



HIGH COURT OF AUSTRALIA

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Details of Filing

File Number: M6/2026
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Important Information

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IN THE SUPREME COURT OF VICTORIA

AT MELBOURNE

IN THE COURT OF APPEAL

File No.

Case: S EAPCI 2024 0091

Filed on: 09/08/2024 04:37 PM

In the matter of a proposed proceeding, on the application of UNCLE ROBBIE THORPE¹

UNCLE ROBBIE THORPE²
Applicant

REASONS FROM LOWER COURT

Date of Document: 8 August 2024

Filed on behalf of: Uncle Robbie Thorpe³
CAMP SOVEREIGNTY
“Kings Domain”
Melbourne VIC 3004

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¹ *The plaintiff is to be addressed in the proceeding as ‘Uncle Robbie Thorpe’ or ‘Uncle Robbie’, and the title of the proceeding is amended accordingly.*

Order of the Honourable Justice Richards made 19 July 2024, date authenticated 22 July 2024, in the proceedings *Uncle Robbie Thorpe v Magistrates Court of Victoria & Attorney-General of Victoria*, in the Supreme Court of Victoria, S ECI 2024 01011.

See also <https://www.commonground.org.au/article/guide-for-respectfully-communicating-with-elders>

² *See footnote 1 above.*

³ *See footnote 1 above.*

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
PRACTICE COURT

Not Restricted

Proposed proceeding S ECI 2024 01879

In the matter of a proposed proceeding, on the application of ROBERT THORPE

JUDGE: Richards J
WHERE HELD: Melbourne
DATE OF HEARING: On the papers
DATE OF JUDGMENT: 12 July 2024
CASE MAY BE CITED AS: Re Thorpe (No 2)
MEDIUM NEUTRAL CITATION: [2024] VSC 408

PRACTICE AND PROCEDURE – Applicant sought to file documents to commence a criminal proceeding seeking directions for the assembly of a special court to hear certain matters – Deputy Prothonotary refused to seal documents as substantially and procedurally irregular – Applicant sought review of refusal under r 28A.03(5) of the *Supreme Court (General Civil Procedure) Rules 2015 (Vic)* – Court does not have power to make directions sought in proposed proceeding – No direction made – *Constitution Act 1975 (Vic)*, s 104(1) – *Supreme Court (General Civil Procedure) Rules 2015 (Vic)*, r 28A.04.

HER HONOUR:

- 1 On 16 March 2024, Robert Thorpe attempted to file a document in the Criminal Division of this Court headed ‘Application of Robert Thorpe’. The application was addressed to Charles Arthur Philip George Windsor and Jacinta Allan – that is, to the King of Australia and the Premier of Victoria. It gave notice that Mr Thorpe would apply ‘pursuant to the Court’s inherent and implied criminal jurisdiction’ for orders to be made by the Chief Justice.
- 2 The orders that Mr Thorpe proposed to seek from the Chief Justice included directions that:
 - (a) A special proceeding be commenced in the Court’s criminal jurisdiction in a matter of genocide charges against Charles Windsor brought by Mr Thorpe and Aunty Alma Thorpe;
 - (b) The assembly of a special court, to be called the ‘Aboriginal Genocide Court’, comprising Chief Justice Ferguson, Justice Emerton, the President of the Court of Appeal, Justice Jane Dixon, the Principal Judge of the Criminal Division, and three specially appointed Associate Justices, being Irene Watson, a law professor from South Australia, Tony McAvoy SC, a barrister based in Sydney, and Justice Louise Taylor, a Judge of the Supreme Court of the Australian Capital Territory; and
 - (c) Three specific matters be listed forthwith before the Aboriginal Genocide Court, and otherwise be stayed pending their listing before that court.
- 3 The three matters that Mr Thorpe sought to have heard by the Aboriginal Genocide Court are:
 - (a) Proceeding S ECI 2024 01011, in which Mr Thorpe seeks judicial review of a decision of the Magistrates’ Court of Victoria to refuse to issue a proposed criminal proceeding in which Mr Thorpe sought to charge the King with the offence of genocide (**MCV case**);

- (b) A proposed appeal by Mr Thorpe from the same decision of the Magistrates' Court, under s 272 of the *Criminal Procedure Act 2009* (Vic) (**SCV appeal notice**); and
- (c) An application made by Mr Thorpe to the Magistrates' Court on 4 March 2023 for directions about the form and procedure of any appeal or review of its decision (**MCV appeal procedure**).

