

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating Application - Form 15 - Rule 8.01(1)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 5/06/2023 4:07:53 PM AEST
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File Number: VID403/2023
File Title: SAVE THE CHILDREN AUSTRALIA v MINISTER FOR HOME AFFAIRS
& ANOR
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised



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.



Originating application

No. of 2023

Federal Court of Australia
District Registry: Victoria
Division: General

Save the Children Australia

Applicant

Minister for Home Affairs and another named in the schedule

Respondents

To the Respondents

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place:

The Court ordered that the time for serving this application be abridged to

Date: 5 June 2023

Signed by an officer acting with the authority
of the District Registrar

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



This application is made under ss 21 and 23 of the *Federal Court of Australia Act 1976 (Cth)* **(FCA Act)** and s 39B(1) and (1A)(b) of the *Judiciary Act 1903 (Cth)* **(Judiciary Act)**.

Terms in bold below are defined in the Concise Statement dated 5 June 2023.

Details of claim

On the grounds stated in the Concise Statement and accompanying affidavit of Mathew Tinkler sworn/affirmed 5 June 2023, the Applicant claims:

1. A writ of habeas corpus issue in respect of the **remaining Australian women and children**, alternatively the **STCA-authorized remaining Australian women and children**.
2. On the return of the writ, an order in the nature of habeas corpus in respect of the **remaining Australian women and children**, alternatively the **STCA-authorized remaining Australian women and children**.
3. Alternatively to 1 and 2, a declaration that in making the **Non-repatriation Decision** the First Respondent or another officer of the Second Respondent took into account a prohibited consideration, acted for an ulterior purpose, or acted unreasonably.
4. Alternatively to 3, a declaration that in failing to make a **further repatriation decision**, the First Respondent or the Second Respondent acted for an ulterior purpose, or acted unreasonably.
5. Alternatively to 4, mandamus, alternatively an injunction, compelling the First Respondent or the Second Respondent by an appropriate officer to properly consider the 19 May 2023 and 23 May 2023 letters from the Applicant and to make a decision whether or not to make a further repatriation decision.
6. Such further or other relief as this Honourable Court deems fit.
7. The Respondents pay the Applicant's costs.

Claim for interlocutory relief

The Applicant also claims interlocutory relief:

1. Confidentiality orders, and suppression and/or non-publication orders in relation to any material identifying or likely to identify the women and children named in the Confidential Annexure to the Concise Statement dated 5 June 2023, including in unredacted affidavits, exhibits or annexures, or other documents filed in this proceeding.

**Expedited hearing**

The Applicant seeks an expedited hearing.

Applicant's address

The Applicant's address for service is:

Place: c/o Birchgrove Legal

Hyde Park Towers, Ground Floor

S.2, 148A Elizabeth St, SYDNEY NSW 2000

Email: mkheir@birchgrovelegal.com.au

Service on the Respondents

It is intended to serve this application on all Respondents.

Date: 5 June 2023

A handwritten signature in black ink, appearing to read 'M Kheir'.

Signed by Moustafa Kheir
Birchgrove Legal
Lawyer for the Applicant



Schedule

No. of 2023

Federal Court of Australia
District Registry: Victoria
Division: General

Respondents

Second Respondent: Commonwealth of Australia

Date: 5 June 2023