

NOTICE OF FILING

Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 5/03/2024 7:42:39 PM AEDT
Date Accepted for Filing: 5/03/2024 7:42:51 PM AEDT
File Number: VID403/2023
File Title: SAVE THE CHILDREN AUSTRALIA v MINISTER FOR HOME AFFAIRS
& ANOR
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Document Lodged: Affidavit - Form 59 - Rule 29.02(1)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 23/08/2023 1:13:19 PM AEST
Date Accepted for Filing: 23/08/2023 1:13:26 PM AEST
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A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

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Form 59
Rule 29.02(1)

Affidavit

No. VID 403 of 2023

Federal Court of Australia

District Registry: VIC

Division: General

Save the Children Australia

Applicant

Minister for Home Affairs and another

Respondents

Affidavit of: **Mathew Tinkler**

Address: 33 Lincoln Square South, Carlton, Victoria

Occupation: Chief Executive Officer

Date: 23 August 2023

Contents

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| 4 | Annexure “MT-9”: article by Ben Doherty of the Guardian Australia dated 2 August 2023 titled, ‘Australian teenager Yusuf Zahab “alive” in Syrian prison months after reports he was killed in IS strike’ | 14 | 11 – 13 |

I, Mathew Tinkler, Chief Executive Officer, of 33 Lincoln Square South, Carlton, Victoria affirm:

- I am the Chief Executive Officer of the Applicant in this proceeding, and I am authorised to make this affidavit on the Applicant’s behalf.

DS
MT

DS
AB

2. I have previously provided an affidavit in this proceeding dated 5 June 2023 (the **First Tinkler Affidavit**).
3. In this affidavit I testify about what I was told during my visit to the Al-Roj camp. This visit is covered in detail in the First Tinkler Affidavit. I have no reason to believe that what I was told during my visit to Al-Roj camp was not true and correct.

Addition to the list of STCA-authorising remaining women and children

4. The First Tinkler Affidavit annexed a statement prepared and signed by me on 18 May 2023 (**Tinkler Statement**) as exhibit MT-1.¹
5. At paragraph 10 of the Tinkler Statement, I referred to the 'STCA-authorising remaining women and children' and listed the names of those women and children on whose behalf the Applicant was authorised to issue the legal proceedings.

- ██████████
6. Since preparing the Tinkler Statement, the Applicant has subsequently been authorised by ██████████ via audio recording received on WhatsApp on or around 18 August 2023 to add her and her children ██████████ and ██████████ ██████████ to the list of STCA-authorising remaining women and children.
 7. I am instructed that Ms ██████████ and her children are, or are eligible to be, Australian citizens. Annexed at page 6 of MT-7 is a table containing details of the name, date and place of birth, citizenship status and medical conditions of Ms ██████████ ██████████ and her children.
 8. Ms ██████████ was one of the 12 Australian women with whom I met when I visited Al-Roj camp on 18 June 2022. My visit to Al-Roj camp and interactions with the 12 Australian women are detailed at paragraphs 32-35, 72-74 and 76-78 of the Tinkler Statement.
 9. On the basis of these interactions, it is my understanding that ██████████ and her children are being detained unlawfully and inconsistently with international law. I set out the basis for this understanding at paragraphs 41-45 of the Tinkler Statement.
 10. As described at paragraph 76(2) of the Tinkler Statement, I toured and took images of one of the Australian women's tents. This tent was occupied by Ms ██████████ and her children. I can also confirm that Ms ██████████ was the Australian woman who told me the information at paragraph 76(3) of the Tinkler Statement.

¹ Exhibit MT-1 to the First Tinkler Affidavit at pages 7-50.

11. In addition to the audio recordings referenced at paragraph 70 of the Tinkler Statement, two audio recordings by Ms [REDACTED] were provided at or around the same time. A true transcript of these recordings is annexed at page 9 of MT-8. The recordings are summarised below:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12. The Applicant has also been authorised by [REDACTED] on 18 August 2023 to add her and her daughter [REDACTED] to the list of STCA-authorising remaining women and children.
13. I did not meet Ms [REDACTED] during my visit to Al-Roj camp on 18 June 2022, however she has expressed her authority via audio recording received on WhatsApp on or around 18 August 2023 that she is held in Al-Roj camp with her daughter and wishes to be added to the proceeding. Ms [REDACTED] also provided WhatsApp messages detailing the significant health problems in Al-Roj camp and suffered by her and her daughter.
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15. I have no reason to believe that the observations made at paragraph 77 of the Tinkler Statement do not apply to the conditions and circumstances faced by Ms [REDACTED] and her children, and Ms [REDACTED] and her daughter.

Reports regarding the death and subsequent proof of life of Yusuf Zahab

16. At paragraphs 79(2)-79(4) of the Tinkler Statement, I referred to reports received and confirmed by the Applicant that an Australian boy, Yusuf Zahab, was forcibly removed from Al-Roj camp to a male prison at the age of 14 and subsequently killed by an ISIS strike on that prison in or around January 2022. Annexed to the Tinkler

DS
MT

DS
AB

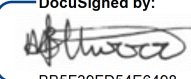
Statement at pages 327-353 are media reports and a statement made by the Applicant confirming this information.

- 17. However, reports have since been brought to my attention that Yusuf Zahab may in fact be alive. This report is based on a video which emerged on or around 1 August 2023, dated 15 September 2022, which was reported in the media. Annexed at pages 11-13 of MT-9 is an article by Ben Doherty of the Guardian Australia dated 2 August 2023 titled, 'Australian teenager Yusuf Zahab "alive" in Syrian prison months after reports he was killed in IS strike'.
- 18. At the time of affirming this affidavit, I have been unable to verify Yusuf Zahab's location or proof of life following the date on which the video was recorded.

Affirmed by the deponent
 at Melbourne
 in Victoria
 on 23 August 2023
 Before me:

DocuSigned by:

 123CC4E34DF4474
 Signature of deponent

DocuSigned by:

 BB5F39FD54E6498...

Signature of witness

Madelyn Beth Attwood

Corrs Chambers Westgarth
 Level 22, 567 Collins Street, Melbourne VIC 3000
 An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Victoria)
 A person authorised under section 19(1) of the *Oaths and Affirmations Act 2018* to take an affidavit.

This affidavit was signed and witnessed over audio visual link in accordance with the *Oaths and Affirmations Act 2018* (Vic).

Rule 29.02(8)