4 On 22 April 2024, pursuant to r 28A.04(2) of the *Supreme Court (General Civil Procedure) Rules 2015* (Vic), the Deputy Prothonotary rejected the document and refused to seal it because, if sealed, it would be substantially irregular. The Deputy Prothonotary gave the following reasons for refusal:

1. An "Application of Robert Thorpe" was filed by Mr Thorpe on 16 March 2024, purportedly in the "Criminal Division" of the Supreme Court. The proposed application seeks, inter alia:
 - a. The assembly of a Special Court, to be called the "Aboriginal Genocide Court", comprised of numerous named individuals, including but not limited to various judicial officers of the Supreme Court of Victoria, a judicial officer of the ACT Supreme Court, a barrister of the Sydney bar, and a law professor from Adelaide;
 - b. The Special Court be immediately convened to hear three matters, particularised as:
 - i. The "MCV Case" – being Supreme Court proceeding number S ECI 2024 01011;
 - ii. The "SCV appeal notice" – being the Originating Motion sought to be filed on 24 January 2024; and
 - iii. The "MCV appeal procedure" – being an urgent application submitted to the Magistrates Court of Victoria by Mr Thorpe on 4 March 2024.
 - c. A stay of the three particularised proceedings pending their listing before the Special Court.
2. This proceeding is patently misguided. The creation and convening of a Special Court, Tribunal, or other Authority is the responsibility of Parliament, through the enactment of governing legislature. Such Authority cannot be sought by way of application to, or order from, the Supreme Court.

3. Furthermore, the matters sought to be heard by the Special Court are procedurally misconceived. Particularly,
 - a. Supreme Court proceeding number S ECI 2024 01011 is already listed before the Court for initial hearing on Monday 22 April 2024;
 - b. The Originating Motion dated 24 January 2024, was already rejected for filing by the Prothonotary on 15 February 2024. By judgment of 3 April 2024 the Honourable Justice Forbes declined to instruct the Prothonotary to accept the matter for filing. Any review or appeal of her Honour's judgment should be appropriately directed to the Court of Appeal; and
 - c. Any review or appeal of the Magistrate Court should be brought pursuant to any appropriate or existing legislative provisions or rules of the Court.
 4. Finally, the form of Application submitted by Mr Thorpe under the heading of the Criminal Division is not a form known to the Court.
 5. Accordingly, this proceeding is refused pursuant to r28A.04(2) as it is substantially and procedurally irregular.
- 5 On 3 July 2024, Mr Thorpe requested that the Deputy Prothonotary's refusal be referred to a Judge for review. His request was made under r 28A.03(5) of the Rules, in light of two earlier reviews of refusals to seal documents that Mr Thorpe sought to file with the Court. The first review was the unreported decision of Forbes J in *Re Thorpe* on 4 April 2024, and the second was the decision of O'Meara J in *Thorpe v Prothonotary* [2024] VSC 360 on 25 June 2024.
- 6 The request was referred to me, as the Judge sitting in the Practice Court that week. As it happens, the MCV case is listed for trial before me on 19 July 2024.
- 7 Mr Thorpe made the following submissions in support of his request for review.
1. The statement of claim in the attached Writ lodged on Anzac Day, 25 April 2024-- and the subject matter of your Court's decision on 25 June 2024 referred to above-- sets out relevant factual matters in numbered paragraphs--note especially the practice direction made and published by your Chief Justice, Chair of Courts Council, on 4 September 2023 and set out in paragraph 9 of the said Writ which includes this statement "We acknowledge that harm has occurred for First Peoples in our courts. They have not been experienced as trusted institutions offering justice." Note also paragraphs 10 and 11. It is sadly ironic that the Court on 25 June 2024 in the said decision dismissed the said numbered paragraphs of factual matters as political and polemical-- this dismissal is yet another example of the psychological issue of "white denial" that

We have to contend with daily during your ongoing genocide against Us; and is in fact a further act of genocide against Us. Further, the grounds numbered 1-18 set out in paragraph 15 of the said decision of 25 June 2024 in relation to you as chief clerk are relevant to the Deputy Prothonotary's Refusal made 22 April 2024. Note that the official glossary on your Court's website defines "Deputy Prothonotary" as "the title of a deputy chief clerk of the Supreme Court of Victoria" and "Prothonotary" as "the title of the chief clerk of the Supreme Court of Victoria"

<https://www.supremecourt.vic.gov.au/about-the-court/how-the-court-works/glossary>.

