

Indigenous inmate sues ACT government over ‘vile and racist’ image allegedly drawn by prison staff

Lawyers say whiteboard image of man hanging was a ‘disrespectful, degrading and hurtful parody’



An Indigenous man is suing the ACT government over a picture allegedly drawn by officers at the Alexander Maconochie Centre in Canberra.

Christopher Knaus and Lorena Allam

Tue 21 Sep 2021

A vulnerable Indigenous inmate who prison officers allegedly depicted hanging from a noose on a prison whiteboard is suing the Australian Capital Territory government, alleging the drawing was a “vile and racist caricature” of “another Indigenous person they wished to see die in custody”.

In May 2018, correctional officers at the ACT’s jail, the Alexander Maconochie Centre, allegedly drew what appeared to be a game of hangman on a staff whiteboard. The man depicted hanging from the noose was an Indigenous inmate who has mental health issues and has previously attempted suicide.

A boat is shown sailing past with one of the passengers depicted saying “yay”.

In proceedings lodged in the ACT supreme court, the man’s lawyers, Ken Cush & Associates, say the whiteboard and the hangman picture were used as a “vehicle to ridicule, degrade, disrespect, and vilify the plaintiff amongst the correctional officers

and detainees in the AMC". They say the image was a "humiliating, disrespectful, degrading and hurtful parody".

The drawing remained on the whiteboard for some time, and photos were taken and distributed across the prison, including to other detainees, the statement of claim alleges.

The lawyers allege those responsible knew or ought to have known that the man was a vulnerable Indigenous person due to his mental health issues and previous suicide attempts, and that subjecting him to ridicule and humiliation was "likely to cause him harm, distress, and aggravate or exacerbate his pre-existing mental health conditions".

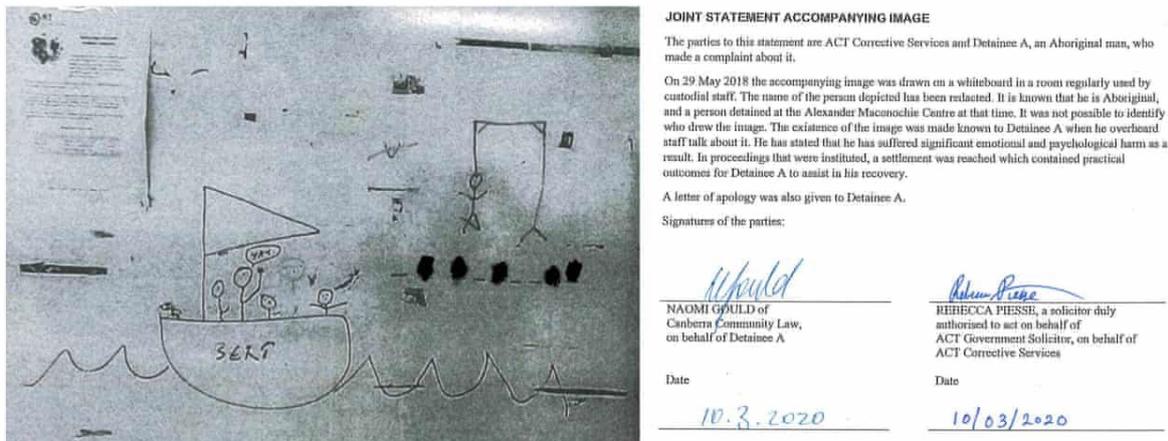


Image on a whiteboard drawn by prison staff at the Alexander Maconochie Centre in May 2018, with a statement.

The case alleges the government and the prison staff responsible failed in their duty of care to the detainee and their duty to prevent him from suffering harm. It is also alleged they failed to protect his human rights, which are upheld in the ACT by a dedicated Human Rights Act.

When it was built, the AMC was intended to be the nation's first human rights compliant prison.

The case alleges the correctional officers' actions, which the government is vicariously liable for, caused the man mental harm and exacerbated existing mental health issues.

It is alleged the actions of the staff responsible were deliberate, a gross violation of their duties, a perversion of their authority, and were spiteful and arrogant.

The officers responsible were never punished for their actions, the case alleges, and the drawing constituted "a vile and racist caricature of the plaintiff as being another Indigenous person they wished to see die in custody".

The ACT corrections minister Mick Gentleman's office said he could not comment on the matter because it was before courts.

But the government's defence in the case, filed on Friday, reveals it has not been able to identify who drew the image. The government admits the drawing depicted the

plaintiff, but says it does not know whether the staff knew of his mental health issues or previous suicide attempts.

The government also denied the staff responsible intended for the picture to be distributed through the prison community or use the whiteboard as a means to humiliate and vilify the detainee.

“The defendant denies that the plaintiff suffered injury, loss and damage by reason of its breach of duty of care as alleged,” the government’s defence says.

The ACT also denied it was “liable to the plaintiff for damages, aggravated damages, exemplary damages”.

Julie Tongs, the chief executive of the Winnunga Nimmityjah Aboriginal health centre, said the drawing was “absolutely disgusting” and the inmate who saw it has since suffered severe mental health issues.

“It’s a perversion of their authority, and it should never have happened,” Tongs said.

The ACT corrective services commissioner apologised for the incident in 2018 but Tongs said that didn’t go far enough.

“Sure they said they’d done the wrong thing, but why would you even do it?” Tongs said. “Why would you even go there, if you weren’t thinking that? And why would you leave it on the whiteboard?”

She said the man who saw the drawing has since suffered serious mental health issues, fearing for his life in custody. He has now been moved to a different facility.

“At the end of the day they’re human beings, and the majority of them are there because they have got mental health issues of addiction.”

She is now calling for a broader investigation into the AMC.

“Nothing less than a Royal Commission will suffice. It’s time that people right across the country and the world see what really happens in a so called human rights compliant prison here in the ACT,” she said.

“The whole system, it’s a failure. They need to do things differently. And they need to change the way that they do it.”