. Costs.”

The applicant’s contentions as to jurisdictional error and/or invalidity

- [8] Mr Hickey described his present application as “invoking this Court’s inherent and statutory jurisdiction to grant declarations under s 41 of the *Supreme Court of Queensland Act 1991* (Qld)⁴ [and] orders in the nature of *certiorari* and *prohibition* at common law”.⁵ The suggested grounds for jurisdictional error or invalidity evolved as outlines of submissions and affidavits were progressively exchanged. Initially, Mr Hickey contended that the restraining order had expired as “no application to extend or vary the order was heard or determined before 24 January 2023.”⁶ In the course of the progressive exchanges of material, the second respondent filed an affidavit which exhibited the transcript of the hearing in the Magistrates Court on 24 January 2023 and a copy of the filed order dated 24 January 2023.⁷ Following the filing of that affidavit, Mr Hickey contended that the “attempt ... to extend the order on 24 January 2023” was “vitiating by a fundamental breach of natural justice.”⁸ Mr Hickey also initially contended that the 21 February 2023 order “contains irreconcilable internal consistencies as to its duration rendering it void for uncertainty.”⁹ At a further hearing, Mr Hickey submitted that if the inconsistencies were “made out”, the order was not “completely invalid” but rather “was invalid

⁴ This would appear to be an error, and I understood the reference to be to s 41 of the *Judicial Review Act 1991* (Qld).

⁵ Submissions of the applicant filed 3 December 2025, p 3–4 [10].

⁶ Ibid p 1 (b).

⁷ Affidavit of Sophie Taylor filed 5 May 2026.

⁸ Applicant’s supplementary outline of argument, filed 11 May 2026, p 2 [A.4].

⁹ Further submissions of the applicant filed 3 December 2025, p 2 [1.3].

between the period of expiry of the first date ... so after a period of one year – until such time as a court clarifies that it – that this is the correct date, at which point the order may become valid again”.¹⁰

- [9] Ultimately, Mr Hickey’s fundamental contention that the 21 February 2023 order was affected by jurisdictional error and/or invalid appeared to be based on three grounds which may be described as follows:
- (a) On 21 February 2023, the restraining order had already expired on 24 January 2023 and could not be varied or extended.
 - (b) The 21 February 2023 order was internally inconsistent as to its duration and was void for uncertainty or, alternatively, invalid after the expiry of one year until the court clarified the correct expiry date.
 - (c) On 24 January 2023, Mr Hickey was not afforded procedural fairness which meant that the order made on that date was affected by jurisdictional error and a nullity.

The first and third grounds

- [10] It is convenient to deal with the first and third grounds together.
- [11] Pursuant to s 359F(9) of the Code, a restraining order may be varied “at any time by the court”. Mr Hickey initially contended that “no application to extend or vary the [25 January 2018] order was heard or determined before 24 January 2023.” By a further written submission, Mr Hickey described the “central issue” as being “can a court extend a restraining order after it has expired?”.¹¹ He submitted that the words “at any time” as they appear in s 359F(9) could not be interpreted as permitting an extension at a time when the order had already expired. Mr Hickey also submitted in the alternative that he had been denied procedural fairness at the hearing on 24 January 2023 meaning that the order made on that date was affected by jurisdictional error and a nullity.
- [12] In *LPTD v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs*,¹² the High Court observed:¹³
- “Jurisdictional error ... can include ... failing to observe some applicable requirement of procedural fairness. ... Determining whether an error exists as well as whether it is jurisdictional starts with an analysis of the nature of the error alleged in the statutory context within which the decision has been made. Given the broad range of decisions in which errors might be made, the large variety of statutory schemes in which those decisions might be made, and the range of circumstances which may attend the making of any particular decision, it is impossible to divine a rigid classification of the errors that constitute jurisdictional errors. There are no bright lines to be drawn – ‘[t]he nature of the error has to be worked out in each case concerning a specific decision under a particular statute’ ... Where the

¹⁰ T 8 October 2026 1-4.05-10.

¹¹ Applicant’s outline of submissions, filed 12 December 2025 [1.2].

¹² (2024) 280 CLR 321.

¹³ At [3], [5] and [12].

jurisdictional error alleged is one concerned with the process of the decision making, such as a denial of procedural fairness, what must be proved ... will depend upon the precise error alleged to have occurred in the decision-making process, having regard to any relevant statutory provisions within the applicable legislative process.”

