OFFICIAL

IN THE WAITANGI TRIBUNAL

WAI 3060
WAI 2906

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF a Claim by Edwin Tuterangi Whiu, on behalf of himself and other Māori inmates from Northland

BRIEF OF EVIDENCE OF JASON HEIHEI

Date: 28 May 2026

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Waitangi Tribunal
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Ministry of Justice
WELLINGTON

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MAY IT PLEASE THE TRIBUNAL:

Ki te Kaiwhakawā tēnā Koe

Ki te Roopu Whakamana o Te Tiriti o Waitangi tēnā Koutou

Ki nga Roia o te Kaurna tēnā Koutou

Ki nga Roia of nga Kaikareme then Koutou

No Reira, Tēnā Koutou Katoa

Ko Jason Heihei ahau. He Māori ahau

BACKGROUND

1. I was born and raised in Kaitaia. On my father's side my Iwi is Te Rarawa. On my mother's side my hapū is Ngati Rehia, and my Iwi is Ngapuhi.

2. In September of 2017 I was sentenced in the Whangārei High Court to life imprisonment for murder. I was thirty years old when this happened. I had an altercation with my younger brother who was 29 at time. He was injured in the altercation and died. My dad advised I should plead guilty and I entered a guilty plea through my lawyer. It took me a long time to come to terms with my brother's death.

3. I have been in prison for almost ten years now. For the first 6 1/2 years I was incarcerated in Northland Regional Correctional Facility "NRCF". From here I was transferred out to Wiri prison in Auckland where I spent one year before being transferred to Waikeria prison.

4. I was not advised of the reason for my transfer from NRCF to Wiri prison prior to the transfer occurring. I was surprised by the transfer transferred to Wiri because at that time I had submitted an application for compassionate leave in so that I could visit my dad who was dying. I made a request for a review of the reasons behind my transfer and the response I eventually received was that it was for a course that I was required to do. I believe the reason I was given was just a way of fobbing me off. I say that because I had a live sentence, so the reason given was

inconsistent with the fact that you only get to do rehabilitation courses just before you are due to have your parole hearing.

5. My memory of Wiri was that it was a bad prison. It had a bad vibe to it. You could feel a different wairua there, a negative one. I saw a staff member get stabbed while I was there. It was frightening. I saw inmates giving other inmates the bash while prison guards just stood there and ignored what was going on. I saw Pacific Island Prison Officers favouring their own ethnic group.

6. I was really concerned about my personal safety when I was there. Many other prisoners incarcerated there harboured the same concerns. These were conversations that I shared with many prisoners.

7. At the time I was a Wiri inmate there was a large prison population of Pacific Islanders there and at that time the Pacific Islanders in the prison did not get along with Maori prisoners. There was constant rivalry between Maori and different Pacific Islander ethnic groups, the majority, though not all Pacific Island prisoners hated Maori.

8. I witnessed stand over tactics happening on a regular basis over food and other things and you couldn't do anything about it. I remember in the dinning room that was one table that had six people on it. This was the table for non-gang members. I and three other Maori prisoners sat on that table along with two other pakeha inmates.

9. At Wiri nearly everyone was on drugs. I don't really know how they got the drugs into the prison, but it happened. I saw female Pacific Island Prison Officers, blatantly and openly having consensual sex with prison inmates. When you're not used to seeing those things, it's really disturbing. The level of corruption that was going on in that prison was significant. I was not surprised when the prison was quite recently closed. I presume it will be refurbished and reopened, but I hope what was wrong in the prison will be addressed.

10. My transfer from Wiri prison to Waikeria prison was organised by my case manager on my insistence because from my perspective it had become dangerous for me

in Wir and I believed my life was at risk. I literally had to beg my case manager to organise the application for the transfer on my behalf. At the time I was also trying to do my NCEA qualifications. Even though I was in prison I was still trying to better myself.

11. I've been back in NRCF for a while. I don't cause any trouble here and I do what I'm asked to do, I keep my head down and avoid conflict. My ROC/ROI classification reflects that. Currently it is 0.4 which is s minimum security classification level. In the entire time I've been in custody I have had 10 misconduct events. That's an average of one per year. The main ones were IDU's (paraphernalia in my room and phones). When my lawyer asked why phones. I said that I hadn't spoken to my kids for a long time because my ex-partner had a protection order which covered not only herself but all our kids as well. I just wanted to call them because I missed them. I have two boys aged 17, 18 and a girl who is 14. I haven't even met my daughter yet.

12. My first parole hearing is scheduled for July 2026. I had to have a psych assessment done which would then determine which rehabilitation course/s I can get into. The plan was to get me into the Medium Intensity Rehabilitation Program "MIRP" and the Drug and Alcohol program. I have since completed these programs. This was part of the reason I was sent to Waikeria. You also must have a safety plan. This has been completed as well.