Annexure certificate

No. VID 403 of 2023

Federal Court of Australia

District Registry: VIC

Division: General

Save the Children Australia

Applicants

Minister for Home Affairs and another

Respondents

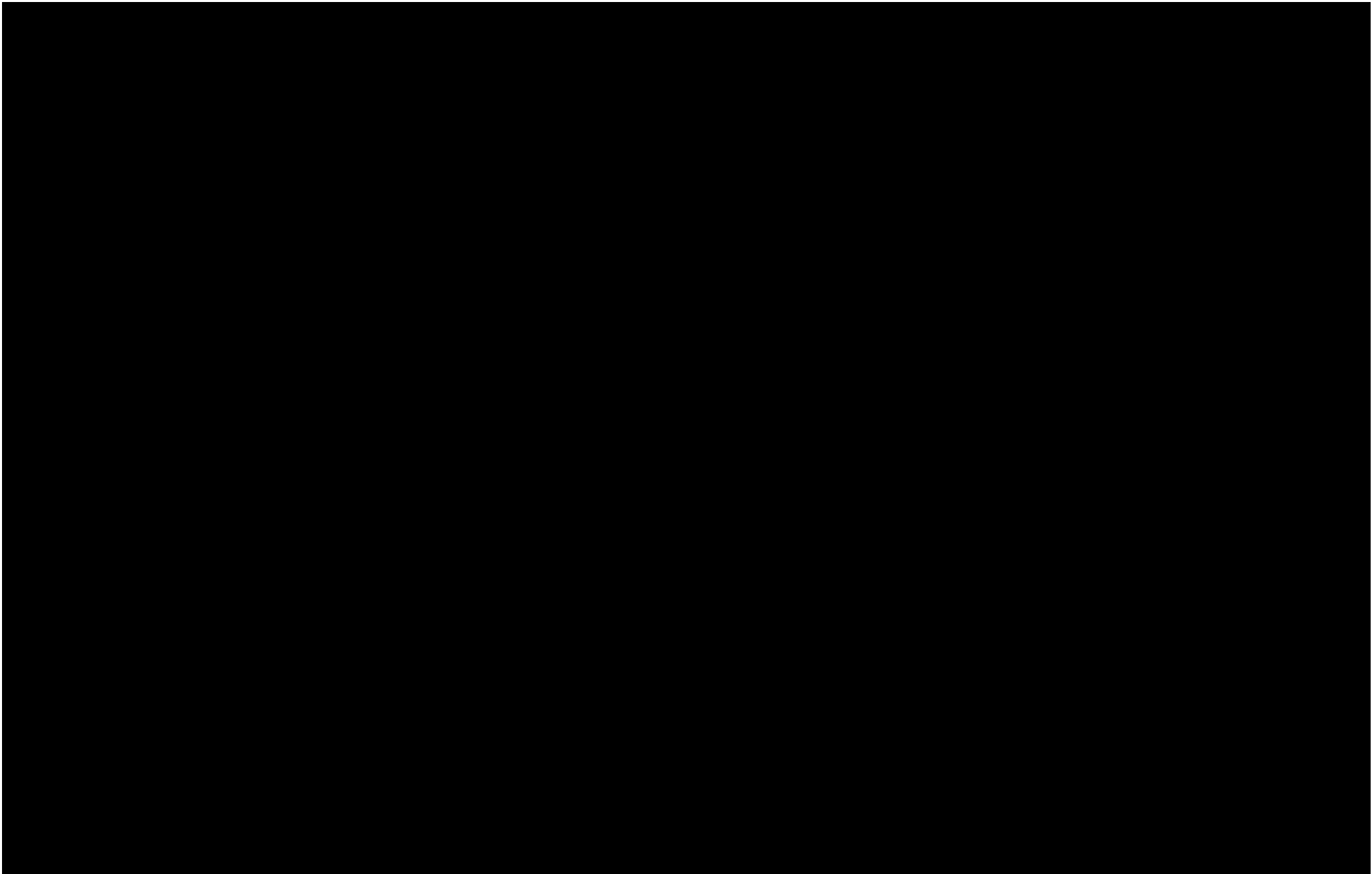
MT-7

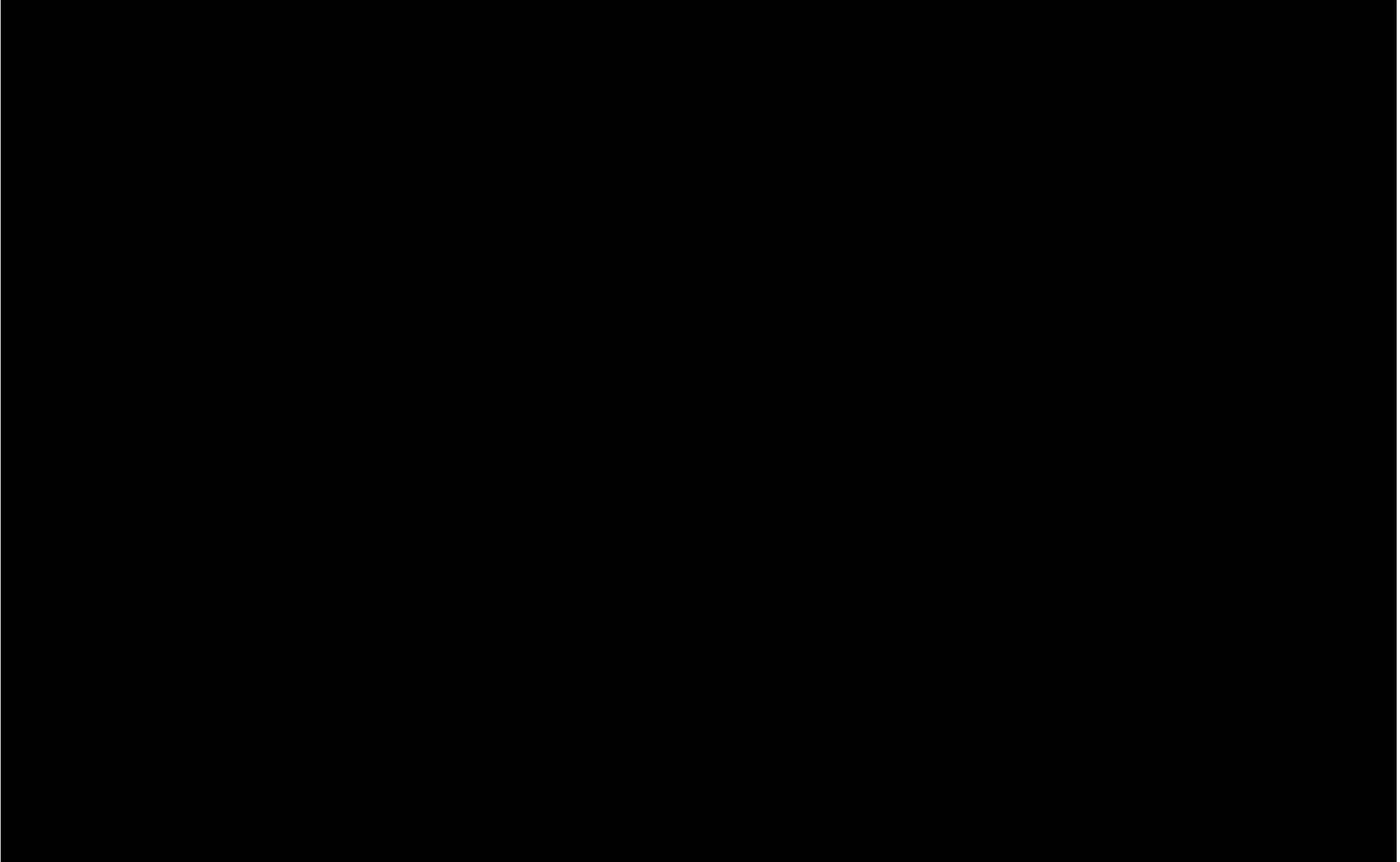
This is the annexure marked **MT-7** referred to in the affidavit of Mathew Tinkler affirmed on 23 August 2023.

| | | | |
|--|--|-----|-----------------|
| Filed on behalf of (name & role of party) | Save the Children Australia, the Applicant | | |
| Prepared by (name of person/lawyer) | Rita Jabri Markwell | | |
| Law firm (if applicable) | Birchgrove Legal | | |
| Tel | +61 2 9018 1067 | Fax | +61 2 9054 0836 |
| Email | rmarkwell@birchgrovelegal.com.au | | |
| Address for service (include state and postcode) | Hyde Park Towers, Ground Floor, S.2, 148A Elizabeth Street, Sydney, NSW, 2000 | | |

DS


DS



Rule 29.02(8)

Annexure certificate

No. VID 403 of 2023

Federal Court of Australia

District Registry: VIC

Division: General

Save the Children Australia

Applicants

Minister for Home Affairs and another

Respondents

MT-8

This is the annexure marked **MT-8** referred to in the affidavit of Mathew Tinkler affirmed on 23 August 2023.

DS


DS
MT

Transcript of audio recordings received from [REDACTED]

Audio recording 1

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Audio recording 2

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Rule 29.02(8)

Annexure certificate

No. VID 403 of 2023

Federal Court of Australia

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Save the Children Australia


Applicants

Minister for Home Affairs and another

Respondents

MT-9

This is the annexure marked **MT-9** referred to in the affidavit of Mathew Tinkler affirmed on 23 August 2023.

DS


DS
MT

Islamic State

Australian teenager Yusuf Zahab 'alive' in Syrian prison months after reports he was killed in IS strike

Family 'overwhelmed with joy' after video emerges of teenager, believed to be Zahab, looking healthy and speaking into a camera

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📷 Yusuf Zahab, pictured in al-Sina'a prison during the Islamic State siege in January 2022. Zahab's family said they 'have received information from several sources that our beloved Yusuf is indeed alive'. Photograph: Human Rights Watch

Ben Doherty

🐦 [@bendohertycorro](#)

Wed 2 Aug 2023 09:55 AEST

An Australian teenager believed killed in an [Islamic State](#) airstrike in Syria more than a year ago is believed to have been found alive. His family say they are “overwhelmed with joy”.

Yusuf Zahab was just 11 when he was taken into [Syria](#) by his family nearly a decade ago: his older brothers were IS fighters and recruiters.

Despite not being accused of any crime, Zahab was imprisoned from the age of 14. He was believed to have been killed by a January 2022 airstrike on al-Sina'a prison by IS fighters, seeking to break jailed insurgents out.

But a video has since emerged of a teenager, aged about 19, believed to be Zahab speaking into a camera. It is believed the video was shot inside a prison in the city of Hasakah in Syria's north-east.

In the video, he identifies himself, names his parents, and gives the date as 15 September 2022. Wearing a T-shirt, he is said to look relatively healthy and uninjured.

While the video is nearly a year old, it appears to confirm Zahab survived the IS attack on the prison where he was being held.

The video has been passed to Australian authorities, and shown to Zahab's family members in Australia. Syrian Democratic Forces have identified the teenager as Zahab. International charity groups are seeking to further confirm his identity.

Zahab's family said they have received information from several sources that our beloved Yusuf is indeed alive”.

“We are simply overwhelmed with joy by this news and are so thankful to now have hope again that we will soon be reunited with him.

“Unfortunately, this news follows 12 excruciating months in which numerous sources had indicated that Yusuf had died, and we are very concerned that he is still isolated from his family and stranded in north-east Syria where he remains unsafe.

“Yusuf was just a young boy when he was taken to Syria. We can only begin to imagine the horrors that he has suffered through since then.”

- [Sign up for Guardian Australia's free morning and afternoon email newsletters for your daily news roundup](#)



● Yusuf Zahab, pictured here as a young boy. He was presumed dead after an IS attack at the al-Sina'a prison in Syria where he was detained

Zahab's mother and sister, and his sister's young children, are currently being held in a detention camp in north-east Syria. His brothers, Khaled and IS recruiter Muhammed, were killed in airstrikes.

His family said now that the Australian government had received evidence Yusuf Zahab was alive, they hoped the government would act to bring him home to Australia.

“We also hope that the Australian government will bring the other Australian children home from north-east Syria, especially as some of them are at risk of being separated from their mothers and placed in similar conditions to Yusuf.

“The only way to truly protect all of these children is to bring them and their mothers home to Australia immediately, as the government has previously committed to doing so.”

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The Australian government has launched two repatriation missions to bring home Australians held in Syria.

in 2019, eight orphaned children, including a pregnant teenager, were returned to New South Wales from the camps.

And **last October**, four women and 13 children were brought back, also to NSW.

But there currently remains about 40 Australians - 10 women and 30 children, the wives, widows and children of slain or jailed IS fighters - **held in the Roj detention** camp near the Iraqi border.

There is a smaller cohort of Australians held at the al-Hol detention camp, larger and said to be more dangerous.

The Australian government has committed to bringing home the remaining Australians it can safely extract but has given no commitment as to when it will do so.

There are growing fears inside the camps for the boys within the Australian cohort.

As Yusuf Zahab was, boys reaching puberty are being systematically separated from their families and placed into detention centres and prisons, ostensibly out of fear of radicalisation. They are being arbitrarily detained in prisons across north-east Syria.

“The indefinite, cradle-to-grave, camp-to-prison detention of boys, based on crimes allegedly committed by their family members, is a shocking example of the legal black hole that North-east Syria currently epitomises,” a panel of UN experts, led by special rapporteur **Fionnuala Ní Aoláin**, said in a recent statement.

