

WOTTON v. STATE OF QUEENSLAND AND ANOR (S314/2010)

Writ of Summons: issued 22 December 2010

Date of Referral of Special Case to the Full Court: 16 May 2011

The plaintiff, Lex Wotton, is an Australian citizen and Aboriginal person who was born on Palm Island in the State of Queensland and has resided on Palm Island for most of his life. He has been and wishes to continue to be an active participant in the public life of Palm Island and a leader in the Palm Island Aboriginal community. He also wishes to participate in public discussion of political and social problems affecting Aboriginal persons in Australia and problems in the prison system in Queensland that he experienced as a result of his incarceration.

On or about 26 November 2004 a riot occurred on Palm Island following the death of an Aboriginal man, Mulrunji Doomadgee. In November 2008, following a trial by jury, Mr Wotton was sentenced to six years imprisonment for his part in this riot.

Mr Wotton was released on parole on 19 July 2010. His parole order imposed a number of conditions on him including a number of special conditions imposed pursuant to s 200(2) of the *Corrective Services Act 2006* (Qld). These special conditions included conditions that he: not attend public meetings on Palm Island without the prior approval of the corrective services officer (condition (t)); be prohibited from speaking to and having any interaction whatsoever with the media (condition (u)); and, receive no direct or indirect payment or benefit to him, or through any members of his family, through any agent, through any spokesperson or through any person or entity negotiating or dealing on his behalf with the media (condition (v)). His parole order will expire on 18 July 2014.

The Special Case states the following questions for consideration by the Full Court:

- Is s 132 of the *Corrective Services Act 2006* (Qld) invalid because it impermissibly burdens the freedom of communication of government and political matters, contrary to the Commonwealth Constitution?
- Are conditions (t), (u) and (v) of the Plaintiff's Parole Order invalid because they impermissibly burden the freedom of communication of government and political matters, contrary to the Commonwealth Constitution?
- Is 200(2) of the *Corrective Services Act 2006* (Qld) invalid to the extent it authorizes the imposition of the conditions (t), (u) and (v) of the Plaintiff's Parole Order?
- Who should pay the costs of the special case?

Notice of a Constitutional Matter has been given as required by s 78B of the *Judiciary Act 1903* (Cth). The Attorneys-General for Victoria, and New South Wales have indicated that they will be intervening in this matter pursuant to s 78A of the *Judiciary Act*.