

HIGH COURT OF AUSTRALIA

STEWARD J

IN THE MATTER OF AN APPLICATION BY
ZHANYU ZHONG FOR LEAVE TO ISSUE OR FILE

[2026] HCASJ 32

Date of Judgment: 30 September 2026
M71 of 2026

ORDERS

1. *The application of 7 July 2026 for leave to issue or file a proposed application for a constitutional or other writ is dismissed.*
2. *The interlocutory application filed on 9 July 2026 is also dismissed.*

Representation

The applicant is unrepresented

1 STEWARD J. On 3 July 2026, Gageler CJ directed the Registrar to refuse to issue or file the applicant's proposed writ of summons dated 29 June 2026 ("the Proposed Application") without the leave of a Justice first had and obtained, pursuant to r 6.07.2 of the *High Court Rules 2004* (Cth) ("the Rules").

2 By an ex parte application filed on 7 July 2026 pursuant to r 6.07.3 of the Rules, the applicant now seeks that leave. The applicant relies upon a supporting affidavit also filed on 7 July 2026 and two further affidavits, filed on 9 July 2026 and 21 July 2026, respectively. The applicant is self-represented.

3 On 9 July 2026, the applicant filed an application for a hearing by the Full Court. That same day, the applicant also filed a document entitled "Notice of Constitutional Matter", purportedly pursuant to ss 30, 31, 32 and 78B of the *Judiciary Act 1903* (Cth).

Background

4 In 2001, Mr Zhong was convicted of incitement to murder contrary to s 321G of the *Crimes Act 1958* (Vic). His appeal against conviction to the Court of Appeal of the Supreme Court of Victoria was unsuccessful.¹ On 11 February 2005, Kirby and Hayne JJ refused Mr Zhong's application for special leave to appeal from that decision to this Court.² On 2 March 2023, the Court of Appeal dismissed an application for leave to bring a second appeal against conviction.³ On 15 June 2023, Mr Zhong was refused special leave to appeal from that decision to this Court by Gageler and Jagot JJ.⁴

5 Mr Zhong has also filed multiple unsuccessful petitions for mercy with the Attorney-General of the State of Victoria and has unsuccessfully sought judicial review in respect of those petitions.⁵ On 8 May 2025, Edelman and Gleeson JJ refused Mr Zhong's application for special leave to appeal in respect of his unsuccessful judicial review application.⁶

1 *R v Zhong* (2003) 139 A Crim R 220 at 221 [1], 222 [5], 227 [34].

2 *Zhong v The Queen* [2005] HCATrans 58.

3 *Zhong v The King* [2023] VSCA 35 at [51].

4 *Zhong v The King* [2023] HCASL 96.

5 *Zhong v Attorney-General for the State of Victoria* [2020] VSC 302 at [4]-[8], [10]-[11]; *Zhong v Attorney-General of Victoria* [2023] VSC 634 at [107]; *Zhong v Attorney-General of Victoria* [2025] VSCA 1 at [2].

6 *Zhong v Attorney-General of Victoria* [2025] HCADisp 88.

6 Mr Zhong has previously sought, but been refused, leave to issue or file a writ of summons which was in relevantly similar terms to the Proposed Application:

- (a) On 3 August 2023, Edelman J refused an application for leave to file a proposed writ of summons in respect of a r 6.07.2 direction made by Jagot J.⁷ On 9 November 2023, Gordon and Steward JJ dismissed Mr Zhong's application for leave to appeal the decision of Edelman J.⁸
- (b) On 22 October 2025, Beech-Jones J refused an application for leave to file a proposed writ of summons in respect of a r 6.07.2 direction made by Steward J.⁹ On 5 February 2026, Edelman and Gleeson JJ refused Mr Zhong's application for leave to appeal the decision of Beech-Jones J.¹⁰
- (c) On 25 March 2026, Edelman J refused an application for leave to file a proposed writ of summons in respect of a r 6.07.2 direction made by Gordon J.¹¹ On 11 June 2026, Steward and Jagot JJ refused an application for leave to appeal the decision of Edelman J.¹²

Proposed Application

7 The applicant seeks leave to file the writ of summons against six defendants: "Victoria Police", "Director of Public Prosecution of Victoria", "Magistrate Court of Victoria", "Supreme Court of Victoria", "The Court of Appeal of the Supreme Court of Victoria" and "Attorney-General of Victoria".

