



Federal Court of Australia

District Registry: Western Australia Registry

Division: General

No: WAD83/2026

DAVID HULL

Applicant

MINISTER FOR IMMIGRATION AND CITIZENSHIP and another named in the
schedule

First Respondent

ORDER

JUDGE: Justice McDonald

DATE OF ORDER: 25 June 2026

WHERE MADE: Adelaide (in chambers)

THE COURT ORDERS BY CONSENT THAT:

1. The hearing listed on 21 July 2026 be vacated.
2. A writ of certiorari issue, quashing the decision of the second respondent dated 10 February 2026.
3. A writ of mandamus issue, directed to the second respondent, requiring it (differently constituted) to determine the application made to it for review of the decision of a delegate of the first respondent dated 24 November 2025 according to law.
4. The first respondent pay the applicant's costs of the proceedings, to be agreed or assessed.

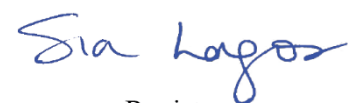
THE COURT NOTES THAT:

- A. The first respondent (**Minister**) concedes that the decision under review is affected by jurisdictional error on the basis that the second respondent (**Tribunal**) took into account a legally irrelevant consideration, namely the fact that the applicant was charged with, and/or found guilty of, the offences of *drive on road etc while licence suspended* on 16 April 2009 and *drive, licence suspended under s 66 Fines Act – 1st off* on 3 March 2014 (**driving charges**).



- B. On 16 April 2009 and 3 March 2014, the Local Court of New South Wales – without proceeding to conviction – found the applicant guilty of the driving charges and discharged him, pursuant to s 10(1)(b) of the *Crimes (Sentencing Procedure) Act 1999* (NSW) (***Sentencing Procedure Act***), on condition that he enter into a good behaviour bond for a period of 12 months (for each charge): Court Book filed on 10 May 2026 (CB), 53, 491.
- C. The Minister accepts that, for the reasons given by the High Court of Australia in *Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v Thornton* (2023) 276 CLR 136 (***Thornton***) and *Lesianawai v Minister for Immigration, Citizenship and Multicultural Affairs* (2024) 281 CLR 1 (***Lesianawai***), s 10(1)(b) of the *Sentencing Procedure Act* is a “State law” under which the applicant, in all relevant circumstances and for all relevant purposes, “is taken never to have been convicted of” the driving charges, being a law engaging s 85ZR(2) and s 85ZS(1)(d)(ii) of the *Crimes Act 1914* (Cth).
- D. Accordingly, the Minister accepts that the Tribunal was precluded, by reason of those provisions of the *Crimes Act*, from considering the fact that the applicant was charged with, or found guilty of, the driving charges in the purported exercise of the power conferred on it by s 500(1)(ba) of the *Migration Act 1958* (Cth). Consequently, the Minister accepts that the Tribunal considered a legally irrelevant consideration and its decision was thereby affected by error: *Thornton* at [4]; *Lesianawai* at [7], [46].
- E. The Minister accepts that the Tribunal’s error was material. The Tribunal took into account the existence of the driving charges at [52] and [75] of its reasons: CB 502, 509. Consequently, the Minister accepts there is a realistic possibility that the Tribunal’s decision could have been different had the driving charges not been considered: *LPDT v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* (2024) 280 CLR 321 at [7], [16], [38].

Date orders authenticated: 25 June 2026


Registrar

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



Schedule

No: WAD83/2026

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Second Respondent

ADMINISTRATIVE REVIEW TRIBUNAL