

HIGH COURT OF AUSTRALIA

EDELMAN J

IN THE MATTER OF AN APPLICATION BY
UNCLE ROBBIE THORPE FOR LEAVE TO ISSUE
OR FILE

[2026] HCASJ 35
Date of Judgment: 28 October 2026
M89 of 2026

ORDERS

1. *The application for leave to issue or file a constitutional or other writ filed 1 September 2026 is refused.*
2. *The application for admission of fresh evidence filed 8 September 2026 is refused.*

Representation

The applicant is unrepresented

1 EDELMAN J. On 1 September 2026, the applicant filed this application under
r 6.07.3 of the *High Court Rules 2004* (Cth) seeking leave to issue or file an
application for directions. The applicant requires leave because, on 26 June 2026,
Steward J directed the Registrar pursuant to r 6.07.2 to refuse to issue or file this
proposed application without the leave of a Justice.

2 The background to this matter, particularly its procedural history and the
various applications lodged in the High Court in related matters, is convoluted and
need not be canvassed in detail in these reasons. It suffices to say that the proposed
application for which the applicant requires leave to issue or file appears to be an
application for directions as to the procedure for appealing to a Full Court of this
Court from certain directions made by Steward J on 19 June 2026. In other words,
this is an application for leave to issue or file an application for directions about
appealing to the Full Court from directions that were given.

3 While it is not entirely clear from the proposed application, it appears that
the directions for appealing which the applicant seeks concern directions given by
Steward J in relation to (i) an application for the expedition of the applicant's three
applications for special leave to appeal from the Court of Appeal of the Supreme
Court of Victoria filed on 17 June 2026 in matters M61/2026, M62/2026, and
M63/2026, and (ii) an urgent interlocutory application, filed on 18 June 2026 in
matter M63/2026, seeking orders including a stay of proceedings in the Court of
Appeal. It appears from correspondence from the High Court Registry to the
applicant that the applications for expedition and a stay were referred to Steward J
as the duty Justice. Steward J did not grant a stay at that time but, in accordance
with the special leave process, directed that the three special leave applications
together with the stay application be referred to the Court for consideration. It also
appears that those special leave applications have now been refused.¹

4 In the proposed application, the applicant also claims that there is "doubt
about several matters" including: (i) whether the applicant should lodge an
application for leave to appeal or simply a notice of appeal; (ii) whether the
Registry should provide the applicant with referral documents made on
18 June 2026, the documents "in the said [referral]", and the directions made by
Steward J on 19 June 2026; (iii) whether "the applicant should apply for the
constitutional writ of mandamus ordering the Deputy Registrar to provide the said
documents forthwith"; and (iv) whether the Court can dispense with the standard
lodgement rules in all the circumstances, including the circumstances described by
the applicant as "the ongoing Aboriginal Genocide".

1 *Thorpe v Magistrates' Court of Victoria* [2026] HCADisp 195; *Thorpe v Magistrates' Court of Victoria* [2026] HCADisp 196; *Thorpe v Magistrates' Court of Victoria* [2026] HCADisp 197.

2.

5 The applicant's 158-page affidavit (including exhibits), filed in support of the application for leave to issue or file, also contains a copy of a further Form 21 application dated 29 June 2026. The grounds of that application contend, in essence, that: (i) every judicial officer has a "duty" to do everything in their power to stop and prevent the ongoing Aboriginal genocide; (ii) the court must act to avoid any perception of judicial complicity in the ongoing Aboriginal genocide (cross-referencing provisions of the *International Criminal Court Act 2002* (Cth) and correspondence with the Attorney-General of the Commonwealth dated 29 June 2026); and (iii) three judicial officers in the Court of Appeal demonstrated "bad faith, bias and racial discrimination" by refusing to seal orders in an alleged effort to block the applicant from seeking special leave to appeal, and therefore "failed" to do everything in their power to prevent the ongoing Aboriginal genocide, as did a duty Justice of this court.

6 The applicant's affidavit also annexes extensive and repetitive correspondence with the High Court Registry with respect to the applicant's various lodgements, lodgement queries, and notifications from the Registry. It is unnecessary to descend to the detail of all of that correspondence because nothing in this correspondence makes the proposed application including the claims of doubt regarding procedural matters any less confused or misconceived.

7 On 8 September 2026, the applicant filed a further application for consideration together with his application for leave to issue or file. The further application seeks the admission of fresh evidence concerning a communication by the applicant to the Office of the Prosecutor of the International Criminal Court ("OPICC"), as exhibited in the applicant's supporting affidavit filed on 8 September 2026. The applicant claims that the fresh evidence should be admitted because the communication: (i) is credible, cogent, plausible, and has a strong potential to alter or significantly influence the outcome of the application for leave to issue or file; (ii) is necessary to prevent a substantial miscarriage of justice; and (iii) could not have been "obtained prior through reasonable efforts". The applicant cross-references seven previous "Article 15 Communications" emails to the OPICC accusing certain persons of complicity in the ongoing Aboriginal genocide, and in an eighth email to the OPICC, requests international authorities to "arrest any or all of the said six accused" should they enter the territory of any members and partners of the Pacific Islands Forum.

8 The assessment of documents the subject of a r 6.07.2 direction is based upon consideration of the documents on their face which, almost inevitably, takes place on the papers and without an oral hearing.² Leave will ordinarily be refused where the proposed application clearly appears on its face to fall outside the jurisdiction of the Court, to be frivolous or vexatious, or to be an abuse of the

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

3.

Court's process, categories which include applications which are confused or manifestly untenable (ie manifestly hopeless).³

9

It is plain on the face of each and all of (i) the proposed application, (ii) the supporting affidavit for the proposed application, and (iii) the application and supporting affidavit for the admission of fresh evidence, that the applicant seeks to invoke this Court's jurisdiction on a basis that is both confused and manifestly hopeless. Leave to issue or file the proposed application is refused. The application for the admission of fresh evidence, which does not assist the proposed application, should also be refused. Orders should be made consistently with r 13.04 of the *High Court Rules*.

3 *Re Young* (2020) 94 ALJR 448 at 451 [11], [13]; 376 ALR 567 at 570; *Citta Hobart Pty Ltd v Cawthorn* (2022) 276 CLR 216 at 246-247 [73].