“We are extremely concerned that serious harm may befall these boys and fear they may be forcibly disappeared, and subject to sale, exploitation and abuse, torture, inhuman and degrading treatment or punishment.”

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Article count **on**

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Single

Monthly

Annual

\$15 per month

\$20 per month

Other

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Rule 29.02(1)

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No. VID 403 of 2023

Federal Court of Australia

District Registry: VIC

Division: General

Save the Children Australia

Applicant

Minister for Home Affairs and another

Respondents

Affidavit of: **Mathew Tinkler**

Address: 33 Lincoln Square South, Carlton, Victoria

Occupation: Chief Executive Officer

Date: 23 August 2023

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- I am the Chief Executive Officer of the Applicant in this proceeding, and I am authorised to make this affidavit on the Applicant’s behalf.

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Addition to the list of STCA-authorising remaining women and children

4. The First Tinkler Affidavit annexed a statement prepared and signed by me on 18 May 2023 (**Tinkler Statement**) as exhibit MT-1.¹
5. At paragraph 10 of the Tinkler Statement, I referred to the 'STCA-authorising remaining women and children' and listed the names of those women and children on whose behalf the Applicant was authorised to issue the legal proceedings.

- ████████████████████
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¹ Exhibit MT-1 to the First Tinkler Affidavit at pages 7-50.

DS DS
MT AB

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[REDACTED]

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[REDACTED]

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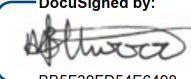
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- 18. At the time of affirming this affidavit, I have been unable to verify Yusuf Zahab's location or proof of life following the date on which the video was recorded.

Affirmed by the deponent
 at Melbourne
 in Victoria
 on 23 August 2023
 Before me:

DocuSigned by:

 123CC4F34DF4474
 Signature of deponent

DocuSigned by:

 BB5F39FD54E6498...

Signature of witness

Madelyn Beth Attwood

Corrs Chambers Westgarth
 Level 22, 567 Collins Street, Melbourne VIC 3000
 An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Victoria)
 A person authorised under section 19(1) of the *Oaths and Affirmations Act 2018* to take an affidavit.

This affidavit was signed and witnessed over audio visual link in accordance with the *Oaths and Affirmations Act 2018* (Vic).

Rule 29.02(8)

Annexure certificate

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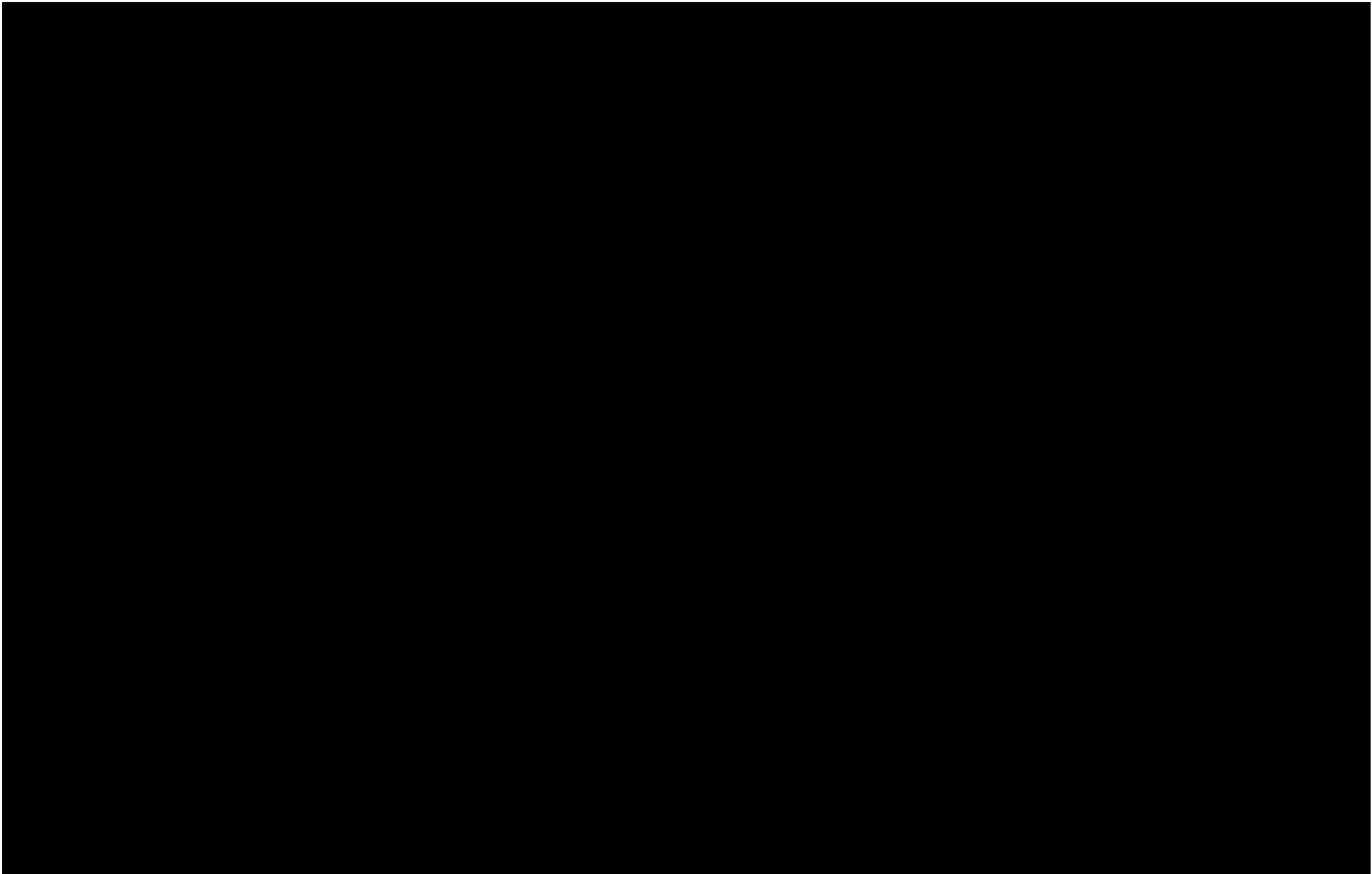
MT-7

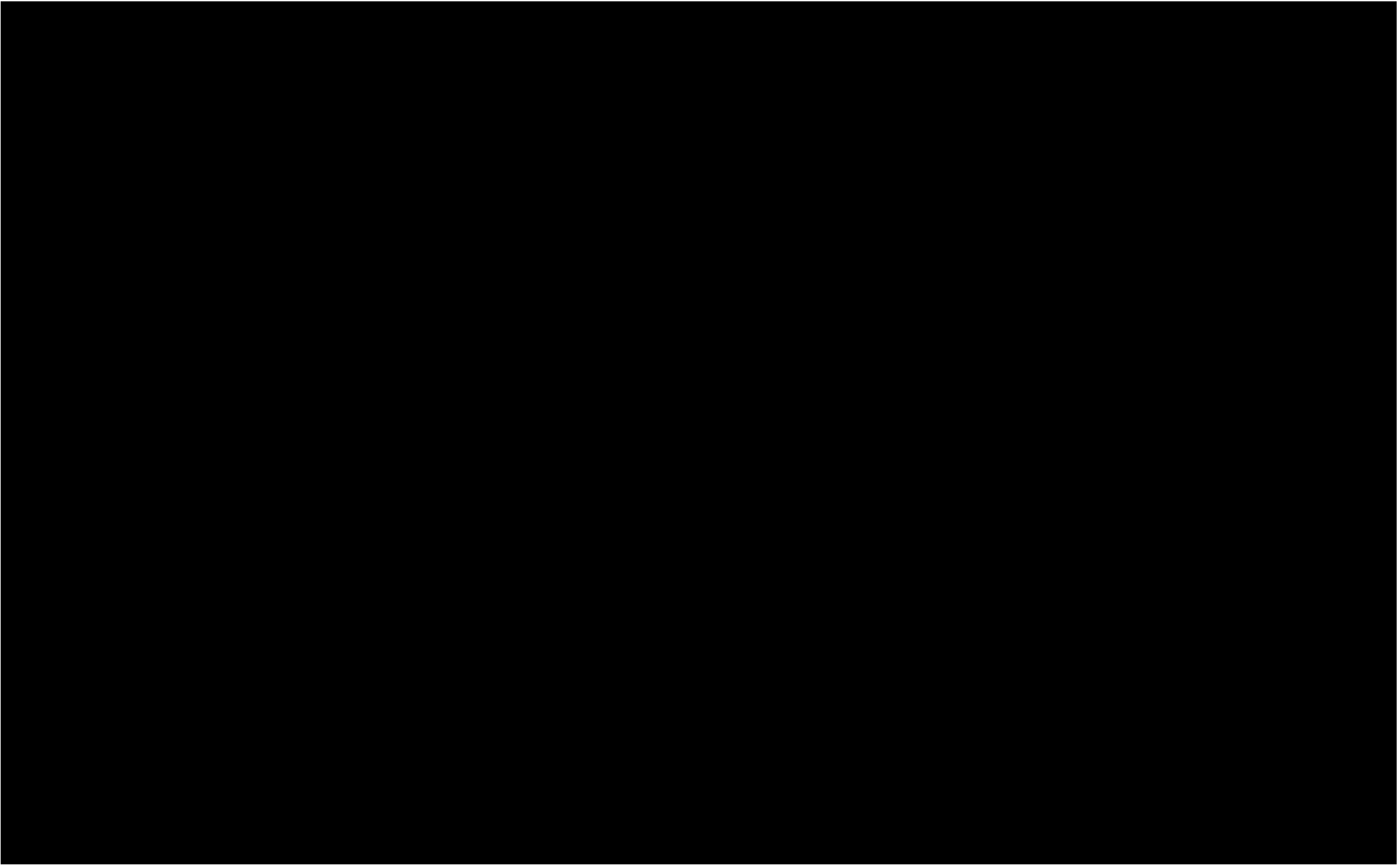
This is the annexure marked **MT-7** referred to in the affidavit of Mathew Tinkler affirmed on 23 August 2023.

| | | | |
|--|--|-----|-----------------|
| Filed on behalf of (name & role of party) | Save the Children Australia, the Applicant | | |
| Prepared by (name of person/lawyer) | Rita Jabri Markwell | | |
| Law firm (if applicable) | Birchgrove Legal | | |
| Tel | +61 2 9018 1067 | Fax | +61 2 9054 0836 |
| Email | rmarkwell@birchgrovelegal.com.au | | |
| Address for service (include state and postcode) | Hyde Park Towers, Ground Floor, S.2, 148A Elizabeth Street, Sydney, NSW, 2000 | | |

DS
AB

DS
MT





Rule 29.02(8)

Annexure certificate

No. VID 403 of 2023

Federal Court of Australia

District Registry: VIC

Division: General

Save the Children Australia

Applicants

Minister for Home Affairs and another

Respondents

MT-8

This is the annexure marked **MT-8** referred to in the affidavit of Mathew Tinkler affirmed on 23 August 2023.