(citations omitted)

[13] The material establishes the following relevant facts:

- (a) On 16 January 2023, the second respondent filed an application for the order to be varied by extending the order.
- (b) That application was returnable before the Magistrates Court on 24 January 2023.
- (c) The hearing on 24 January 2023 commenced at 2.12 pm. At the start of the hearing, Mr Hickey made a submission that he had not been served with any material. The second respondent relied upon an affidavit of service of a police officer which referred to service having been effected on Mr Hickey by means of a conversation followed by an email. The second respondent’s submission was that Mr Hickey was served¹⁴ and the relevant email had been sent on Friday January 20, 2023 at 7.59 pm.¹⁵ The email in terms stated “... please find attached the paperwork ... relating to an application to extend the restraining order ... I’ll get a printed copy to you on Monday.”¹⁶ It appeared to be uncontroversial that the police officer who sent the email had been sick on the Monday and had not provided a copy of the material to Mr Hickey on that day.¹⁷ Mr Hickey submitted that whilst there had been a phone conversation, he had not “received anything by email”.¹⁸ The second respondent contended that the email had been sent and that Mr Hickey had responded to the email. Mr Hickey submitted that the email had contained no attachments.¹⁹
- (d) The magistrate did not make any finding as to whether the email to Mr Hickey had in fact included attachments.²⁰ He proceeded on the basis that Mr Hickey claimed to not have the material.²¹ The magistrate asked Mr Hickey if he would like the Court’s clerk to copy the material “so you have a copy ... now ...?”. Mr Hickey replied “yes, please.”²²
- (e) Mr Hickey then orally applied for the magistrate to recuse himself on the ground of apprehended bias²³ and to adjourn the application.²⁴ Mr Hickey relevantly submitted to the magistrate “I haven’t seen any of the material. I’d like to seek an adjournment and a relocation if possible ... A relocation to

¹⁴ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 3.

¹⁵ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 5.

¹⁶ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 5.

¹⁷ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 5.

¹⁸ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 4.

¹⁹ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 5.

²⁰ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 5-6.

²¹ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 5.

²² Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 4.

²³ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 9.

²⁴ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 6.

Brisbane Magistrates Court, or something like that, because of the history I've had in this court.”²⁵

- (f) The magistrate refused to recuse himself.
- (g) The following exchanges then appear in the transcript:²⁶

HIS HONOUR: ... But you are seeking an adjournment so you can consider that; that's fair enough, if you claim you don't have the material. What about this, though. So the current order expires when, Sergeant?

SGT STEPHENSON: I believe it expires 23.59 pm tonight, your Honour. Sorry, yeah, 11.59 pm tonight, your Honour.

HIS HONOUR: What would be the disadvantage to you, Mr Hickey, if I granted you the adjournment so you can properly consider the material, that I made an extension until the next date? So it maintains the status quo as at today, but it leaves open – it's effectively, I make an order extending it to date X, and then you have the material. And then when date X comes around, we have the discussion, or the argument. They launch their application; you respond formally. And then if it's dismissed that day, then it ends that day. If it's extended that day, then there are reasons for it. But it maintains status quo, and if the concern is that you are, based on the conviction, going to – it prevents any further breach or concern by the prosecution, but gives you time to consider it. What are your thoughts to that one?

DEFENDANT: No, I'm happy with that order – with that proposal. The only thing I'd like to point out is any further order being made – today's not the time for me to contest it, but would conflict with the humans right – Human Rights Act 2019, which states clearly that every person has a right to freedom of expression using any medium of their choice, and it binds all persons including this court. So any order that I'm not allowed to upload material to the internet would be unlawful. But if you'd like to hear submissions on that next time, I'm happy for a temporary order to be made, and I will bring the legislation

- (h) The magistrate explained to Mr Hickey that if he granted an adjournment, the order would remain in effect and the applicant would have to abide by its terms.²⁷ The applicant responded to the effect that he understood.²⁸
- (i) The magistrate then suggested a date of 21 February 2023, which was some four weeks away and indicated that he would extend the restraining order until then. Mr Hickey replied “That's perfect. Thank you, your Honour”.²⁹
- (j) The transcript reveals that the magistrate then made this order:³⁰

²⁵ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 6.

²⁶ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 p 13.

²⁷ Affidavit of Sophie Taylor, filed 5 May 2026, SET-02 pp 13-15.

²⁸ Affidavit of Sophie Taylor, filed 5 May 2026, SET-03 p 15.

²⁹ Affidavit of Sophie Taylor, filed 5 May 2026, SET-03 p 18.

³⁰ Affidavit of Sophie Taylor, filed 5 May 2026, SET-03 p 19.

“I further order that the restraining order dated 25 January 2018 is extended in its operation until midnight on 21 February 2023 or until – unless otherwise ordered”.

