

WAITANGI TRIBUNAL

Wai 3133

CONCERNING

the Treaty of Waitangi Act 1975

AND

a claim by Te Mauri Kīngi and Billy McFarlane on behalf of themselves, their whānau, their hapū and their iwi

MEMORANDUM-DIRECTIONS OF THE DEPUTY CHAIRPERSON

The Registrar will please enter this matter on the register of claims and give it the next available Wai number. The register should note that the claim was received on 2 May 2022.

The claimants should please take note of the 'Wai' number reference at the top of the page. Please use this claim number in any communication with the Tribunal.

This claim is lodged by Te Mauri Kīngi and Billy McFarlane on behalf of themselves, their whānau, their hapū and their iwi, and concerns the justice system. The claimants alleges that the Crown has breached the principles of the Treaty of Waitangi by:

- denying tikanga Māori as the first law of Aotearoa/New Zealand;
- usurping the right for Māori to administer their own justice within their own tribal territories and in accordance with their own system of tikanga Māori (Māori law);
- disregarding the means from which Māori can adequately have access to justice;
- developing, implementing and administering a unitary justice system without the free prior informed consent of Māori that continues to fail and prejudice Māori whānau, hapū and iwi;
- failing to adequately fund participants to have their claims properly substantiated and considered within the justice system in general and in jurisdictions where there is a disproportionate representation of Māori including the Family Court, the criminal jurisdictions of the District Court, the High Court, the Court of Appeal and the Supreme Court, the Waitangi Tribunal, the Employment Tribunal and the Disputes Tribunal;
- deliberately designing, implementing, administering and permitting the development of a justice system that incarcerates Māori in disproportionate rates to those of non-Māori; and
- failing to adhere to recommendations to remedy the structural dimensions of institutional racism in the criminal justice system.

The claimants seek a variety of relief, including recommendations that the Crown commit to the development and implementation of a comprehensive approach to reform Aotearoa's justice system based on abolishing prisons by 2040. This approach must be underpinned by, inclusive of, and encompass the following:

- inclusion of te ao Māori, tikanga Māori and Te Tiriti o Waitangi;
- Mana Ōrite model of partnership to be established and nurtured between Māori and all Crown agencies and departments;

- all legislation and policy settings in Aotearoa to reflect tea o Māori, tikanga Māori and Te Tiriti o Waitangi;
- high-trust relationships must be established and nurtured between Māori and all Crown agencies and departments;
- the Crown must take responsibility for colonisation and stop all ongoing effects of colonisations. Prisons are abolished in New Zealand;
- Oranga Tamariki is disestablished;
- lived experience must influence policy and legislative developments; and
- the justice system must reflect the true intentions of Puao-te-ata-tu and He Whaipānga.

The claimants may amend this claim at a later stage. In any case the Tribunal may require the claimants to prepare a fully particularised statement of claim before the claim can be heard.

The Tribunal currently runs district and kaupapa inquiry programmes in which claims are grouped either by district or by kaupapa (thematic) issue. Historical claims are those that raise grievances which arose before 21 September 1992. Contemporary claims have grievances that arose on or after that date. Some claims have both historical and contemporary grievances.

The allegations made in this claim are contemporary in nature. They pertain to the justice system and as such may be best suited for consideration in Wai 3060, Te Rau o Te Tika: the Justice System kaupapa inquiry.

When the time comes for the claim to be prepared for hearing, the Tribunal will decide whether there are any matters in the present claim that the Tribunal may not inquire into. The claimants needs to be aware that there are some matters that the Tribunal is not allowed to inquire into, such as any Bill that has been introduced into Parliament (unless the Bill has been referred to the Tribunal under section 8 of the Treaty of Waitangi Act 1975). Also, when historical claims are settled, the settlement legislation usually forbids the Tribunal from inquiring further into the matters that have been settled.

The claimants also needs to be aware that the Tribunal does not make settlements. After the Tribunal has completed an inquiry into claims, it writes a report making recommendations to the Crown. It cannot tell the Crown what to do; it may only recommend that the Crown acts to address the negative consequences of its breaches of the principles of the Treaty.

Legal Aid Services provides help for Waitangi Tribunal claimants. For advice on getting a lawyer or receiving funding, please contact Legal Aid Services at their Wellington central office or one of the local offices; the claimants should check their telephone directory for contact details.

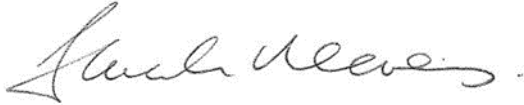
Any questions about the contents of this document should be directed to The Registrar, Waitangi Tribunal, DX SX 11237, Wellington; phone (04) 914 3000, fax (04) 914 3001; email wt.registrar@justice.govt.nz.

The Registrar is to send a copy of this direction to the claimants and to:

- Crown Law Office;
- Te Kahui Whakatau (Treaty Settlements), Office for Māori Crown Relations – Te Arawhiti;
- Crown Forestry Rental Trust;
- Legal Aid Services;
- Te Puni Kōkiri;
- Ministry of Justice;
- Department of Corrections; and

- all those on the notification list for Wai 3060, Te Rau o Te Tika: the Justice System kaupapa inquiry.

DATED at Wellington this 5th day of May 2022

A handwritten signature in black ink, appearing to read "Sarah Reeves". The signature is fluid and cursive, with a small dot at the end.

Judge Sarah Reeves
Deputy Chairperson

WAITANGI TRIBUNAL