DS


DS
MT

Transcript of audio recordings received from [REDACTED]

Audio recording 1

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Audio recording 2

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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MT-9

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DS


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Islamic State

Australian teenager Yusuf Zahab 'alive' in Syrian prison months after reports he was killed in IS strike

Family 'overwhelmed with joy' after video emerges of teenager, believed to be Zahab, looking healthy and speaking into a camera

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📷 Yusuf Zahab, pictured in al-Sina'a prison during the Islamic State siege in January 2022. Zahab's family said they 'have received information from several sources that our beloved Yusuf is indeed alive'. Photograph: Human Rights Watch

Ben Doherty

🐦 [@bendohertycorro](#)

Wed 2 Aug 2023 09:55 AEST

An Australian teenager believed killed in an [Islamic State](#) airstrike in Syria more than a year ago is believed to have been found alive. His family say they are “overwhelmed with joy”.

Yusuf Zahab was just 11 when he was taken into [Syria](#) by his family nearly a decade ago: his older brothers were IS fighters and recruiters.

Despite not being accused of any crime, Zahab was imprisoned from the age of 14. He was believed to have been killed by a January 2022 airstrike on al-Sina'a prison by IS fighters, seeking to break jailed insurgents out.

But a video has since emerged of a teenager, aged about 19, believed to be Zahab speaking into a camera. It is believed the video was shot inside a prison in the city of Hasakah in Syria's north-east.

In the video, he identifies himself, names his parents, and gives the date as 15 September 2022. Wearing a T-shirt, he is said to look relatively healthy and uninjured.

While the video is nearly a year old, it appears to confirm Zahab survived the IS attack on the prison where he was being held.

The video has been passed to Australian authorities, and shown to Zahab's family members in Australia. Syrian Democratic Forces have identified the teenager as Zahab. International charity groups are seeking to further confirm his identity.

Zahab's family said they have received information from several sources that our beloved Yusuf is indeed alive”.

“We are simply overwhelmed with joy by this news and are so thankful to now have hope again that we will soon be reunited with him.

“Unfortunately, this news follows 12 excruciating months in which numerous sources had indicated that Yusuf had died, and we are very concerned that he is still isolated from his family and stranded in north-east Syria where he remains unsafe.

“Yusuf was just a young boy when he was taken to Syria. We can only begin to imagine the horrors that he has suffered through since then.”

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● Yusuf Zahab, pictured here as a young boy. He was presumed dead after an IS attack at the al-Sina'a prison in Syria where he was detained

Zahab's mother and sister, and his sister's young children, are currently being held in a detention camp in north-east Syria. His brothers, Khaled and IS recruiter Muhammed, were killed in airstrikes.

His family said now that the Australian government had received evidence Yusuf Zahab was alive, they hoped the government would act to bring him home to Australia.

“We also hope that the Australian government will bring the other Australian children home from north-east Syria, especially as some of them are at risk of being separated from their mothers and placed in similar conditions to Yusuf.

“The only way to truly protect all of these children is to bring them and their mothers home to Australia immediately, as the government has previously committed to doing so.”

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in 2019, eight orphaned children, including a pregnant teenager, were returned to New South Wales from the camps.

And **last October**, four women and 13 children were brought back, also to NSW.

But there currently remains about 40 Australians - 10 women and 30 children, the wives, widows and children of slain or jailed IS fighters - **held in the Roj detention** camp near the Iraqi border.

There is a smaller cohort of Australians held at the al-Hol detention camp, larger and said to be more dangerous.

The Australian government has committed to bringing home the remaining Australians it can safely extract but has given no commitment as to when it will do so.

There are growing fears inside the camps for the boys within the Australian cohort.

As Yusuf Zahab was, boys reaching puberty are being systematically separated from their families and placed into detention centres and prisons, ostensibly out of fear of radicalisation. They are being arbitrarily detained in prisons across north-east Syria.

“The indefinite, cradle-to-grave, camp-to-prison detention of boys, based on crimes allegedly committed by their family members, is a shocking example of the legal black hole that North-east Syria currently epitomises,” a panel of UN experts, led by special rapporteur **Fionnuala Ní Aoláin**, said in a recent statement.

“We are extremely concerned that serious harm may befall these boys and fear they may be forcibly disappeared, and subject to sale, exploitation and abuse, torture, inhuman and degrading treatment or punishment.”

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Details of Filing

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Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 23/08/2023 1:13:19 PM AEST
Date Accepted for Filing: 23/08/2023 1:13:26 PM AEST
File Number: VID403/2023
File Title: SAVE THE CHILDREN AUSTRALIA v MINISTER FOR HOME AFFAIRS
& ANOR
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

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The date of the filing of the document is determined pursuant to the Court's Rules.

Form 59
Rule 29.02(1)

Affidavit

No. VID 403 of 2023

Federal Court of Australia

District Registry: VIC

Division: General

Save the Children Australia

Applicant

Minister for Home Affairs and another

Respondents

Affidavit of: **Mathew Tinkler**

Address: 33 Lincoln Square South, Carlton, Victoria

Occupation: Chief Executive Officer

Date: 23 August 2023

Contents

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| 3 | Annexure “MT-8”: true transcript of audio recordings provided by ██████████. | 11 | 9 |
| 4 | Annexure “MT-9”: article by Ben Doherty of the Guardian Australia dated 2 August 2023 titled, ‘Australian teenager Yusuf Zahab “alive” in Syrian prison months after reports he was killed in IS strike’ | 14 | 11 – 13 |

I, Mathew Tinkler, Chief Executive Officer, of 33 Lincoln Square South, Carlton, Victoria affirm:

- I am the Chief Executive Officer of the Applicant in this proceeding, and I am authorised to make this affidavit on the Applicant’s behalf.

DS
MT

DS
AB

2. I have previously provided an affidavit in this proceeding dated 5 June 2023 (the **First Tinkler Affidavit**).
3. In this affidavit I testify about what I was told during my visit to the Al-Roj camp. This visit is covered in detail in the First Tinkler Affidavit. I have no reason to believe that what I was told during my visit to Al-Roj camp was not true and correct.

Addition to the list of STCA-authorising remaining women and children

4. The First Tinkler Affidavit annexed a statement prepared and signed by me on 18 May 2023 (**Tinkler Statement**) as exhibit MT-1.¹
5. At paragraph 10 of the Tinkler Statement, I referred to the 'STCA-authorising remaining women and children' and listed the names of those women and children on whose behalf the Applicant was authorised to issue the legal proceedings.

- ████████████████████
6. Since preparing the Tinkler Statement, the Applicant has subsequently been authorised by ██████████ via audio recording received on WhatsApp on or around 18 August 2023 to add her and her children ██████████ and ██████████ ██████████ to the list of STCA-authorising remaining women and children.
 7. I am instructed that Ms ██████████ and her children are, or are eligible to be, Australian citizens. Annexed at page 6 of MT-7 is a table containing details of the name, date and place of birth, citizenship status and medical conditions of Ms ██████████ ██████████ and her children.
 8. Ms ██████████ was one of the 12 Australian women with whom I met when I visited Al-Roj camp on 18 June 2022. My visit to Al-Roj camp and interactions with the 12 Australian women are detailed at paragraphs 32-35, 72-74 and 76-78 of the Tinkler Statement.
 9. On the basis of these interactions, it is my understanding that ██████████ and her children are being detained unlawfully and inconsistently with international law. I set out the basis for this understanding at paragraphs 41-45 of the Tinkler Statement.
 10. As described at paragraph 76(2) of the Tinkler Statement, I toured and took images of one of the Australian women's tents. This tent was occupied by Ms ██████████ and her children. I can also confirm that Ms ██████████ was the Australian woman who told me the information at paragraph 76(3) of the Tinkler Statement.

¹ Exhibit MT-1 to the First Tinkler Affidavit at pages 7-50.

DS DS
MT AB

11. In addition to the audio recordings referenced at paragraph 70 of the Tinkler Statement, two audio recordings by Ms [REDACTED] were provided at or around the same time. A true transcript of these recordings is annexed at page 9 of MT-8. The recordings are summarised below:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12. The Applicant has also been authorised by [REDACTED] on 18 August 2023 to add her and her daughter [REDACTED] to the list of STCA-authorising remaining women and children.
13. I did not meet Ms [REDACTED] during my visit to Al-Roj camp on 18 June 2022, however she has expressed her authority via audio recording received on WhatsApp on or around 18 August 2023 that she is held in Al-Roj camp with her daughter and wishes to be added to the proceeding. Ms [REDACTED] also provided WhatsApp messages detailing the significant health problems in Al-Roj camp and suffered by her and her daughter.
14. I am instructed that Ms [REDACTED] and her daughter are, or are eligible to be, Australian citizens. Annexed at page 7 of MT-7 is a table containing details of the name, date and place of birth, citizenship status and medical conditions of Ms [REDACTED] and her daughter.
15. I have no reason to believe that the observations made at paragraph 77 of the Tinkler Statement do not apply to the conditions and circumstances faced by Ms [REDACTED] and her children, and Ms [REDACTED] and her daughter.

