



Administrative
Appeals
Tribunal



ADMINISTRATIVE APPEALS TRIBUNAL)
GENERAL ADMINISTRATIVE DIVISION)

Re BRUCE WILLIAM PATMORE
AND OTHERS

Applicant

And INDEPENDENT INDIGENOUS
ADVISORY COMMITTEE

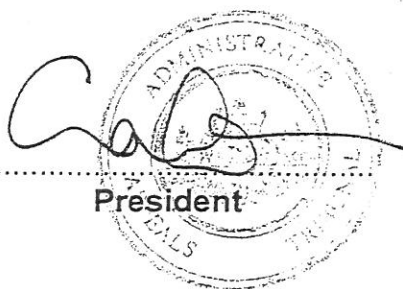
Respondent

REASONS FOR DECISIONS

Tribunal Justice Garry Downes, President
Deputy President Stephen Estcourt, QC
Deputy President Don Muller

Date 18 October 2002

Place Hobart



that they and each of them are persons of the Aboriginal race of Australia.

The David Temple/Charlotte Bryant Group

T2002/267 Karen Maree Whalan
T2002/268 Boe Henry Whalan
T2002/277 Kevin Harold Rushton

153. Kevin Harold Rushton is the father of Karen Maree Whalan (nee Rushton). Karen Maree Whalan is the mother of Boe Henry Whalan. The claim made on behalf of these applicants is that Kevin Rushton has aboriginal ancestry through the line of his mother, Coralie Rushton (nee Honner), and her mother Minnie May Honner (nee Temple), who was married to James William Honner.

154. Evidence was given by Peter Berton Whalan, husband of Karen Maree Whalan that Kevin Rushton was raised by his grandparents, James and Minnie Honner. Kevin Rushton remembers his grandmother as being a very dark woman. Minnie Honner (nee Temple) told the family that she thought her colour came "*through the Bryant line*". Minnie's mother was said to be Charlotte Temple (nee Bryant). Charlotte's father was James Bryant.

155. Coralie Rushton told the family that she could remember an uncle of hers, George Temple, whom she said had "*dark skin and talked like an aborigine*". Karen Whalan remembers her great uncle, Darcy whom she said had dark skin.

156. Photos which included Kevin Rushton were tendered to the Tribunal. There is no doubt that he has very dark skin and could be of aboriginal descent. Evidence was given by Mrs. Whalan's husband that some years ago he travelled to the Northern Territory with Kevin Rushton. Mr. Whalan said that when they encountered segregated hotel bars, Kevin Rushton would drink in the aboriginal bars. Kevin Rushton has nothing to do with his father who used to abuse his mother (Coralie) and call her names such as "*black gin*" and "*black bitch*".

157. Mrs. Whalan has been heavily involved with her local Aboriginal Corporation. She has been a member of the Committee, Secretary and Chairperson. She is currently completing a University Degree in Aboriginal Health.

158. The archival records show that a convict from Surrey, England, by the name of James Bryant, ploughman, arrived in Tasmania in 1831 on the "John". He was described as having a dark complexion.

159. It is difficult to reconcile the oral history of the family which indicates aboriginal descent with the archival records which indicate that the family should probably be white.

160. The Tribunal has come to the conclusion that Minnie may not have passed on accurate information, or she may not have known where her colour originated. In any event the Tribunal accepts the oral history of the family.

161. For the reasons given in the general parts of these reasons and for the reasons given above we find as to:

Karen Maree Whalan
Boe Henry Whalan
Kevin Harold Rushton

that they and each of them are persons of the Aboriginal race of Australia.

The Margaret Briggs/Ann and William Hite Group

T2002/125 Sheryn Denise Williams
T2002/150 Annie Benson

162. Annie Benson was represented by her solicitor, Mr. Glover. Ms. Sheryn Denise Williams represented herself.

163. The following matters are well documented and there is no dispute between the parties as to their accuracy. Mrs. Benson was born Annie Hite on 30 August

1926. She had a sister, Hazel Francis Hite (married to Ernest Catlin) who was born on 19 January 1924 and died in 1996. Their father, John Hite, was born at Blackmoore, Tasmania, on 31 May 1887. John Hite was a dark-skinned person of aboriginal appearance. His wife, the mother of Annie and Hazel, was a white woman. She died on 12 April 1957.