- (k) Following the making of the order, the magistrate said to Mr Hickey “So if ... on the 21st, I dismiss the application, it will end then. Do you follow?”³¹ The applicant replied “I understand”.³² The magistrate then said “Otherwise, it will end – say we are here all to midnight, it will go to midnight. Okay?”³³ The applicant replied “I appreciate the extra time. Thank you.”³⁴
- [14] A “restraining order proceeding”, as that expression is defined by s 359F(15) of the Code, is not a criminal proceeding.³⁵ Pursuant to s 359F(9) of the Code, a restraining order may be varied “at any time by the court”. An application to vary a restraining order is an application in a civil proceeding. The *Uniform Civil Procedure Rules 1999* (Qld) (**the UCPR**) applied to the application to vary the restraining order that was filed on 16 January 2023.³⁶ The application was made in the 2018 civil proceeding.³⁷ Pursuant to r 31(5) of the UCPR, it was required to be served on Mr Hickey at least two business days before the hearing. Pursuant to s 38(1) of the *Acts Interpretation Act 1954* (Qld), the service day and the hearing day were excluded in the reckoning of time. However, pursuant to r 7(2) of the UCPR, there was a discretionary power to shorten that time.
- [15] When the application came on for hearing before the magistrate on 24 January 2023, the application could not have been regarded as having been served in accordance with r 31(5) of the UCPR because the second respondent was claiming to have served Mr Hickey by email at 7.59 pm on Friday 20 January 2023. Rule 103 of the UCPR provided that if a document was served after 4 pm, it was taken to be served on the next day. That meant that, even if service had been effected as contended by the second respondent, the application had not been served on Mr Hickey at least 2 business days prior to the hearing. Mr Hickey was contending that he had never in fact been served.
- [16] At the hearing on 24 January 2023, Mr Hickey pursued a course which involved his applying for an adjournment to give him more time to prepare. As a result, the magistrate did not hear the application filed on 16 January 2023. The way the hearing proceeded, the magistrate heard an oral application by Mr Hickey to adjourn the hearing of the application filed 16 January 2023.
- [17] The High Court has observed that the rules of procedural fairness do not have “immutably fixed content.”³⁸ Gleeson CJ once remarked:

³¹ Affidavit of Sophie Taylor, filed 5 May 2026, SET-03 p 19.

³² Affidavit of Sophie Taylor, filed 5 May 2026, SET-03 p 19.

³³ Affidavit of Sophie Taylor, filed 5 May 2026, SET-03 p 19.

³⁴ Affidavit of Sophie Taylor, filed 5 May 2026, SET-03 p 19.

³⁵ The Code, s 359F(13).

³⁶ UCPR, r 3(1).

³⁷ Affidavit of Sophie Taylor, filed 5 May 2026, SET-01 p 1 and SET-02 p 3.

³⁸ *Assistant Commissioner Condon v Pompano Pty Ltd* (2013) 252 CLR 38 at [156].

“Fairness is not an abstract concept. It is essentially practical. Whether one talks in terms of procedural fairness or natural justice, the concern of the law is to avoid practical injustice.”³⁹

[18] In *Kioa v West*,⁴⁰ Mason J said:

“What is appropriate in terms of natural justice depends on the circumstances of the case and they will include, inter alia, the nature of the inquiry, the subject matter, and the rules under which the decision maker is acting... In this respect the expression ‘procedural fairness’ more aptly conveys the notion of a flexible obligation to adopt fair procedures which are appropriate and adapted to the circumstances of the particular case.”

[19] Mr Hickey contended for an alleged breach of the “hearing rule” on 24 January 2023. The steps which a court is required to take to seek to ensure that a self-represented litigant, such as the applicant, has a fair hearing depend on all the circumstances of the particular case.⁴¹ The “hearing” on 24 January 2023 was of Mr Hickey’s oral application for an adjournment. By reason of the adjournment of approximately one month, Mr Hickey in fact received significantly more time than two business days to prepare his response to the application. Mr Hickey made it plain that he appreciated “the extra time”. When the magistrate advised Mr Hickey that the application would be adjourned to 21 February 2023, Mr Hickey replied “That’s perfect. Thank you, your Honour”. Mr Hickey consented to the price of his proposed adjournment being the variation of the restraining order such that it continued until the hearing of the adjourned application. The magistrate clearly explained to Mr Hickey that if the adjournment occurred and the order was so extended, the applicant would remain subject to the terms of the order. Relevantly, Mr Hickey said to the magistrate “I’m happy with that ...proposal” and “I’m happy for a temporary order to be made”.

[20] In those circumstances, Mr Hickey made an informed, strategic choice to seek an adjournment of some four weeks on the basis that he consented to a variation of the order to extend its operation for a similar period. The variation was effectively limited to the period afforded to Mr Hickey to prepare and present his material and arguments in opposition to the applied for extension of five years. In that sense, the variation made on 24 January 2023 was a reasonable *quid pro quo* for the adjournment. Had Mr Hickey not applied for the adjournment, the magistrate would inevitably have had to decide whether, having regard to all the relevant circumstances including what had relevantly occurred between the filing of the application and the date of the hearing, the pending expiry of the restraining order and the *prima face* merits of the application, the time for service of the application should be shortened under r 7 of the UCPR (or some other appropriate order should be made under r 371(2)(f)) to enable the application to be heard later during the day on 24 January 2023. By applying for an adjournment to allow him more time to prepare and consenting to the variation of the order, Mr Hickey avoided any prospect or risk of the application being substantively dealt with later on 24 January 2023 on the basis that the court exercised

³⁹ *Re Minister for Immigration and Multicultural and Indigenous Affairs; Ex parte Lam* (2003) 214 CLR 1 at 14 [37].