Reports regarding the death and subsequent proof of life of Yusuf Zahab

16. At paragraphs 79(2)-79(4) of the Tinkler Statement, I referred to reports received and confirmed by the Applicant that an Australian boy, Yusuf Zahab, was forcibly removed from Al-Roj camp to a male prison at the age of 14 and subsequently killed by an ISIS strike on that prison in or around January 2022. Annexed to the Tinkler

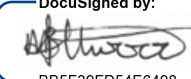
Statement at pages 327-353 are media reports and a statement made by the Applicant confirming this information.

- 17. However, reports have since been brought to my attention that Yusuf Zahab may in fact be alive. This report is based on a video which emerged on or around 1 August 2023, dated 15 September 2022, which was reported in the media. Annexed at pages 11-13 of MT-9 is an article by Ben Doherty of the Guardian Australia dated 2 August 2023 titled, 'Australian teenager Yusuf Zahab "alive" in Syrian prison months after reports he was killed in IS strike'.
- 18. At the time of affirming this affidavit, I have been unable to verify Yusuf Zahab's location or proof of life following the date on which the video was recorded.

Affirmed by the deponent
 at Melbourne
 in Victoria
 on 23 August 2023
 Before me:

DocuSigned by:

 123CC4E34DF4474
 Signature of deponent

DocuSigned by:

 BB5F39FD54E6498...

Signature of witness

Madelyn Beth Attwood

Corrs Chambers Westgarth
 Level 22, 567 Collins Street, Melbourne VIC 3000
 An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Victoria)
 A person authorised under section 19(1) of the *Oaths and Affirmations Act 2018* to take an affidavit.

This affidavit was signed and witnessed over audio visual link in accordance with the *Oaths and Affirmations Act 2018* (Vic).

Rule 29.02(8)

Annexure certificate

No. VID 403 of 2023

Federal Court of Australia

District Registry: VIC

Division: General

Save the Children Australia

Applicants

Minister for Home Affairs and another

Respondents

MT-7

This is the annexure marked **MT-7** referred to in the affidavit of Mathew Tinkler affirmed on 23 August 2023.

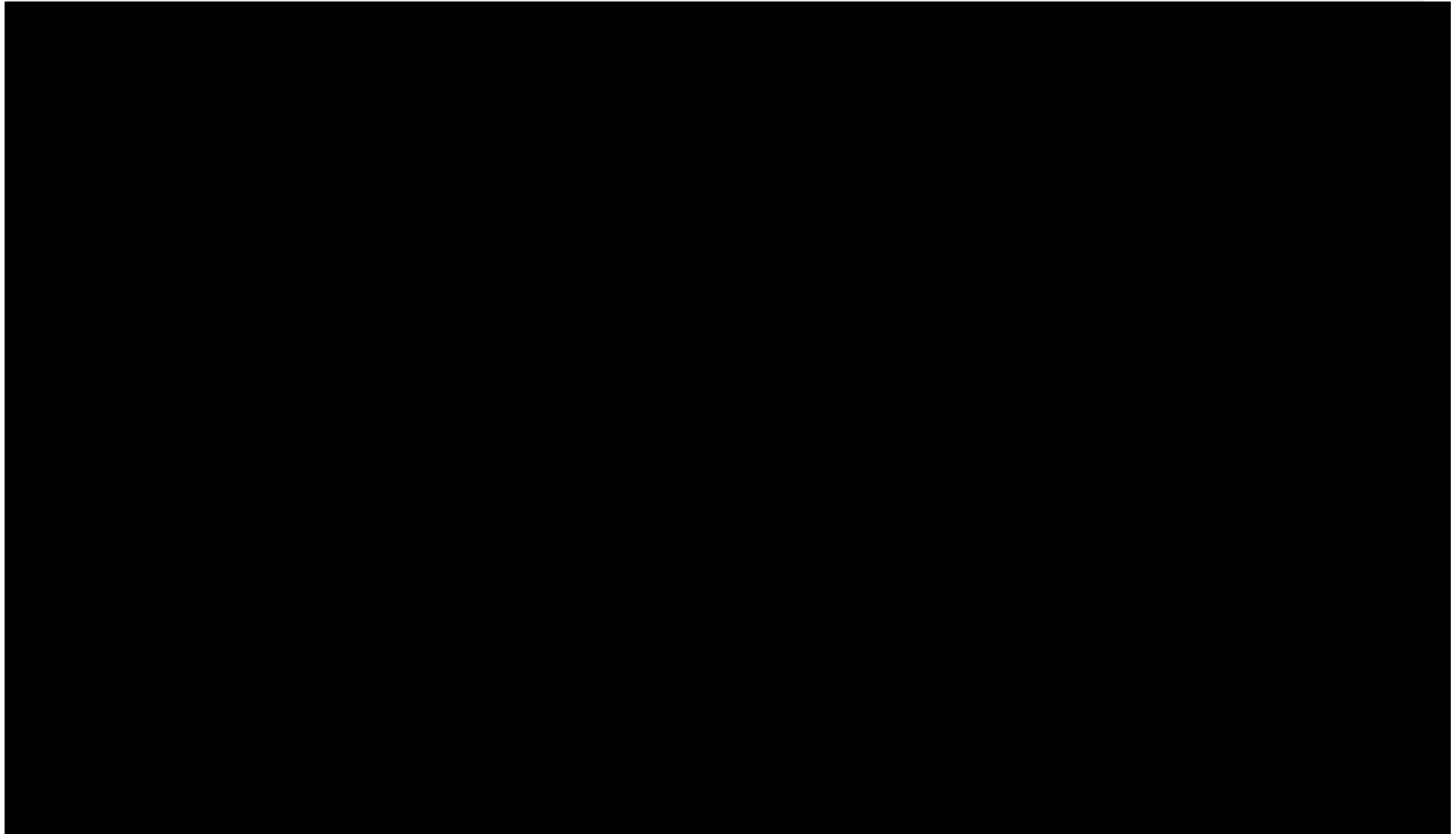
| | | | |
|--|--|-----|-----------------|
| Filed on behalf of (name & role of party) | Save the Children Australia, the Applicant | | |
| Prepared by (name of person/lawyer) | Rita Jabri Markwell | | |
| Law firm (if applicable) | Birchgrove Legal | | |
| Tel | +61 2 9018 1067 | Fax | +61 2 9054 0836 |
| Email | rmarkwell@birchgrovelegal.com.au | | |
| Address for service (include state and postcode) | Hyde Park Towers, Ground Floor, S.2, 148A Elizabeth Street, Sydney, NSW, 2000 | | |

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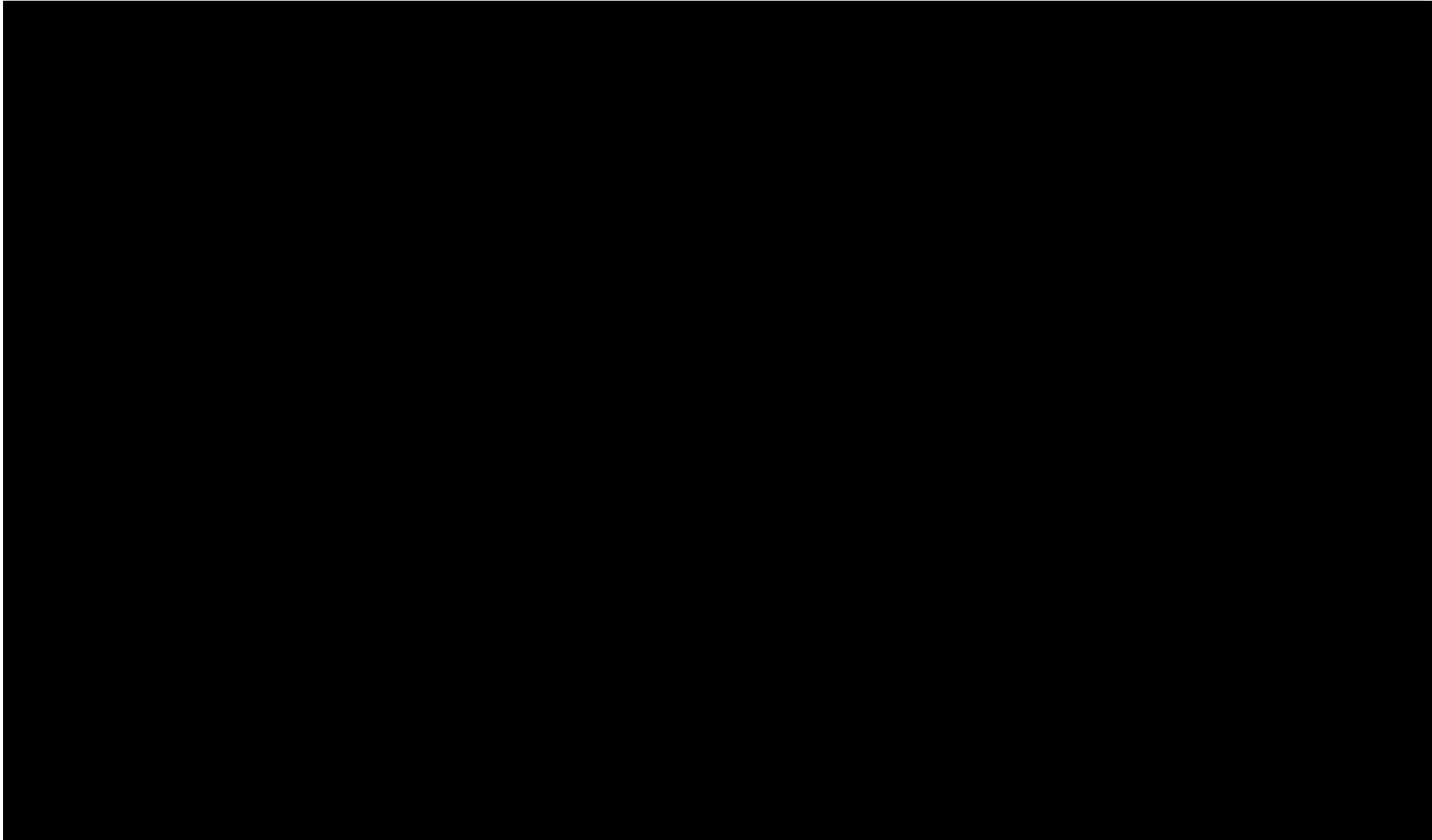