164. John Hite's father, William Hite, was recorded as having been born at Perth, Tasmania, on 26 June 1844. He was christened on 11 August 1844. He died on 21 May 1919 at Deloraine, Tasmania. William Hite married twice. John Hite was the son of William Hite's second wife.

165. The records show that William Hite's father was Samuel Hite, a former convict, his mother was Mary-Ann Pendrill and they married on 10 July 1837. There is nothing in the official records to indicate why John Hite and William Hite would have had dark skin.

166. The matter has been explained by way of oral history, as recorded by Hazel Hite in an article which she wrote for a publication called "*The Wailing*". Mrs. Benson has adopted that article as representing her history for the purpose of these proceedings. The points made in the article which have relevance to Mrs. Benson's case were:

- Her mother told her about the history of the family.
- Samuel Hite was transported to Tasmania for life for burglary. He obtained his conditional pardon on 26 November 1834 and he was granted a free pardon on 15 December 1840. He married Mary Ann Pendrill who had also been a convict.
- Samuel Hite had a brother Thomas Hite who came to Tasmania as a sealer-sailor.

- Thomas Hite "*grabbed himself*" an aboriginal woman. They had a daughter Ann in 1837. Samuel and Mary Ann took the girl and recorded her as their own.
- Thomas Hite and his aboriginal wife had a son, William, in 1844. Samuel and Mary Ann also took William and reared him.
- The son, William Hite was the grandfather of Hazel Hite and Annie Benson (Hite), the applicant.
- The grandmother (mother's mother) of Hazel and Annie told them when they were children that they were savages and that they would never amount to anything.
- When Hazel and Annie married, their mother said to them that they could have a dark baby. When Hazel gave birth to her first child, her maternal grandmother walked to the hospital to make sure that the baby was not black.
- When they first went to school they were called "*native*", "*nigger*" and "*savage*".
- Their mother treated their father so badly because of his colour that he eventually left the family in the 1930s.

167. Sheryn Denise Williams can trace her family tree back to Ann Hite, who married William Aylett on 31 August 1858. The Ann Hite in Ms. Williams' family tree is the same Ann Hite as mentioned above. Ms. Williams has been recognised and accepted as a Tasmanian Aborigine by the Circular Head Aboriginal Corporation.

168. Ms. Williams gave evidence to the Tribunal that Ann Hite and William Aylett are both buried in the Jenner Cemetery at Wynyard. The cemetery records show they were married on 31.8.1853 (archives show 1858). Ann Hite is buried in the

aboriginal section. William Aylett is buried in the white section. Apparently the Shire Council refused to allow Ann to be buried with her husband.

169. The Tasmanian archival records do not record a Thomas Hite for the era in question. The New South Wales records show a Thomas Hite died in 1841 at the age of 47.

170. The archival records which indicate that all of the abovenamed persons should have been white, cannot be taken at face value if in fact William Hite, John Hite and Ann Hite were sufficiently dark-skinned to have been discriminated against during their lifetime and even in death as in the case of Ann Hite.

171. The only acceptable explanation available to the Tribunal is that put forward in the article by the late Hazel Hite, as adopted by the two applicants. That is, that the applicants are the descendants of Thomas Hite and an aboriginal woman.

172. Accordingly, for the reasons given in the general parts of these reasons and for the reasons given above we find as to:

Sheryn Denise Williams
Annie Benson

that they and each of them are persons of the Aboriginal race of Australia.

The Maria Campbell Group

T2002/132 Brian Reginald Fisher
T2002/133 Todd Matthew Fisher

173. Brian and Todd Fisher, who are father and son, claim through Maria Campbell born in 1810, who they say was the daughter of Archibald Campbell and an Aboriginal woman. Maria Campbell was the mother of Harriet Campbell, the grandmother of Adelaide Lancaster, the great grandmother of Herbert Coulson, and