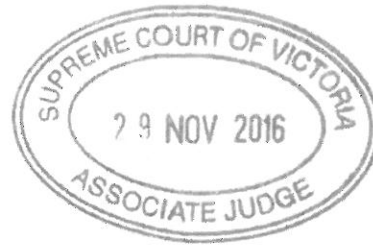


IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
JUDICIAL REVIEW AND APPEALS LIST



S CI 2016 04811

BETWEEN

SISTER MARIE BRIGID ARTHUR (SUING
AS LITIGATION GUARDIAN FOR ALL
ABORIGINAL CHILDREN AGED UNDER
THE AGE OF 18 WHO HAVE BEEN
REPRESENTED BY THE VICTORIAN
ABORIGINAL LEGAL SERVICE AND ARE
CURRENTLY DETAINED IN A CENTRE
GAZETTED UNDER SECTION 478 OF THE
CHILDREN, YOUTH AND FAMILIES ACT
2005 (VIC))

Plaintiffs

- and -

JENNY MIKAKOS, MINISTER FOR
FAMILIES AND CHILDREN

First Defendant

GAYLE TIERNEY, MINISTER FOR
CORRECTIONS

Second Defendant

STATE OF VICTORIA

Third Defendant

KYM PEAKE, SECRETARY OF
DEPARTMENT OF HEALTH & HUMAN
SERVICES

Fourth Defendant

ORDER

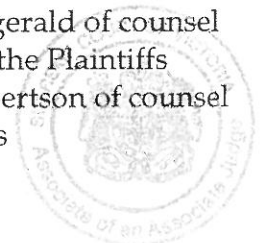
JUDGE: The Hon. Associate Justice Ierodionou

DATE MADE: 29 November 2016

ORIGINATING PROCESS: Writ filed 22 November 2016

HOW OBTAINED: On return of the summons filed 29 November 2016

APPEARANCES: Mr B Walters QC with Ms S Fitzgerald of counsel
and Mr A McBeth of counsel for the Plaintiffs
Mr R Attiwill QC with Ms A Robertson of counsel
for the First to Fourth Defendants



Ms S Cauchi for the Victorian Equal Opportunity
and Human Rights Commission

OTHER MATTERS:

- A. The parties have agreed to compromise this proceeding on the terms set out in this order. The names and dates of birth of the plaintiffs under disability are set out in Confidential Schedule A to this order.
- B. The fourth defendant has agreed to cause a letter to be sent by the Department of Health and Human Services to the Victorian Aboriginal Legal Service Co-operative in a form that has been agreed.
- C. The plaintiffs have agreed to forthwith discontinue this proceeding.
- D. The fourth defendant, by her senior counsel, undertakes to the Court that she will not authorise or cause the removal of any Aboriginal child to:
 - (i) any youth justice centre or remand centre established at Barwon Prison (whether under the Orders in Council dated 17 November 2016 or otherwise); or
 - (ii) any other youth justice centre or remand centre gazetted under Orders in Council that is part of, or annexed to, or adjacent to, an adult justice facility until the earlier of:
 - (a) 27 May 2018;
 - (b) further order of the Court; or
 - (c) advice received by the Secretary from the Commissioner for Aboriginal Children and Young People that the proposed removal is in the best interests of the Aboriginal child. This advice shall only be sought in exceptional circumstances and upon the Secretary providing written information as to the basis for the proposed transfer.

THE COURT ORDERS THAT:

1. The compromise of the proceeding on the terms of this order is approved pursuant to rule 15.08 of the *Supreme Court (General Civil Procedure) Rules 2015*.
2. The plaintiffs have leave to discontinue the proceeding.
3. Upon the discontinuance of the proceeding the defendants pay the plaintiffs' costs of the proceeding.

DATE AUTHENTICATED: 29 November 2016


THE HONOURABLE ASSOCIATE JUSTICE IERODIACONOU