HIGH COURT OF AUSTRALIA

NOTICE OF FILING

This document was filed electronically in the High Court of Australia on 14 Jul 2026 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:	M36/2026
File Title:	Connor Yeates (a pseudonym) v. The King
Registry:	Melbourne
Document filed:	Form 27E - Appellants Reply
Filing party:	Appellant
Date filed:	14 Jul 2026

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 **No M36 of 2026**
MELBOURNE REGISTRY
BETWEEN

Connor Yeates (A Pseudonym)
Appellant
and
The King
Respondent

APPELLANT'S REPLY

Part I: Certification

1. These submissions are in a form suitable for publication on the internet

Part II: Reply

2. **Transfer**. The Respondent contends at [13] of the Respondent's Submission (**RS**) that a 'Bitcoin "transfer" does, in substance, assign something to another person. This is incorrect. The word "transfer" is "not a term of art and is a word of wide connotation…it is the passing of rights to another, so as to vest them in that other person…[I]t is not a mere disposition, a ridding oneself of the right or interest, it is the vesting in the transferee of that right or interest…"[1]

3. **Stateless.** The evidence is that Bitcoin is stateless,[2] and the Victorian Court of Appeal (**VSCA**) acknowledged[3] that Bitcoin uses cryptographic methods in a <u>stateless digital environment</u>. But property is a concept of the law.[4] The Respondent at RS [27] asserts this proposition of Kitto J is circular and inconsistent with the rule of law. There is no such circularity. Property is a legally endorsed concentration of power, a creature of the law.[5] If Bitcoin is truly stateless, it sits outside any legal framework, and without a legal framework there is no property. That was the intention.[6] But Australian law may characterise Bitcoin and crypto as property for its purposes, may regulate how citizens deal with it, and the relationship between persons in Australia in respect of it.

4. **Property within the meaning of s 71(1).** The Respondent at RS [30] relies on a quote from the England and Wales Court of Appeal (**EWCA**) in *R v Lakeman*[7] (**Lakeman**)

---

[1] *Coles Myer Ltd v Commissioner of State Revenue* (1998) 4 VR 728, 740, Ormiston JA.
[2] Transcript 34.22-27 Further Material (**FM**) 0034.
[3] Core Appeal Book (**CAB**) 43 [73]. Underlining added for emphasis.
[4] *National Trustees Executors and Agency Co Ltd v FCT* (1954) 91 CLR 540, 584 (**National Trustees**).
[5] *Yanner v Eaton* [1999] 201 CLR 351 [18]; National Trustees 584.
[6] Satoshi Nakamoto, 'Bitcoin: A Peer-to-Peer Electronic Cash System' (31 October 2008).
[7] [2026] 1 KB 255 [48] (Leave to appeal to the UKSC denied.)

that for the purposes of the definition of property any thing which is capable of being stolen is property. The EWCA also held in that context that there is no conceptual difficulty in something constituting property for the purposes of the definition of property even if it did not constitute property for the purpose of private law rights.[8]

5. Lakeman should not be followed. Theft, as defined, concerns the stealing of what the statute defines as property. The statute first requires a determination of whether the item is property and then whether it is stolen. In both Lakeman and this matter, s 72, requires the item to be property belonging to another, and s 71(1) uses terms well known to the law. It is incorrect, in our submission, in the context of ss 71(1), 72 and 74, to ask whether an item can be "stolen" and, from that, determine whether the item is property, whilst ignoring what the law recognises as property.

6. This is also contrary to the long standing decision in *Oxford v Moss*[9] where the court held that there was no property in information that could be the subject of a charge of theft[10] under the same definition as found in s 71(1).[11] In *R v Preddy*[12] (**Preddy**) the House of Lords considered the same definition of "property"[13] in the context of a charge of obtaining property of another by deception. The approach adopted was to determine whether the item was "property of another" rather than whether the item (an amount in a bank account) could be obtained. In that matter, it was held that the chose in action could not be obtained; it was extinguished, and the amount was no longer available.[14]

7. The definitions of property in s 71(1) and of theft in s 72 were inserted into the *Crimes Act 1958* (Vic) by the *Crimes (Theft) Act 1973* (Vic) No 8425 (**CTA**). The latter was derived from the *Theft Act 1968* (UK). The CTA also introduced a like offence in section 81 to that charged in Preddy. Against that background, the text, context and purpose do not support extending "property of another", to concepts even more remote, such as "functions" (RS [33]) and an "idea" (RS [67]), to Bitcoin.

