

MARGARULA CONVICTION AN ATTACK ON HUMAN RIGHTS

September 1, 1998

In a case which has serious implications for traditional access rights on Aboriginal land, Mirrar Senior Traditional Owner, Yvonne Margarula, was today convicted of trespass charges for protesting on her country near the proposed Jabiluka uranium mine.

Three other Aboriginal people who were Ms Margarula's guests at the time of the arrest were also convicted.

The Court dismissed Ms Margarula's argument that she had a right to occupy her land because mining company ERA had breached its obligations by not consulting with traditional owners before establishing a restricted area around the controversial mine site. The Court found that Ms Margarula's rights as a beneficial holder of an estate in fee simple under the Aboriginal Land Rights Act were ineffective even though ERA's rights as a mineral lease holder were improperly exercised.

Executive Officer of Gundjehmi Aboriginal Corporation, Jacqui Katona, who was one of Ms Margarula's co-defendants, said today:

"We condemn the Court's finding that the traditional owners land rights are removed even when a mining company excludes them illegally. It seems that justice can no longer be attained by Aboriginal people in this country."

"Traditional owners have had their basic human rights trampled by the Jabiluka project throughout the history of this proposal. Despite undertaking only preliminary construction, ERA has already breached their authority on more than a dozen occasions over the last few months. It seems that Aboriginal people must abide by agreements but mining companies do not. The Court is allowing ERA to act with impunity on Aboriginal land."

"This decision will increase the momentum for the Howard Government to be convicted via the ballot box for human rights abuses," said Ms Katona.

In her statement to the Court, Ms Margarula said she had been protecting her country at the mine site at the time of the alleged offences. Ms Margarula stated that as a traditional owner she had a responsibility to look after her country, visit her country and make sure it was safe.

Ms Margarula argued that protesting the Jabiluka uranium mine was a "traditional action taking a modern form" and that her action had its origins in traditional rights.

The Court's decision is bound to have significant political ramifications, with the ALP due to make their election announcement on Jabiluka in the next few days.

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