⁴⁰ (1985) 159 CLR 550, 584–5.

⁴¹ *Roberts v Harkness* (2018) 57 VR 334 at [47].

a discretion to shorten the time for service or made another order under r 371(2)(f) of the UCPR.

- [21] Mr Hickey has not identified any relevant error in the decision-making process adopted by the magistrate in his hearing and determination of the application for an adjournment. Mr Hickey has not demonstrated any breach of the so called “hearing rule”. I find that no practical injustice and no breach of procedural fairness occurred in the circumstances in which the adjournment was allowed and the order varied on 24 January 2023. The outcome of the hearing on 24 January 2023 is properly characterised as being the result of Mr Hickey’s pursuit of a strategic choice to seek an adjournment which involved his receiving an extended period to prepare for the hearing of the substantive application. In the context of pursuing that strategic choice, Mr Hickey chose to consent to the variation of the order to extend its duration for a limited period.
- [22] Having regard to the facts, and my finding that there has been no breach of procedural fairness, I reject the applicant’s submission that the restraining order “expired by its own terms on [24 January 2023]”.⁴² The order made on 24 January 2023 was not affected by jurisdictional error and varied the restraining order by extending the operation of the restraining order until midnight on 21 February 2023 unless otherwise ordered.

The second ground

- [23] In *Leigh v Bruder Expedition Pty Ltd (No 2)*,⁴³ Dalton JA observed:

“... Rule 660 of the UCPR provides:

'660 Order

- (1) An order is made by—
 - (a) the order being pronounced in court by the person making the order; or
 - (b) for a proceeding under chapter 13, part 6 [applications on the papers]—the order being set out in a document, with or without reasons, and signed by the person making the order.
- (2) An order takes effect as of the date on which it is made.
- (3) However, the court may order that an order takes effect as of an earlier or later date.’

There is a long history in our law making a distinction between pronouncing a judgment or order orally in court and recording it. Recording a judgment or order has been referred to variously over the years as ‘passing and entering’, ‘entering’, ‘perfecting’ and ‘perfecting by entry’. Rule 661 UCPR now refers to the process of recording as filing. The distinction between pronouncing an order in

⁴² Submissions of the applicant filed 3 December 2025, p 1, para (b)(ii).

⁴³ (2022) 13 QR 120 at [60] to [62].

court and the filing of an order is preserved in the rules – see r 660(1)(a) above, and r 661:

‘661 Filing an order

- (1) If a judge or judge’s associate, magistrate, judicial registrar or registrar writes the date and terms of an order on a file or on a document on the file, then, unless or until the order is filed, the writing is sufficient proof of the making of the order, its date and terms.
- (2) An order of a court is filed in the court if a document embodying the order and the date the order was made is drawn up by a party and signed by the registrar.
- ...
- (4) Unless an order is filed—
 - (a) the order may not be enforced under chapter 19 or by other process; and
 - (b) no appeal may be brought against the order without the leave of the court to which the appeal would be made.
- (5) However—
 - (a) an order appropriate on default of an earlier order may be made without the earlier order being filed; and
 - (b) costs payable under an order may be assessed without the order being filed.”

[24] If the true meaning of an order is “immediately plain, the terms of the order will speak for themselves”.⁴⁴ Having regard to the transcript of the decision on 21 February 2023, the terms of the order as pronounced and as made are immediately plain. They are not attended by any ambiguity. It may be noted that Mr Hickey was present in court when the order was made. The issue raised by Mr Hickey is not with the terms of the order as made but with the terms of the filed order. The filed order to the extent that it contains the notation “Pursuant to S.359F Criminal Code: For a period of 1 year”, does not reflect the terms of the order as made. Having regard to the terms of the order as made, there is a patently discernible clerical mistake in the filed order which would appear to be amenable to correction under r 388 of the UCPR. The power to make an order under r 388 is exercisable by “the court”, in this case the Magistrates Court. There is no inconsistency in the order as made and Mr Hickey has failed to establish that the order made on 21 February 2023 was invalid or void for uncertainty.

⁴⁴ *Rolleston Coal Holdings Pty Ltd v McDonald* [2024] QSC 310 at [32] to [34].

Order

[25] The order I make is as follows:

1. The originating application filed 6 November 2025 is dismissed.