2. Contrary to paragraph 2 of DP Warren's Refusal on 22 April 2024, this superior court's independent inherent jurisdiction under the separation of powers and the Constitution Act of the State of Victoria allows it to create special internal tribunal arrangements as justice demands. It is unclear if the Common Law Division and the Criminal Division are specifically created by Parliament but certainly your mysterious secretive "Practice Court" is barely mentioned in your Court's own Rules let alone any creating or authorising statute. It may be that a request be made by Chair of Courts Council to the State of Victoria (perhaps via the Executive or the Legislature) for certain judicial appointments of Aborigines or interstate or international experts in order for your Court to have some semblance of lack of bias in a State where every senior official has sworn allegiance to the genocidal invader/coloniser monarchy family that has unlawfully and criminally purported to usurp Our Law and occupy Our Lands. If such request is refused, your Court can proceed with existing judicial officers of your Court under the so-called doctrine of necessity. In one sense of course every case heard be any court is a special court unique to its own facts and applicable laws.
3. Contrary to paragraph 3 of DP Warren's Refusal on 22 April 2024, there is no procedural misconception. It is probable that there are now other matters that can be included in this omnibus genocide hearing-- these can all be specified and sorted out at directions hearings. This is not a reason for not proceeding-- in fact, it is a strong reason for proceeding with a fit-for-purpose tribunal in this time of apparently unstoppable ongoing Aboriginal genocide where no non-Aboriginal person has ever been held responsible.
4. Contrary to paragraph 4 of DP Warren's Refusal on 22 April 2024, your Court's own Rules allow for its existing Rules to be overridden as the Court sees fit and justice demands. And of course your Court has never ceded its inherent and implicit power to create its own Rules. Your common law also claims to be dynamic and adaptable as the facts and justice dictate.

8 Having considered Mr Thorpe's submissions, I decline to direct the Deputy Prothonotary to seal the document. I agree with her conclusion that the proposed proceeding is misguided and substantially irregular.

- 9 The directions that Mr Thorpe wishes to seek in the proposed proceeding are not directions that the Supreme Court of Victoria has power to make. Power to constitute a special court or tribunal resides with the Parliament of Victoria, not the Supreme Court. The 'Practice Court' referred to in Mr Thorpe's submissions refers to the arrangements made for hearing urgent applications in the Common Law Division of the Trial Division of the Supreme Court. It is not a separate court and is neither mysterious nor secretive.¹ Further, the Chief Justice cannot appoint Associate Justices to the Court, even on a special or temporary basis. Appointments to the Supreme Court of Victoria are made by the Governor in Council.²
- 10 In any event, the substance of the matters that Mr Thorpe wishes to have listed before the proposed Aboriginal Genocide Court will shortly be heard and determined in the MCV case. To elaborate:
- (a) As mentioned, the MCV case is listed for trial before me on 19 July 2024. At a hearing on 22 April 2024, I acceded to Mr Thorpe's application to join the Attorney-General of Victoria as a defendant to the proceeding, and set a timetable for the exchange of written submissions. I also indicated that, for the purposes of the proceeding, the Court will assume that the sovereignty of the First Peoples in Victoria was never ceded and that all Judges of this Court, past and present, have pledged allegiance to the Crown. Both Mr Thorpe and the Attorney-General have filed and served their respective submissions and the matter is ready to proceed to trial.
- (b) The SCV appeal notice was rejected by the Prothonotary as substantially irregular, because no proceeding had yet been commenced in the Magistrates' Court and therefore no appeal from a final order in a proceeding could be brought under s 272 of the Criminal Procedure Act. In *Re Thorpe*, Forbes J held that the Prothonotary was correct to describe the proposed appeal as irregular. The SCV appeal notice concerned the same decision that is the subject of the

¹ Supreme Court of Victoria, *Urgent Applications – Practice Court (Common Law)* (Web Page), <<https://www.supremecourt.vic.gov.au/areas/common-law-division/practice-court>>.

² *Supreme Court Act 1986* (Vic), s 104(1).

MCV case – that is, the decision of the Magistrates’ Court on 29 December 2023 to refuse to issue the proceeding that Mr Thorpe sought to commence against the King. The question of substance in the proposed appeal will be determined in the MCV case.

- (c) So far as I am aware, the MCV appeal procedure did not progress beyond a proposed proceeding in the Magistrates’ Court. In any event, the subject matter of the proposed proceeding is now moot, because Mr Thorpe has since invoked this Court’s jurisdiction to review the Magistrates’ Court’s decision of 29 December 2023.

- 11 For those reasons, I decline to direct the Prothonotary to seal the document titled ‘Application of Robert Thorpe’ submitted by Mr Thorpe for filing on 16 March 2024.

CERTIFICATE

I certify that this and the 5 preceding pages are a true copy of the reasons for judgment of Justice Richards of the Supreme Court of Victoria delivered on 12 July 2024.

DATED this twelfth day of July 2024.



.....
Associate