



## HIGH COURT OF AUSTRALIA

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#### Details of Filing

File Number: M6/2026  
File Title: In the matter of an application by Uncle Robbie Thorpe for spe  
Registry: Melbourne  
Document filed: Reasons for decision of the Court below  
Filing party: Applicant  
Date filed: 14 Jan 2026

#### Important Information

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**SUPREME COURT OF VICTORIA  
COURT OF APPEAL**

S EAPCI 2024 0091

IN THE MATTER of a proposed proceeding, on the application of **UNCLE ROBBIE THORPE**

UNCLE ROBBIE THORPE

Applicant

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**JUDGES:** WALKER JA  
**WHERE HELD:** Melbourne  
**DATE OF HEARING:** Determined on the papers  
**DATE OF JUDGMENT:** 17 December 2025  
**MEDIUM NEUTRAL CITATION:** [2025] VSCA 333  
**JUDGMENT APPEALED FROM:** *Re Thorpe (No 2)* [2024] VSC 408 (Richards J)

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PRACTICE AND PROCEDURE – Filing – Applicant sought to file document seeking directions for the assembly of a special court to hear certain matters and commencement of criminal proceeding – Deputy Prothonotary refused to seal documents as documents substantially and procedurally irregular – Judge declined to direct Prothonotary to seal document – Application is totally without merit – Leave to appeal refused.

*Supreme Court (General Civil Procedure) Rules 2025*, rr 28A.04(2), 64.15(5)(iv); *Supreme Court Act 1986*, s 14D(3).

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**Counsel**

Applicant: In person  
 Respondent: Not applicable

**Solicitors**

Applicant: Not applicable  
 Respondent: Not applicable

WALKER JA:

- 1 On 16 March 2024, the applicant sought to file a document in the Criminal Division of the Supreme Court of Victoria headed ‘Application of Robert Thorpe’. The application was addressed to Charles Arthur Philip George Windsor and Jacinta Allan — that is, to the King of England and the Premier of Victoria. It gave notice that Mr Thorpe would apply ‘pursuant to the Court’s inherent and implied criminal jurisdiction’ for various 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 respect 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, Justice Jane Dixon 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 sought judicial review of a decision of the Magistrates’ Court of Victoria to refuse to issue a proposed criminal proceeding which named Mr Thorpe as the informant and accused Charles Windsor of the offence of genocide (the ‘MCV case’);
  - (b) a proposed appeal by Mr Thorpe from the same decision of the Magistrates’ Court pursuant to s 272 of the *Criminal Procedure Act 2009* (the ‘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 (the ‘MCV appeal procedure’).
- 4 On 22 April 2024, pursuant to r 28A.04(2) of the *Supreme Court (General Civil Procedure) Rules 2015* (the ‘Rules’),<sup>1</sup> the Deputy Prothonotary rejected the document and refused to seal it because, if sealed, it would be substantially irregular.

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<sup>1</sup> I note that the *Supreme Court (General Civil Procedure) Rules 2025* (the ‘2025 Rules’) came into operation on 8 September 2025. The 2025 Rules apply ‘to every civil proceeding commenced in the Court whether before, on or after the commencement date’ (r 1.05(1)). The Rules have remained relevantly unchanged.

- 5 On 3 July 2024, Mr Thorpe requested that the Deputy Prothonotary’s refusal be referred to a judge for review. That request was referred to Richards J. Her Honour refused to direct the Deputy Prothonotary to seal the document. Her Honour held that the proposed proceeding was ‘misguided and substantially irregular’.<sup>2</sup> She said as follows:

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. 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.

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...<sup>3</sup>

- 6 The applicant now seeks leave to appeal her Honour’s decision. His proposed grounds of appeal are as follows:

1. The judge erred in ruling that the originating motion submitted for filing on 16 March 2024 with eFiling ID 396086 be refused.

2. The judge erred in failing to state the essential fact that the nominated three additional judges were all Aboriginal.

“... 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”.

3. The judge erred in inferring that the plaintiff had suggested that the Chief Justice appoint Associate Justices:

“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.

But the document in question nowhere suggests the Chief Justice can or should “appoint Associate Justices” but merely give directions upon their appointment.

Under GROUNDS at the heading SYSTEMIC RACISM, the document states:

“2. (c) The Court has a duty to request Jaclyn Symes, the Attorney-General, to appoint as Justices for this special court three people from outside the State of Victoria and also to appoint First Peoples to these positions”.

4. The judge erred in inferring that all specialist courts aka “specialist lists” and

<sup>2</sup> *Re Thorpe (No 2)* [2024] VSC 408, [8].

<sup>3</sup> *Re Thorpe (No 2)* [2024] VSC 408, [9]–[10] (citations omitted).

some general divisional courts were within the power of of the Supreme Court of Victoria even though there is no specific legislative enactment for those **specialist** “courts”/“lists”/“divisions”/“areas”.

“Power to constitute a special court or tribunal resides with the Parliament of Victoria, not the Supreme Court.”

See the tribunals set out in applicants Written Case signed 8 August 2024.

