



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD439/2023

WALTER MAMAKU

Applicant

**MINISTER FOR IMMIGRATION, CITIZENSHIP, MIGRANT SERVICES AND
MULTICULTURAL AFFAIRS** and another named in the schedule

Respondent

CONSENT ORDER

JUDGE: JUSTICE MARKOVIC

DATE OF ORDER: 3 October 2023

WHERE MADE: Sydney

THE COURT ORDERS BY CONSENT THAT:

1. The name of the first respondent be amended to Minister for Immigration, Citizenship and Multicultural Affairs.
2. A writ of certiorari issue directed to the second respondent quashing the decision of the second respondent dated 12 April 2023.
3. A writ of mandamus issue directed to the second respondent requiring it to determine the application for review of the decision of a delegate of the first respondent dated 28 February 2022 according to the law.
4. The first respondent pay the applicant's costs as agreed or assessed.

THE COURT NOTES THAT:

5. The first respondent accepts that the application must be allowed on the basis that the decision of the second respondent (**the Tribunal**) was affected by jurisdictional error. In finding (at **CB 477**, [97]-[98]) that the "*Impact on victims*" consideration contained at paragraph 9.3 of *Direction No. 99* (**the Direction**) weighed against revocation of the mandatory cancellation decision, the Tribunal misapplied paragraph 9.3(1) of the *Direction*. That paragraph required there to be information available in relation to the impact of the s 501CA decision on members of the Australian community, including victims of the applicant's criminal behaviour, and the family members of the victim or



victims, and for the applicant to have been afforded procedural fairness: see *HVLC v Minister for Home Affairs* [2019] FCAFC 204 at [27]; also see: *Manebona v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2023] FCAFC 116 at [134].

Date that entry is stamped: 3 October 2023

Sia Lagos
Registrar



Schedule

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Second Respondent ADMINISTRATIVE APPEALS TRIBUNAL