



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD724/2022

GODFREY KING

Applicant

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

Respondent

ORDER

JUDGE: JUSTICE PERRY, JUSTICE BURLEY and JUSTICE SHARIFF

DATE OF ORDER: 09 November 2023

WHERE MADE: Sydney (in Chambers)

BY CONSENT, THE COURT ORDERS THAT:

1. The decision of the second respondent made on 2 August 2022 be set aside.
2. The application for review lodged with the second respondent on 12 May 2022 be remitted to the second respondent for re-consideration according to law.
3. The first respondent pay the applicant's legal costs of the current proceeding fixed in the agreed sum of \$15,000.

THE COURT NOTES THAT:

4. The first respondent concedes that the decision of the second respondent dated 2 August 2022 is affected by jurisdictional error. The reason is outlined at ground 5 of the amended application filed on 13 July 2023. That is, the second respondent failed to consider the impact of non-revocation of the applicant's visa on the applicant's mother (as required by paragraph 9.4.1(1) of Direction 90 made under s 499 of the *Migration Act 1958*), in circumstances where the applicant's mother made written representations about relevant matters at Appeal Book pp 218 [18] and 220, which were not withdrawn. The failure was material, as the matters could have weighed in the applicant's favour.



Date that entry is stamped: 9 November 2023

Sia Lagos
Registrar



Schedule

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Second Respondent ADMINISTRATIVE APPEALS TRIBUNAL