13. My lawyer for these hearings has asked me about mass prison musters, and I want to try to answer that question as it may assist the Tribunal in understanding some of the internal processes that occur in prisons. When there is a mass prison muster it ends in a lot of prisoners being transferred out of a prison all at once. This has happened here in NRCF in the past.

14. In my opinion, mass prison musters are not good for Maori prisoner morale because in the case of NRCF, many prisoners who are from this area are sent away from their home and it significantly impacts on the ability of whanau to visit them. Whanau visits, and cultural support from hapu members is an extremely important part of a Maori prisoner's support network, and when you end up being sent away from your rohe that important support system suddenly vanishes. For myself, being imprisoned in a prison that is outside your rohe is cultural insensitive. I would suggest it breaches our treaty rights because even though we have been imprisoned for our wrongdoing, the Crown is still our treaty partner, and as such the duty to actively protect Maori still applies to Maori inmates.

15. I want to come back to inmate safety in prison because I think this is something that is important to all of us and every inmate in prison has a right to feel safe. I know when new young Maori enter the prison environment they often go to the Mount. One of the first things that happens to new prisoners is they are given a hiding by other prisoners. That is not very good for an inmate. There are things that can be done to minimise this risk such as reporting the incident but that does not save you from the beating, but it can lessen the possible continuation of beatings.

16. Another solution is you can ask to be transferred to segregated prisoners from mainstream prisoners. If this occurs you become part of the segregated prison population and you are housed away from mainstream prisoners. Once you choose segregation you usually remain in the segregation prison population. Requesting to be placed into the segregated prison population for a Maori prisoner is accompanied by a loss of mana in the eyes of other prisoners. There is a sense of shame that attaches to it; however, the point I want to emphasise is that all inmates have a right to feel safe. I believe that that is a fundamental human right.

17. I get the feeling that people on the outside sometimes form the view that people who end up in prison deserve to be there because they are bad and they have foregone their human rights. I think that that view is wrong because there are many crimes that are non-violent which you can end up in prison for.

18. I am thinking of the likes of driving whilst disqualified too many times as one example which commonly leads to people going the prison on recidivist driving disqualified charges. The charge is not a crime that has high culpability attached to it, but if you reoffend often enough you can get close to the maximum sentence which is two years imprisonment. If your fifth or sixth time you are in the firing line for sentence of imprisonment. For those appearing on their twelfth offence of driving while disqualified charge will almost inevitably face a prison sentence.

19. One other matter that I want to talk about is that I think that an important thing for prisoners who are in the prison system is understanding their rights while they are in prison. This is something that prisoners are not really informed of when they enter prison, but it is something that I believe is important and if there was one recommendation that comes out of this inquiry it is that. Prisoners should be advised of the rules and their rights as soon as they enter the prison system.

20. There is a formal complaints system in prison, and you can also seek the assistance of the Ombudsman's Office if you are unhappy with the outcome of your complaint. However, "that process is not effective. On most occasions it is a waste of effort seeking the assistance of the Office of the Ombudsman. Why, because they are all under the same banner. The question that I pose is – Who do we as prisoners turn to when the whole complaint system is corrupt? When no one is held accountable for their actions of omissions (inactions).

21. Prison Management have a duty of care which is owed to prisoners in terms of prisoner safety and the Crown has an additional duty to actively protect Maori. It can be frustrating because man prison Managers do not understand the Te Tiriti o Waitangi, and that is the same for many of the Prison Officers. Most do not have any more than a rudimentary knowledge of our culture. The exception being of course being prison officers who are themselves Maori.

22. Many Prison Officers in our New Zealand prisons are foreigners. It seems when you're on the inside looking out it looks like that's how management prefer it and because the Crown shows such little sign of wanting to make changes to improve conditions within prisons it would appear that the Crown also displays little interest in improving things and in honouring Te Tiriti and the principles of the Treaty.

23. The final thing that I want to talk about is the ability of prisoners to work while they are in prison is really important. In NRCF the segregation prison population have most of the jobs that are available for inmates within the prison system. I appreciate that segregation prisoners are more compliant than mainstream prisoners and are generally earlier to handle or deal with, however, I think the jobs that are available to prisoners while they are in prison should be evenly distributed between mainstreamers and segregation prisoners.

24. My reason for voicing this is that working is good for everybody because it creates a routine for the working prisoner and this is very important. It is my belief that a person should not lose their desire to strive, or to achieve while they are imprisoned because when a person is out of work too long, they can end up being unemployable and that is not good for a person. They tend to lose hope and when they are released those people can often end up being completely reliant on the state. Being stuck in a prison without hope is a dangerous situation to be in.

25. I want to thank the Waitangi Tribunal for coming into the prison to hear the evidence from inmates such as myself.

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Jason Heihei