Additional Australian women and children to be repatriated

| Name | DOB | Birthplace | Medical conditions | Citizenship status | Evidence |
|------|-----|------------|--------------------|--------------------|----------|
|------|-----|------------|--------------------|--------------------|----------|



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Rule 29.02(8)

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MT-8

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DS


DS
MT

Transcript of audio recordings received from [REDACTED]

Audio recording 1

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Audio recording 2

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Rule 29.02(8)

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DS


DS
MT

Islamic State

Australian teenager Yusuf Zahab 'alive' in Syrian prison months after reports he was killed in IS strike

Family 'overwhelmed with joy' after video emerges of teenager, believed to be Zahab, looking healthy and speaking into a camera

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📷 Yusuf Zahab, pictured in al-Sina'a prison during the Islamic State siege in January 2022. Zahab's family said they 'have received information from several sources that our beloved Yusuf is indeed alive'. Photograph: Human Rights Watch

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“Yusuf was just a young boy when he was taken to Syria. We can only begin to imagine the horrors that he has suffered through since then.”

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& ANOR
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Division: General

Save the Children Australia

Applicant

Minister for Home Affairs and another

Respondents

Affidavit of: **Mathew Tinkler**

Address: 33 Lincoln Square South, Carlton, Victoria

Occupation: Chief Executive Officer

Date: 23 August 2023

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- I am the Chief Executive Officer of the Applicant in this proceeding, and I am authorised to make this affidavit on the Applicant’s behalf.

DS
MT

DS
AB

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DS DS
MT AB

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Reports regarding the death and subsequent proof of life of Yusuf Zahab

16. At paragraphs 79(2)-79(4) of the Tinkler Statement, I referred to reports received and confirmed by the Applicant that an Australian boy, Yusuf Zahab, was forcibly removed from Al-Roj camp to a male prison at the age of 14 and subsequently killed by an ISIS strike on that prison in or around January 2022. Annexed to the Tinkler

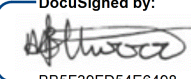
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- 18. At the time of affirming this affidavit, I have been unable to verify Yusuf Zahab's location or proof of life following the date on which the video was recorded.

Affirmed by the deponent
 at Melbourne
 in Victoria
 on 23 August 2023
 Before me:

DocuSigned by:

 123CC4F34DF4474
 Signature of deponent

DocuSigned by:

 BB5F39FD54E6498...

Signature of witness

Madelyn Beth Attwood

Corrs Chambers Westgarth
 Level 22, 567 Collins Street, Melbourne VIC 3000
 An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Victoria)
 A person authorised under section 19(1) of the *Oaths and Affirmations Act 2018* to take an affidavit.

This affidavit was signed and witnessed over audio visual link in accordance with the *Oaths and Affirmations Act 2018* (Vic).

Rule 29.02(8)

Annexure certificate

No. VID 403 of 2023

Federal Court of Australia

District Registry: VIC

Division: General

Save the Children Australia

Applicants

Minister for Home Affairs and another

Respondents

MT-7

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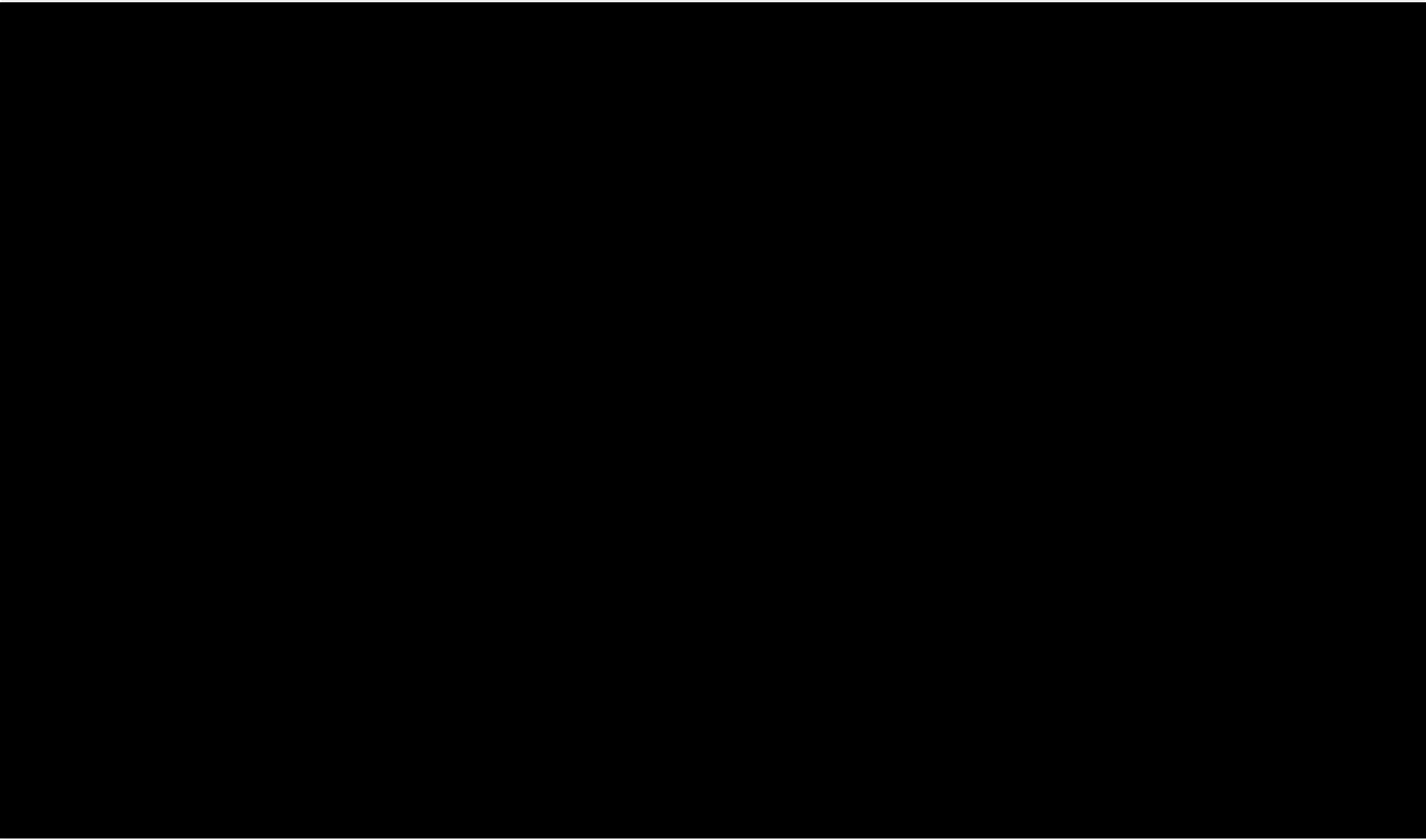
| | | | |
|--|--|-----|-----------------|
| Filed on behalf of (name & role of party) | Save the Children Australia, the Applicant | | |
| Prepared by (name of person/lawyer) | Rita Jabri Markwell | | |
| Law firm (if applicable) | Birchgrove Legal | | |
| Tel | +61 2 9018 1067 | Fax | +61 2 9054 0836 |
| Email | rmarkwell@birchgrovelegal.com.au | | |
| Address for service (include state and postcode) | Hyde Park Towers, Ground Floor, S.2, 148A Elizabeth Street, Sydney, NSW, 2000 | | |

