

No: (P)QUD535/2013

Federal Court of Australia
District Registry: Queensland
Division: General

LEX WOTTON and others named in the schedule
First Applicant

STATE OF QUEENSLAND and another named in the schedule
Respondent

ORDER

JUDGE: Justice Mortimer

DATE OF ORDER: 5 December 2016

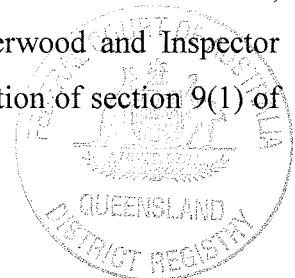
WHERE MADE: Brisbane

THE COURT DECLARES THAT:

1. In relation to the applicants and group members as defined in the further amended originating application filed 25 August 2015, Detective Inspector Warren Webber, Detective Senior Sergeant Raymond Joseph Kitching and Inspector Mark Williams committed unlawful discrimination, in contravention of section 9(1) of the *Racial Discrimination Act 1975* (Cth), by failing to treat Senior Sergeant Christopher Hurley as a suspect in the death of Cameron Doomadgee and by allowing Senior Sergeant Hurley to continue to perform policing duties on Palm Island between 19 and 22 November 2004.
2. In relation to the applicants and group members, between 19 and 22 November 2004, Detective Inspector Webber and Detective Senior Sergeant Kitching committed unlawful discrimination, in contravention of section 9(1) of the *Racial Discrimination Act*, in their treatment of Aboriginal witnesses interviewed, and in their treatment of

information supplied by those witnesses, for the purposes of the investigation by the Queensland Police Service into the death of Cameron Doomadgee.

3. In relation to the applicants and group members, between 19 and 22 November 2004, Detective Senior Sergeant Kitching committed unlawful discrimination, in contravention of section 9(1) of the *Racial Discrimination Act*, in submitting inaccurate information to the coroner, and in failing to supply relevant information to the coroner, for the purposes of the coronial investigation into the death of Cameron Doomadgee.
4. In relation to the applicants and group members, the failure of any officer of the Queensland Police Service with appropriate command responsibilities, including Inspector Gregory Strohfeldt and Acting Assistant Commissioner Roy Wall, to suspend Senior Sergeant Hurley from active duty on Palm Island after the death of Cameron Doomadgee on 19 November 2004 constituted unlawful discrimination in contravention of section 9(1) of the *Racial Discrimination Act*.
5. In relation to the applicants and group members, the failure of any officer of the Queensland Police Service with appropriate command responsibilities on Palm Island between 22 and 26 November 2004, including Inspector Brian Richardson and Senior Sergeant Roger Whyte, to communicate effectively with the Palm Island community and defuse tensions within that community relating to the death in custody of Cameroon Doomadgee, and the subsequent police investigation, constituted unlawful discrimination in contravention of section 9(1) of the *Racial Discrimination Act*.
6. In relation to the applicants and group members, Detective Inspector Webber, in making at 1.45 pm on 26 November 2004 and continuing until 8.10 am on 28 November 2004 a declaration of an emergency situation under section 5 of the *Public Safety Preservation Act 1986* (Qld) engaged in unlawful discrimination in contravention of section 9(1) of the *Racial Discrimination Act*.
7. In using officers of the Special Emergency Response Team to carry out the arrest of the first applicant on 27 November 2004, officers of the Queensland Police Service with command responsibilities for the police operations on Palm Island at that time, including Detective Inspector Webber, Inspector Steven Underwood and Inspector Glenn Kachel, engaged in unlawful discrimination in contravention of section 9(1) of the *Racial Discrimination Act*.



8. In using officers of the Special Emergency Response Team on 27 November 2004 to carry out the entry and search of the house of the first and third applicants, officers of the Queensland Police Service with command responsibilities for the police operations on Palm Island at that time, including Detective Inspector Webber, Inspector Underwood and Inspector Kachel, engaged in unlawful discrimination contrary to section 9(1) of the *Racial Discrimination Act*.
9. In using officers of the Special Emergency Response Team on 27 November 2004 to carry out the entry and search of the house of the second applicant, officers of the Queensland Police Service with command responsibilities for the police operations on Palm Island at that time, including Detective Inspector Webber, Inspector Underwood and Inspector Kachel, engaged in unlawful discrimination contrary to section 9(1) of the *Racial Discrimination Act*.
10. Pursuant to section 18A of the *Racial Discrimination Act*, the *Racial Discrimination Act* applies in relation to the first respondent as if the first respondent had engaged in the conduct of the officers of the Queensland Police Service referred to in paragraphs 1 to 9 above, and the first respondent is taken to have contravened section 9(1) of the *Racial Discrimination Act* in the manner there set out.

THE COURT ORDERS THAT:

1. The first respondent pay to the first applicant damages in the total sum of \$95,000.
2. The first respondent pay to the second applicant damages in the sum of \$10,000.
3. The first respondent pay to the third applicant damages in the total sum of \$115,000.
4. Paragraphs 1 to 3 of these Orders are stayed pending the determination by the Court of the matters set out in paragraphs 1 to 4 and paragraph 6 of the Directions given by the Court on 5 December 2016.

Date that entry is stamped: 27 APR 2017


Deputy District Registrar

Schedule

No: (P)QUD535/2013

Federal Court of Australia
District Registry: Queensland
Division: General

Second Applicant:
Third Applicant:

AGNES WOTTON
CECILIA ANNE WOTTON

Second Respondent:

COMMISSIONER OF THE POLICE SERVICE

