



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

This document was filed electronically in the High Court of Australia on 12 Aug 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: M41/2026
File Title: Charisiou v. The King
Registry: Melbourne
Document filed: Form 27F - Outline of Oral Submissions - A-G for Victoria
Filing party: Interveners
Date filed: 12 Aug 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
MELBOURNE REGISTRY

M41/2026

BETWEEN:

DEMETRIOS CHARISIOU
Appellant

and

THE KING
Respondent

OUTLINE OF ORAL SUBMISSIONS OF THE ATTORNEY-GENERAL FOR VICTORIA (INTERVENING)

Part I: Certification

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

Part II: Propositions to be advanced in oral argument

2. Victoria's oral submissions are confined to Ground 1 of the Notice of Appeal.
3. **Appellant's preferred construction.** Section 32(1) of the *Charter of Human Rights and Responsibilities Act 2006* (**JBA vol 1 / 4**) does not require or permit the words "any other relevant circumstances" in s 5(2)(g) of the *Sentencing Act 1991* (**JBA vol 1 / 3**) to be construed to require consideration of all *Charter* rights that are engaged by the imposition of a sentence: VS [15], [22]; cf CA [134](b), [138] (Walker JA). Such a construction would exceed the limits of s 32(1) as a principle of statutory interpretation: VS [17]-[19]; *Momcilovic v The Queen* (2011) 235 CLR 1, [50], [170]-[171], [280], [565], [684] (**JBA vol 3 / 16**).
 - 3.1. It would not involve the attribution of meaning to the statutory text, but would instead import into the *Sentencing Act* all rights in Part 2 of the *Charter* as a separate legislative repository of potential sentencing considerations: VS [23]; *Ngata v The Queen* [2020] ACTCA 18, [40] (**Interveners' JBA vol 2 / 16**).
 - 3.2. It would be inconsistent with the detailed identification of sentencing purposes and relevant circumstances in s 5 and with the purpose of the *Sentencing Act* to set out all provisions dealing with the powers of courts to sentence offenders "in one Act": VS [21]-[22], [24]-[25]; *Sentencing Act*, ss 1(b), 5(1)-(2), 7(1)).

3.3. To construe s 5(2)(g) (or s 7(1)) in that way would also be inconsistent with the role of s 32(1) in the scheme of the *Charter*, because it would effectively impose on sentencing courts the obligation to give proper consideration to relevant human rights that is imposed by s 38 of the *Charter* only on “public authorities”. A court sentencing an offender is not a “public authority” under the *Charter*: VS [26]-[29]; *Charter*, ss 4(1)(j), 38; cf VEOHRC [40]-[43].

4. **LACW’s alternative construction.** Alternatively, if Ground 2 is approached on the premise that the majority in the Court of Appeal construed the words “any other relevant circumstances” in s 5(2)(g) to encompass family hardship only in *exceptional* cases, s 32(1) may be relevant to the narrower question of whether those words should instead be construed to encompass family hardship in *all* cases.

4.1. Although there is no necessary sequence, in order to determine that constructional question, the Court must be satisfied that:

- (a) on the plain reading of s 5(2)(g), having regard to its text, context and purpose, there is a constructional choice open: VS [33]-[34];
- (b) the construction limiting consideration to “exceptional” family hardship engages (that is, limits or affects) the right in s 17(1) of the *Charter*, which requires “close attention” to the content of that right: VS [35]-[36]; *DPP (Vic) v Smith* (2024) 98 ALJR 1163, [57]-[58] (**JBA vol 4 / 19**); and
- (c) the construction limiting consideration to “exceptional” family hardship is “incompatible” with the right in s 17(1), which requires consideration of s 7(2) of the *Charter*: VS [37]-[41]; VEOHRC [29]-[34]; *Momcilovic* (2011) 245 CLR 1, [168], [280], [415]-[427], [683]-[684] (**JBA vol 3 / 16**).

4.2. If satisfied of those matters, s 32(1) would require the words “any other relevant circumstances” in s 5(2)(g) of the *Sentencing Act* to be given the available and rights-compatible construction. Victoria makes no submission as to which is the correct construction of s 5(2)(g), but only as to the approach to be adopted.

Dated: 12 August 2026



Alistair Pound SC
Solicitor-General for Victoria

Sarah Keating KC
Crown Counsel for Victoria