8. The Respondent seeks to avoid the problem - of the loss of the availability of the utilisation of the UTXO at one (public) address and the creation of a UTXO at another (public) address, much like the extinguishment in Preddy - by contending at RS [31] "that control over the *functional manifestation* [emphasis added] of Bitcoin – UTXOs –

[8] Ibid [40].
[9] (1978) 68 Cr App R 183.
[10] Ibid 186.
[11] Ibid 185.
[12] *R v Preddy* [1966] AC 815.
[13] Ibid 827.
[14] Ibid 834-835. Also see *Croton v The Queen* (1967) 117 CLR 326.

has been removed from one person and appropriated by (transfer to) another person". But there is no transfer. There is no longer an ability to alter the entry at one public address by matching the private and public keys. There is a different UTXO at another public (address), but no appropriation or transfer as known to the law (see [2] above).

9. **Bitcoin is mere information** The Respondent contends at RS [33][15] that the public address and UTXO are not information but a functional manifestation of "credit entries with particular characteristics". It is then said that such "functional manifestation" of the information is intangible property. The Respondent contends that because the information has a "functional purpose" or "functionality" that is sufficient to distinguish it from information. But much data, information and knowledge has a functional purpose and remains, for the purposes of the law, information and knowledge, not property (AS [49]-[54]). The information in plans that enable the construction of aircraft engines has a function, and so does mining information that enables the finding and exploitation of minerals, but such information is not property, even if very valuable. That is so, even when the manifestations are in writing or on a screen (AS [52]).

10. Contrary to the suggestion in RS [34], the law requires some criteria, to distinguish knowledge said to be property, from other knowledge. If it is not possible to state such criteria, the information is to be characterised as data, information or knowledge, and not property for the purposes of the law and the definition of property in s 71.[16]

11. The Respondent states at (RS [35]) that the property in issue is not the "Bitcoin, the information embedded in the computer code [that] generates credit entries with particular characteristics" (RS [33]), the private key or the public key (RS [36]), but the concept described as (a) "the functional manifestation of the information (in the form of the private and public keys") at RS [33]; or (b) "a functional manifestation, an idea" RS [67]). So, something that has no existence other than as a function or idea, is said to be property. How such "function" or "idea" is property is not further explained by the RS.

12. **Ainsworth – Definable.** At RS [40], the Respondent contends that a UTXO is readily definable as a credit entry within the Bitcoin system. The blockchain does not have debits or credits. There are no such concepts, and nobody owes anything. There is no chose in action, and there are no rights against the blockchain. Even a credit entry in a bank ledger does not make the chose in action the definable item for characterising it as property. The distinguishing features offered in the RS ([40]) appear to be that a UTXO

[15] Also, in RS [32] as indicated.

[16] *FCT v United Aircraft Corporation* (1943) 68 CLR 525, 535-536 (**UA**).

is transferable, rivalrous and secure, rather than simply functional, or having functional utility (RS [33]). However, (a) as already described, nothing is transferred; and (b) so far, the novel concepts of 'rivalrous' and 'security' have not justified characterising something as definable or property, except in more recent Bitcoin and crypto decisions.

13. **Ainsworth – Assumption.** RS [47] misdescribes the process of utilising an UTXO, as there is no transfer. As already described at [2] and [8] above, the public address and entry remain at that address; there is no longer any ability to match private and public keys key to effect any changes, and there is a new item at a different public address.

14. **Ainsworth – Permanent and Stable.** Items long accepted as property may be lost, but in the case of Bitcoin it is 20%.[17] If a bank account PIN is lost, the bank can still provide the customer with access. It is no answer to say lost Bitcoin still exists on the blockchain (RS [50]) – this rebuts the argument that Bitcoin is property since it is 'functional'. If 20% so far has been lost, it may be doubted it is stable in "functional terms" contrary to the Respondent's contention supporting its status as property (RS [33]).