7 *In the matter of an application by Zhanyu Zhong for leave to issue or file* [2023] HCATrans 98.

8 *In the matter of an application by Zhanyu Zhong for leave to appeal* [2023] HCASL 163.

9 *In the matter of an application by Zhanyu Zhong for leave to issue or file* [2025] HCASJ 38.

10 *In the matter of an application by Zhanyu Zhong for leave to appeal* [2026] HCADisp 5.

11 *In the matter of an application by Zhanyu Zhong for leave to issue or file* [2026] HCASJ 7.

12 *In the matter of an application by Zhanyu Zhong for leave to appeal* [2026] HCADisp 126.

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8 By the Proposed Application, the applicant would seek the following relief in this Court:

"8.1. A declaration that the trial was conducted contrary to law, and the conviction cannot be supported by the material jurisdictional facts.

8.2. A declaration that the defendants breached ss 5, 75(i), 75(v)[,] 80 and 109 of the Constitution, and that the conviction and all subsequent rulings are void for jurisdictional error.

8.3. A declaration that the conduct of the trial was inconsistent with Australia's obligations under the ICCPR, including Arts 2, 3, 5, 7, 9, 14(1), 14(2), 14(3)(b, d, e & g), 14(5), 16 and 26, because the State prevented the jury from determining the three materially absent statutory elements, relied on inauthentic, altered and inadmissible evidence, and engaged in prolonged conduct arising from a 25-year void *ab initio* conviction entered without any deductive chain of jurisdictional reasoning to apply the law to the material jurisdictional facts.

8.4. A declaration that the conduct of State institutions was inconsistent with ss 5, 75(i), 75(v), 80 and 109 of the Constitution and with Australia's obligations under the ICCPR, and that the record must be corrected to reflect that the conviction was void *ab initio*.

8.5. An order in the nature of certiorari quashing the conviction.

8.6. An order in the nature of prohibition restraining any further reliance on the void conviction.

8.7. An order that all records, entries, or administrative notations arising from the void conviction be treated as having no legal effect, and that no State or Commonwealth agency rely upon them for any purpose.

8.8. Such further or other orders as the Court considers appropriate in the exercise of its original jurisdiction under ss 5, 75(i)[,] 80, and 109 of the Constitution."¹³

9 The applicant contends that various matters justify the granting of the relief sought, including, inter alia: that the six defendants and this Court "have committed jurisdictional errors that breach [the International Covenant on Civil and Political Rights] arts 2, 3, 5, 7, 9, 14, 16 and 26 arising from ss 5, 75(i), 75(v), 80 and 109 of the Constitution"; that "the State Courts and the High Court failed their constitutional duty by refusing to apply [the] four statutory elements [of incitement

13 Bold emphasis omitted.

to murder] and refusing to give effect to the relevant statutes"; that "the Courts failed to apply the relevant provisions of the *Evidence Act 2008 (Vic)/1995 (Cth)* to the material jurisdictional facts on the face of the record"; and that "the Attorney-General and the State courts, in judicial review and appellate proceedings, repeatedly adopted a substituted transcript that concealed jurisdictional facts on police misconduct, incompetent counsel, judicial bias, Kable-breaching conduct, and underlying jurisdictional errors".