DS
AB

DS
MT

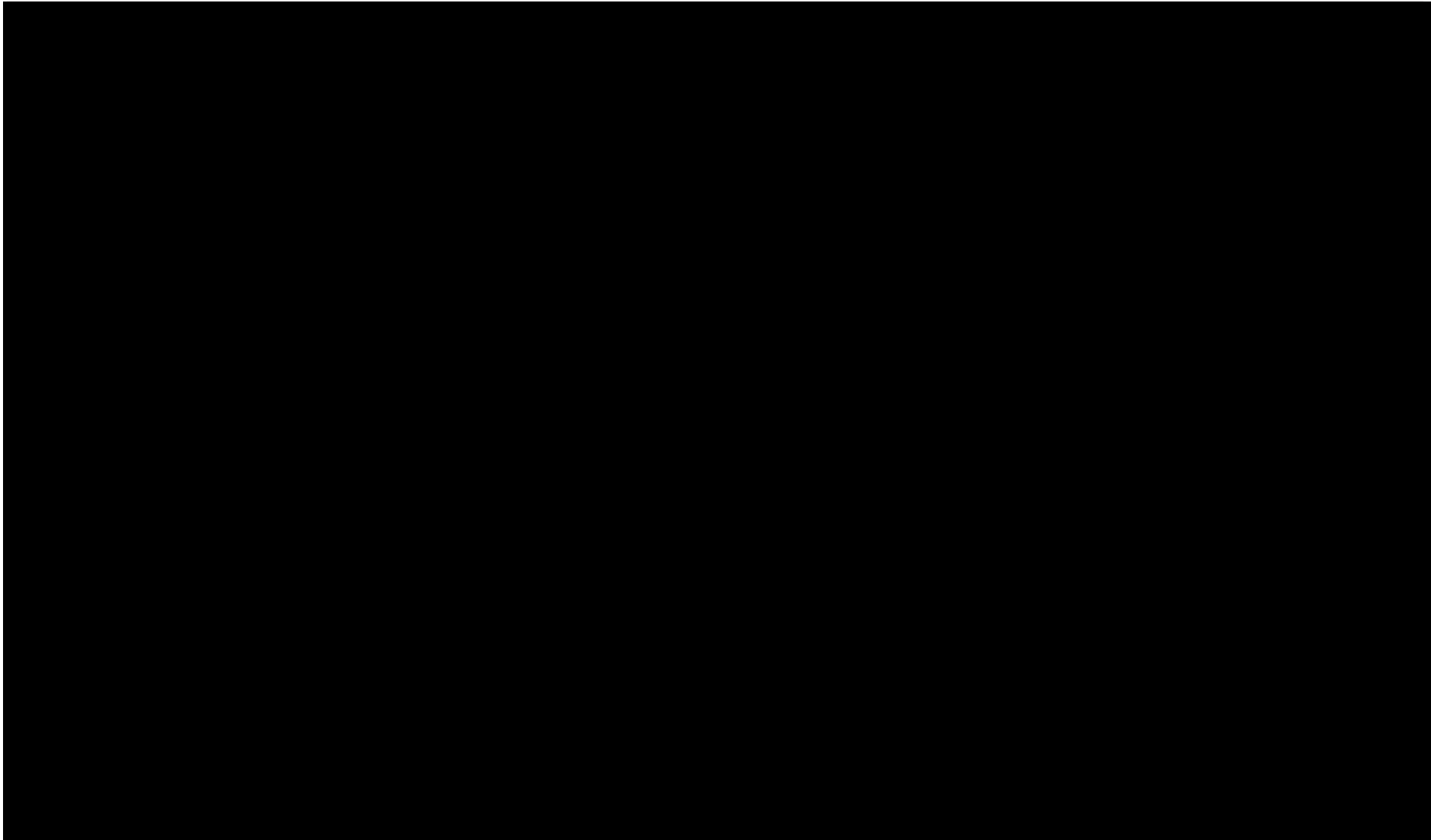
Additional Australian women and children to be repatriated

| Name | DOB | Birthplace | Medical conditions | Citizenship status | Evidence |
|------|-----|------------|--------------------|--------------------|----------|
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Rule 29.02(8)

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Applicants

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Respondents

MT-8

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DS


DS
MT

Transcript of audio recordings received from [REDACTED]

Audio recording 1

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Audio recording 2

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
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DS
MT

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Australian teenager Yusuf Zahab 'alive' in Syrian prison months after reports he was killed in IS strike

Family 'overwhelmed with joy' after video emerges of teenager, believed to be Zahab, looking healthy and speaking into a camera

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📷 Yusuf Zahab, pictured in al-Sina'a prison during the Islamic State siege in January 2022. Zahab's family said they 'have received information from several sources that our beloved Yusuf is indeed alive'. Photograph: Human Rights Watch

Ben Doherty

🐦 [@bendohertycorro](#)

Wed 2 Aug 2023 09:55 AEST

An Australian teenager believed killed in an [Islamic State](#) airstrike in Syria more than a year ago is believed to have been found alive. His family say they are “overwhelmed with joy”.

Yusuf Zahab was just 11 when he was taken into [Syria](#) by his family nearly a decade ago: his older brothers were IS fighters and recruiters.

Despite not being accused of any crime, Zahab was imprisoned from the age of 14. He was believed to have been killed by a January 2022 airstrike on al-Sina'a prison by IS fighters, seeking to break jailed insurgents out.

But a video has since emerged of a teenager, aged about 19, believed to be Zahab speaking into a camera. It is believed the video was shot inside a prison in the city of Hasakah in Syria's north-east.

In the video, he identifies himself, names his parents, and gives the date as 15 September 2022. Wearing a T-shirt, he is said to look relatively healthy and uninjured.

While the video is nearly a year old, it appears to confirm Zahab survived the IS attack on the prison where he was being held.

The video has been passed to Australian authorities, and shown to Zahab's family members in Australia. Syrian Democratic Forces have identified the teenager as Zahab. International charity groups are seeking to further confirm his identity.

Zahab's family said they have received information from several sources that our beloved Yusuf is indeed alive”.

“We are simply overwhelmed with joy by this news and are so thankful to now have hope again that we will soon be reunited with him.

“Unfortunately, this news follows 12 excruciating months in which numerous sources had indicated that Yusuf had died, and we are very concerned that he is still isolated from his family and stranded in north-east Syria where he remains unsafe.

“Yusuf was just a young boy when he was taken to Syria. We can only begin to imagine the horrors that he has suffered through since then.”

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📷 Yusuf Zahab, pictured here as a young boy. He was presumed dead after an IS attack at the al-Sina'a prison in Syria where he was detained

Zahab's mother and sister, and his sister's young children, are currently being held in a detention camp in north-east Syria. His brothers, Khaled and IS recruiter Muhammed, were killed in airstrikes.

His family said now that the Australian government had received evidence Yusuf Zahab was alive, they hoped the government would act to bring him home to Australia.

“We also hope that the Australian government will bring the other Australian children home from north-east Syria, especially as some of them are at risk of being separated from their mothers and placed in similar conditions to Yusuf.

“The only way to truly protect all of these children is to bring them and their mothers home to Australia immediately, as the government has previously committed to doing so.”

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“We are extremely concerned that serious harm may befall these boys and fear they may be forcibly disappeared, and subject to sale, exploitation and abuse, torture, inhuman and degrading treatment or punishment.”

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Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 23/08/2023 1:13:19 PM AEST
Date Accepted for Filing: 23/08/2023 1:13:26 PM AEST
File Number: VID403/2023
File Title: SAVE THE CHILDREN AUSTRALIA v MINISTER FOR HOME AFFAIRS
& ANOR
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 59
Rule 29.02(1)

Affidavit

No. VID 403 of 2023

Federal Court of Australia

District Registry: VIC

Division: General

Save the Children Australia

Applicant

Minister for Home Affairs and another

Respondents

Affidavit of: **Mathew Tinkler**

Address: 33 Lincoln Square South, Carlton, Victoria

Occupation: Chief Executive Officer

Date: 23 August 2023

Contents

| Document number | Details | Paragraph | Page |
|-----------------|--|-----------|---------|
| 1 | Affidavit of Mathew Tinkler. | 1 – 18 | 1 – 4 |
| 2 | Annexure “MT-7”: table containing citizenship and other details of ██████████ and her children, and ██████████ and her daughter. | 7, 14 | 6 – 7 |
| 3 | Annexure “MT-8”: true transcript of audio recordings provided by ██████████. | 11 | 9 |
| 4 | Annexure “MT-9”: article by Ben Doherty of the Guardian Australia dated 2 August 2023 titled, ‘Australian teenager Yusuf Zahab “alive” in Syrian prison months after reports he was killed in IS strike’ | 14 | 11 – 13 |

I, Mathew Tinkler, Chief Executive Officer, of 33 Lincoln Square South, Carlton, Victoria affirm:

- I am the Chief Executive Officer of the Applicant in this proceeding, and I am authorised to make this affidavit on the Applicant’s behalf.

DS
MT

DS
AB

2. I have previously provided an affidavit in this proceeding dated 5 June 2023 (the **First Tinkler Affidavit**).
3. In this affidavit I testify about what I was told during my visit to the Al-Roj camp. This visit is covered in detail in the First Tinkler Affidavit. I have no reason to believe that what I was told during my visit to Al-Roj camp was not true and correct.

Addition to the list of STCA-authorising remaining women and children

4. The First Tinkler Affidavit annexed a statement prepared and signed by me on 18 May 2023 (**Tinkler Statement**) as exhibit MT-1.¹
5. At paragraph 10 of the Tinkler Statement, I referred to the 'STCA-authorising remaining women and children' and listed the names of those women and children on whose behalf the Applicant was authorised to issue the legal proceedings.

- ████████████████████
6. Since preparing the Tinkler Statement, the Applicant has subsequently been authorised by ██████████ via audio recording received on WhatsApp on or around 18 August 2023 to add her and her children ██████████ and ██████████ ██████████ to the list of STCA-authorising remaining women and children.
 7. I am instructed that Ms ██████████ and her children are, or are eligible to be, Australian citizens. Annexed at page 6 of MT-7 is a table containing details of the name, date and place of birth, citizenship status and medical conditions of Ms ██████████ ██████████ and her children.
 8. Ms ██████████ was one of the 12 Australian women with whom I met when I visited Al-Roj camp on 18 June 2022. My visit to Al-Roj camp and interactions with the 12 Australian women are detailed at paragraphs 32-35, 72-74 and 76-78 of the Tinkler Statement.
 9. On the basis of these interactions, it is my understanding that ██████████ and her children are being detained unlawfully and inconsistently with international law. I set out the basis for this understanding at paragraphs 41-45 of the Tinkler Statement.
 10. As described at paragraph 76(2) of the Tinkler Statement, I toured and took images of one of the Australian women's tents. This tent was occupied by Ms ██████████ and her children. I can also confirm that Ms ██████████ was the Australian woman who told me the information at paragraph 76(3) of the Tinkler Statement.

¹ Exhibit MT-1 to the First Tinkler Affidavit at pages 7-50.

