

Queensland to drop appeal against Palm Island police racial discrimination ruling

Indigenous activists welcome Palaszczuk government decision to withdraw contentious appeal of landmark federal court ruling, which follows legal advice



Activist and academic Gracelyn Smallwood said the Queensland government's decision to scrap its appeal against a ruling that police racially discriminated against Palm Island's Indigenous residents was 'better than winning a million dollars'. Photograph: Evan Schwarten/AAP

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28 February 2017

The Queensland government will scrap its contentious appeal of a landmark federal court ruling that police racially discriminated against Palm Island's Indigenous residents.

The appeal, which was lodged at the request of police but sparked internal revolt within the Palaszczuk cabinet, will be withdrawn following legal advice understood to have come from former solicitor general Walter Sofronoff.

The attorney general, Yvette D'Ath, said on Tuesday: "Having received a further considered legal advice about the state's prospects of success on appeal, the state is withdrawing the appeal to the full federal court."

The decision was welcomed by Indigenous activist and academic Gracelyn Smallwood, who said it was "better than winning a million dollars".

The federal court ruling last month found police unlawfully discriminated against the island's Indigenous residents during a death-in-custody investigation and their handling of subsequent riots in 2004.

Guardian Australia this month revealed the appeal was lodged despite widespread opposition among state government ministers, with one saying: "This is not what we stand for."

Federal MP Cathy O'Toole, whose seat of Herbert includes Palm Island, criticised the move to appeal as "unfair and unjust".

A petition begun by Smallwood calling for the appeal to be dropped drew almost 18,000 signatures. Smallwood said she and Palm Island man Lex Wotton, who spearheaded the class action in which his family was awarded a total of \$220,000 in damages, were now both "thrilled and overwhelmed".

Smallwood said it was a "victory for people power" in what was "a very serious matter about social justice".

The decision paves the way for further damages claims by Palm Island residents.

Lawyer Stewart Levitt, who acted in the class action, said the federal court ruling would stand as a precedent that "gives us the opportunity to continue the fight in other places".

"We now can hold other police forces to account, to a similar standard, where there are similar infractions being committed today to those that were criticised in 2004 in respect of Queensland police," he said.

Levitt said Palm Island's Indigenous residents had "channelled their hopes and aspirations through the orthodox legal system, and for the first time in living memory reached a positive outcome from a superior court on a matter of extreme national importance".

"To see a state government take action to try to overturn that in circumstances where not a single Indigenous person was consulted about that decision, I thought was very unhealthy.

"It effectively made it a black versus white issue rather than a human rights issue."

The federal court is still to decide issues about any apology from police, legal costs and the entitlement of other residents to compensation.

"The scope of the claims is wide. There are some people who may have suffered trivial damage and others who have been traumatised for life," Levitt said.