5. The judge erred in inferring that, **absent such legislative enactment**, any exercise of judicial power in any case in any court not specifically created by Parliament is valid.

See the Constitution (Supreme Court) Act 1989.

6. The judge’s decision not to direct the registrar to file the application for leave to appeal was in and of itself an act of Aboriginal genocide

(i) causing Us serious mental harm with the intention to reject the document and knowledge of the consequence of such rejection within the meaning of Article 30 of the Statute of the International Criminal Court.

(ii) deliberately imposing on us conditions of life (including the condition of not being able to access your courts to stop and prevent Aboriginal genocide) likely to destroy Us in whole or in part with the intention to reject the document and knowledge of the consequence of such rejection within the meaning of Article 30 of the Statute of the International Criminal Court.

7. The judge erred in not being Aboriginal!!!.<sup>4</sup>

7 On 18 November 2025, the Registrar of the Court of Appeal referred the applicant’s application for leave to appeal to me to determine pursuant to r 64.15 of the 2025 Rules. Having considered the materials filed by the applicant, I have determined, pursuant to s 14D(3) of the *Supreme Court Act 1986* and r 64.15(5)(iv) of the 2025 Rules, that the application for leave to appeal is totally without merit. The application must thus be refused. My reasons are set out below.

### ***Consideration***

8 The application for leave to appeal has no prospects of success and must be dismissed. That is because the judge was correct to refuse to direct the Prothonotary to accept the application for filing, for the reasons her Honour gave. Proposed ground 1 (that the judge erred in ruling that the originating motion be refused) must therefore fail. In light of that conclusion, it is not strictly necessary to consider the additional proposed grounds of appeal, but I make the following observations about those that sought to identify error in the judge’s reasons.<sup>5</sup>

<sup>4</sup> Footnotes and references omitted; emphasis in original.

<sup>5</sup> I have not addressed proposed grounds 6 and 7, which do not seek to engage with the judge’s reasons, and which are entirely inappropriate and without merit.

9 The judge did not err by failing to state that three of the judges nominated by the applicant for the ‘special court’ that he sought to have the Chief Justice assemble were Aboriginal (proposed ground 2). It was plain from the application that that was so, and the judge’s failure to refer to that fact does not constitute an error.

10 The judge did not err by ‘inferring that the [applicant] had suggested that the Chief Justice appoint Associate Justices’ (proposed ground 3). Rather, her Honour observed that the Chief Justice cannot do so. That statement is plainly correct. It is to be noted that the application expressly sought to have the Chief Justice assemble a ‘special court’ comprised of persons who are not presently judges of the Court, but were described as ‘specially appointed Associate Justices’. The judge was seeking meaningfully to address this aspect of the application.

11 The applicant points to this further statement in his application, under the heading ‘The Grounds Relied Upon Are’:

The Court has a duty to request Jaclyn Symes, the Attorney-General, to appoint as Justices for this special court three people from outside the State of Victoria and also to appoint First Peoples to these positions.

12 This proposition is wrong in law — the Court has no such duty — and the judge was not required to refer to this statement in her Reasons.<sup>6</sup>

13 The judge did not infer that ‘all specialist courts aka “specialist lists” and some general divisional courts were within the power of the Supreme Court of Victoria even though there is no specific legislative enactment’ for them (proposed ground 4). Rather, the judge said — correctly — that power to constitute a special court or tribunal resides with the Parliament, not the Supreme Court. Her Honour was correct to describe the Practice Court (to which Mr Thorpe had referred) as reflecting ‘arrangements made for hearing urgent applications in the Common Law Division of the Trial Division of the Supreme Court’.<sup>7</sup> As the judge said, the Practice Court is not a separate court and is neither mysterious nor secretive.<sup>8</sup> The same may be said for the divisions of the Supreme Court to which the applicant referred in his submissions in this Court: the Common Law Division, the Criminal Division, and the Commercial Court.<sup>9</sup>

14 The judge also did not infer that, ‘absent such legislative enactment, any exercise of judicial power in any case in any court not specifically created by Parliament is valid’ (proposed ground 5).

15 Given my conclusion that the judge was correct not to direct the Prothonotary to accept the application for filing, it is not necessary for me to determine whether the judge’s determination was one that engaged the jurisdiction of the Court of Appeal under ss 10 and 17(2) of the *Supreme Court Act 1986*.<sup>10</sup>

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<sup>6</sup> *Whisprun Pty Ltd v Dixon* [2003] HCA 48, [63] (Gleeson CJ, McHugh and Gummow JJ).

<sup>7</sup> *Re Thorpe (No 2)* [2024] VSC 408, [9].

<sup>8</sup> *Re Thorpe (No 2)* [2024] VSC 408, [9].

<sup>9</sup> The applicant also referred to ‘twenty-two other “specialist” courts,’ but these were not identified.

<sup>10</sup> As to which, see *Re Thorpe* [2024] VSCA 172 (McLeish JA); *O’Bryan v Lindholm* [2024] VSCA 130 (Kennedy, Walker and Macaulay JJA).