DS MT DS AB

11. In addition to the audio recordings referenced at paragraph 70 of the Tinkler Statement, two audio recordings by Ms [REDACTED] were provided at or around the same time. A true transcript of these recordings is annexed at page 9 of MT-8. The recordings are summarised below:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12. The Applicant has also been authorised by [REDACTED] on 18 August 2023 to add her and her daughter [REDACTED] to the list of STCA-authorising remaining women and children.
13. I did not meet Ms [REDACTED] during my visit to Al-Roj camp on 18 June 2022, however she has expressed her authority via audio recording received on WhatsApp on or around 18 August 2023 that she is held in Al-Roj camp with her daughter and wishes to be added to the proceeding. Ms [REDACTED] also provided WhatsApp messages detailing the significant health problems in Al-Roj camp and suffered by her and her daughter.
14. I am instructed that Ms [REDACTED] and her daughter are, or are eligible to be, Australian citizens. Annexed at page 7 of MT-7 is a table containing details of the name, date and place of birth, citizenship status and medical conditions of Ms [REDACTED] and her daughter.
15. I have no reason to believe that the observations made at paragraph 77 of the Tinkler Statement do not apply to the conditions and circumstances faced by Ms [REDACTED] and her children, and Ms [REDACTED] and her daughter.

Reports regarding the death and subsequent proof of life of Yusuf Zahab

16. At paragraphs 79(2)-79(4) of the Tinkler Statement, I referred to reports received and confirmed by the Applicant that an Australian boy, Yusuf Zahab, was forcibly removed from Al-Roj camp to a male prison at the age of 14 and subsequently killed by an ISIS strike on that prison in or around January 2022. Annexed to the Tinkler

DS
MT

DS
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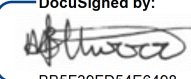
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- 18. At the time of affirming this affidavit, I have been unable to verify Yusuf Zahab's location or proof of life following the date on which the video was recorded.

Affirmed by the deponent
 at Melbourne
 in Victoria
 on 23 August 2023
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DocuSigned by:

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 Signature of deponent

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Rule 29.02(8)

Annexure certificate

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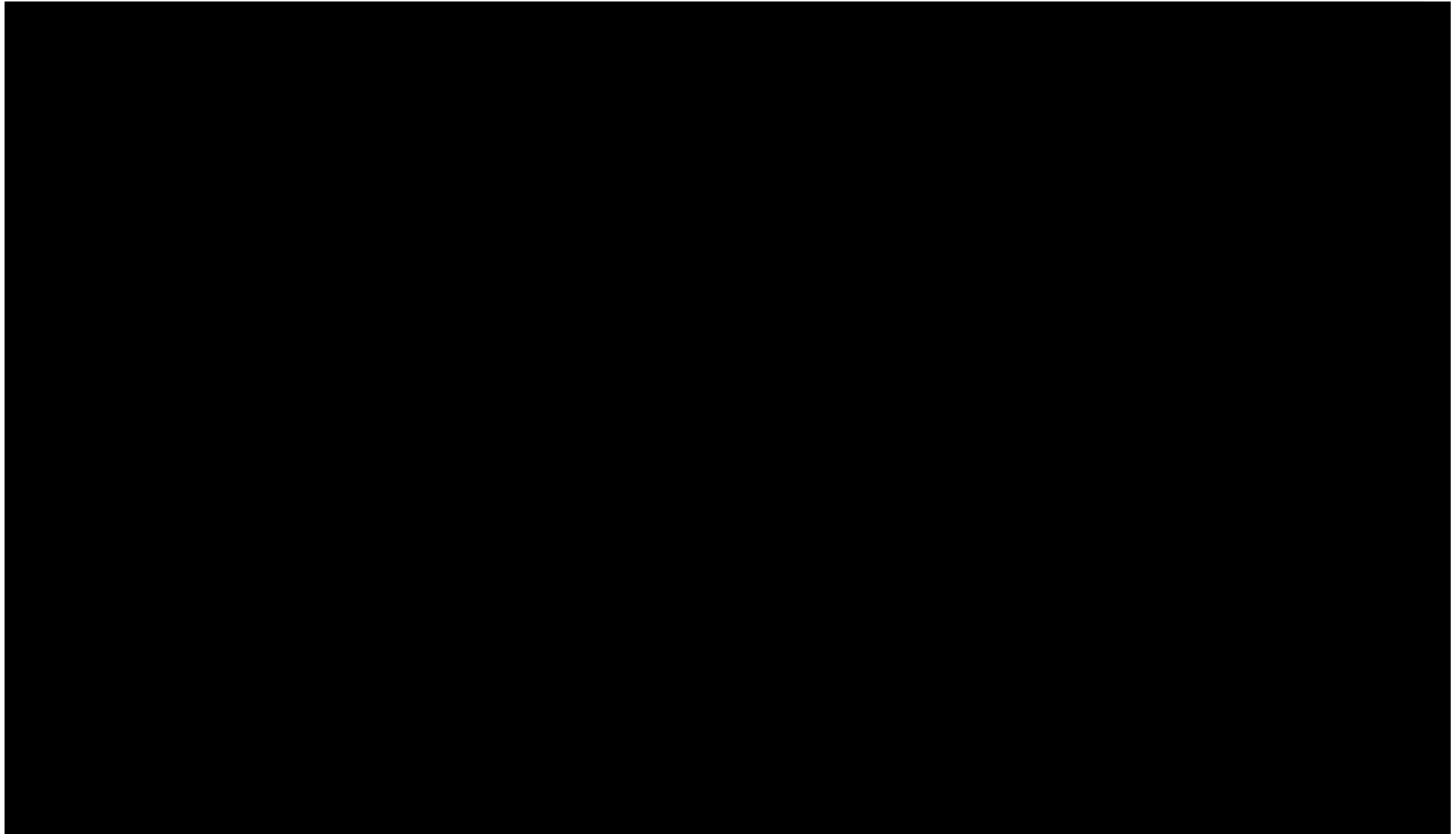
| | | | |
|--|--|-----|-----------------|
| Filed on behalf of (name & role of party) | Save the Children Australia, the Applicant | | |
| Prepared by (name of person/lawyer) | Rita Jabri Markwell | | |
| Law firm (if applicable) | Birchgrove Legal | | |
| Tel | +61 2 9018 1067 | Fax | +61 2 9054 0836 |
| Email | rmarkwell@birchgrovelegal.com.au | | |
| Address for service (include state and postcode) | Hyde Park Towers, Ground Floor, S.2, 148A Elizabeth Street, Sydney, NSW, 2000 | | |

DS


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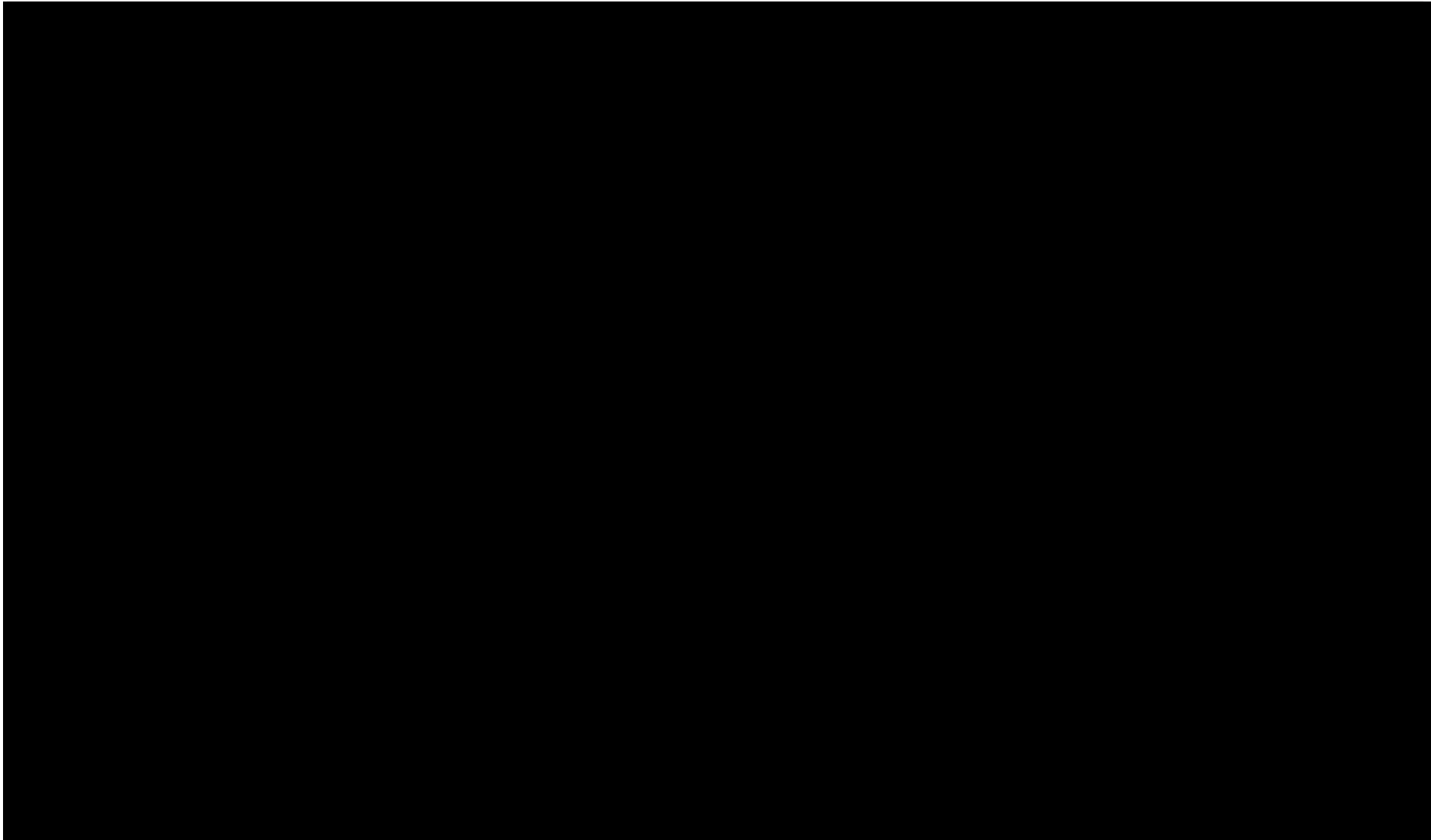

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DS
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