



Federal Court of Australia

District Registry: New South Wales Registry

Division: General

No: NSD2023/2025

NWVH

Applicant

MINISTER FOR IMMIGRATION AND CITIZENSHIP and another named in the
schedule

Respondents

ORDER

JUDGE: Justice Stewart

DATE OF ORDER: 13 April 2026

WHERE MADE: Sydney

BY CONSENT, THE COURT ORDERS THAT:

1. Pursuant to s 477A(2) of the *Migration Act 1958* (Cth) (**the Act**), the time for the filing of the application under s 476A of the Act be extended up to and including 26 October 2025.
2. A writ of certiorari issue to the second respondent, quashing its decision dated 15 September 2025 (file number 2025/4182).
3. A writ of mandamus issue directed to the second respondent requiring it to determine the application made on 30 June 2025 according to law.
4. The first respondent pay the applicant's costs to be assessed if not agreed.
5. The hearing listed on 5 May 2026 be vacated.

THE COURT NOTES THAT:

- A. The first respondent (**Minister**) concedes that the second respondent (**Tribunal**) misapplied the principles expressed in *Lesianawai v Minister for Immigration, Citizenship and Multicultural Affairs* [2024] HCA 6; 281 CLR 1 and *Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v Thornton* [2023] HCA 17; 276 CLR 136. The Tribunal correctly proceeded on the basis that those authorities stood for the proposition that the Tribunal was prohibited from taking certain charges and convictions for youth offending into account (at paragraph



[5]). The Tribunal erred, however, in applying those authorities and took into account an irrelevant consideration, namely findings as to the applicant’s “history of offending” when a minor (at paragraphs [10]-[11] and [27]). That error was material to the Tribunal’s ultimate conclusion and, in the circumstances, constituted a jurisdictional error.

Date orders authenticated: **13 April 2026**

Sia Lagos
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



Schedule

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Second Respondent

ADMINISTRATIVE REVIEW TRIBUNAL