15. Stability is not merely the continuation of existence, already covered by permanency. In this context, it is necessary to look more broadly. An item that fluctuates wildly is not stable.[18] That commodities, accepted as property, fluctuate in value is not to the point. The question is whether an item to be admitted as property is stable. Bitcoin is not stable.

16. The submission (RS [51]) that items currently regarded as property may be destroyed or extinguished does not assist. For an item to be admitted to the classification of property for the purposes of the law, it must, when tested against these criteria, be permanent and stable. A rollback undermines those concepts, so in considering whether an item is sufficiently permanent and stable to be regarded as property, the possibility of its loss or disappearance by collapse or rollback[19] must be considered.

17. **Authorities across the common law world.** In RS [53] and [58]-[62] the Respondent makes submissions regarding overseas decisions. In *Van Loon v Treasury*[20] the US Fifth Circuit Court of Appeals held that Tornado Cash, a form of crypto, is a smart contract, and not property. *Ruscoe v Cryptopia Ltd (in liq)*[21] relies heavily on two NZ decisions,[22] which treat certain digital assets as property, contrary to UA.

---

[17] Transcript 39.17-25 FM 39.
[18] Transcript 36.25-37.23 and 92.9-20 FM 36-37 and 92.
[19] Transcript 82.21-27 FM 82.
[20] 122 F 4th 549 (2024).
[21] [2020] 2 NZLR 809 [95]-[99].
[22] *Dixon v R* [2015] NZSC 147; [2016] 1 NZLR 678; *Henderson v Walker* [2019] NZHC 2184; [2021] 2 NZLR 630.

18. *ByBit Fintech Ltd v Ho Kai Xin*[23] is a decision about USDT, a stable coin, not Bitcoin. *Tulip Trading Limited v Bitcoin Association for BSV*[24] involved an interlocutory application to set aside the service of proceedings out of the jurisdiction.[25] Whilst Birss LJ stated at [24] that Bitcoin is property, at [27] he states "Some of the foregoing is not accepted … but this appeal proceeds on the basis that it can be assumed to be correct." In the case of *D'Aloia v Persons Unknown*[26]*,* the crypto involved was USDT, a stable coin. *Shair.Com Global Digital Services v Arnold'*[27] was an ex parte application for a preservation order, with no discussion of the nature of crypto. *Kirshenberg v Schneider,*[28] was another ex parte application for a preservation order. The court noted that Courts in Ontario had not explicitly considered whether crypto is property.[29]

19. **Further characteristics of Bitcoin.** Contrary to RS [65] the point at AS [66] is that Preddy holds, in the context of <u>appropriating</u> the property of another, for the purposes of the *Theft Act 1968* (UK) provisions, that when the person's bank account is credited the person does not obtain the financial institution's money.[30]. On the analysis proposed by the RS, it is possible to commit theft of digital tokens but not of a bank balance.

20. Further, at RS [67], as previously highlighted, the Respondent asserts that a "UTXO is a functional manifestation, an idea, representing a unit of value...". So, there is nothing but an "idea" representing a "value". The Respondent then asserts that when a Bitcoin transaction occurs, the idea representing the value is utilised: it is transferred. That does not occur, as already described at [2] and [8] above. On the occurrence of a UTXO transaction (not a transfer) a UTXO that was at the public address the subject of the transaction is no longer a UTXO. There is now another public address with its own public key and a new UTXO that requires a different private key to utilise the UTXO. Further, at RS footnote 1 it is contended that property can depend on how software interacts with the world: so a mere a computer interaction is now said to be property.

Dated: 14 July 2026 ....

Mr DW Marks KC
Telephone: 07 3236 5477
Email: dmarks@qldbar.asn.au

---

[23] [2023] SGHC 199.
[24] [2024] 4 WLR 16.
[25] Ibid [2]-[7].
[26] [2025] 1 WLR 821.
[27] [2018] BCSC 1512.
[28] 2023 ONSC 2809.
[29] Ibid [29]-[31].
[30] Preddy 834 D-E.