Relevant Principles

10 The discretion to grant or refuse leave to issue or file a document pursuant to r 6.07.3 of the Rules is to be exercised with regard to the same criteria which inform the action of the Registrar under r 6.07.1. Leave to issue or file a document will ordinarily be refused where the document "appears ... 'on its face' to be an abuse of the process of the Court, to be frivolous or vexatious or to fall outside the jurisdiction of the Court".¹⁴ The Court may determine applications for such leave without an oral hearing.¹⁵

11 The classes of potential abuses of process are not closed. However, for the purposes of the Proposed Application, it suffices to observe that abuse of process extends to "an attempt to invoke the original or appellate jurisdiction of the High Court [of Australia] on a basis that is confused or manifestly untenable".¹⁶

Consideration

12 The gravamen of the Proposed Application appears to be the contention that the applicant's conviction of incitement to murder contrary to s 321G of the *Crimes Act 1958 (Vic)* in 2001 was "void *ab initio*" by reason of "[t]he admitted absence of statutory preconditions, the unlawful jury constitution, the [International Covenant on Civil and Political Rights] violations, the reliance on inadmissible and altered evidence, and the constitutional breaches in ss 5, 75(i), 75(v), 80 and 109".

13 The applicant has unsuccessfully sought leave to appeal against his conviction to the Court of Appeal of the Supreme Court of Victoria on two occasions,¹⁷ and has unsuccessfully sought special leave to appeal to this Court on

14 *Re Young* [2020] HCA 13; (2020) 94 ALJR 448 at 451 [11]; 376 ALR 567 at 570.

15 *Re Young* [2020] HCA 13; (2020) 94 ALJR 448 at 451 [12]; 376 ALR 567 at 570.

16 *Re Young* [2020] HCA 13; (2020) 94 ALJR 448 at 451 [12]; 376 ALR 567 at 570.

17 *The Queen v Zhong* (2003) 139 A Crim R 220 at 221 [1], 222 [5], 227 [34]; *Zhong v The King* [2023] VSCA 35 at [51].

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two occasions.¹⁸ The applicant has also filed multiple unsuccessful petitions for mercy with the Attorney-General, unsuccessfully sought judicial review in respect of those petitions,¹⁹ and was refused special leave to appeal to this Court.²⁰ In addition, the applicant has been refused leave to file a writ of summons relating to his conviction on three previous occasions,²¹ and has unsuccessfully sought leave to appeal those refusals of leave on three occasions.²² The substance of the Proposed Application is markedly similar to those three previous applications to issue or file a writ of summons, for which leave has been refused. By the Proposed Application, the applicant therefore seeks to reagitate matters that have long been resolved adversely to the applicant.

14 Moreover, the Proposed Application discloses no rational legal basis for the relief sought by the applicant. The applicant's assertions that various laws and treaties have been breached by various persons or entities lack rational explanation and particularisation. The Proposed Application is confused and manifestly untenable, and therefore an abuse of process.

Disposition

15 For the foregoing reasons, the application filed on 7 July 2026 for leave to issue or file the Proposed Application is dismissed. The application filed on 9 July 2026, seeking a hearing before the Full Court of the High Court, is also dismissed.

18 *Zhong v The Queen* [2005] HCATrans 58; *Zhong v The King* [2023] HCASL 96.

19 *Zhong v Attorney-General for the State of Victoria* [2020] VSC 302 at [4]-[8], [10]-[11]; *Zhong v Attorney-General of Victoria* [2023] VSC 634 at [107]; *Zhong v Attorney-General of Victoria* [2025] VSCA 1 at [2].

20 *Zhong v Attorney-General of Victoria* [2025] HCADisp 88.

21 *In the matter of an application by Zhanyu Zhong for leave to issue or file* [2023] HCATrans 98; *In the matter of an application by Zhanyu Zhong for leave to issue or file* [2025] HCASJ 38; *In the matter of an application by Zhanyu Zhong for leave to issue or file* [2026] HCASJ 7.

22 *In the matter of an application by Zhanyu Zhong for leave to appeal* [2023] HCASL 163; *In the matter of an application by Zhanyu Zhong for leave to appeal* [2026] HCADisp 5; *In the matter of an application by Zhanyu Zhong for leave to appeal* [2026] HCADisp 126.