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## Children's Law News 2010

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### CLN 2- November 2010

#### Children's Court decisions

##### [In the Matter of "Troy" - Judge M. Marien SC](#)

Leave to bring an application to rescind a care order – significant change in any relevant circumstances – meaning of "significant change in any relevant circumstances" – arguable case – meaning of "arguable case" – application of the least intrusive intervention principle.

##### [Re: "Hamilton" - Judge M. Marien SC](#)

Application to rescind a care order and restore one child to the father – application for restoration abandoned – application for a contact order sought instead – whether contact with the father is in the best interests of the children – father has a serious criminal record for sexual offences against children and for indecent exposure – children exposed to domestic violence between the parents – possible sexual abuse and sexual grooming of the children by the father – meaning of "unacceptable risk of harm" – meaning of "permanency planning" – no realistic possibility of restoration – whether permanency planning has been appropriately and adequately addressed – importance of maintaining contact between siblings who are not placed together – children with special needs – autism and post traumatic stress disorder.

##### [In the Matter of "Victoria" and "Marcus" - Judge M. Marien SC](#)

Leave to bring an application to rescind a care order – application of Aboriginal and Torres Strait Islander Placement Principles – importance of encouraging and preserving the children's Aboriginal cultural identity – children with special needs – autism.

##### [Police v NS - Mulroney CM](#)

Admissibility of fingerprint evidence – whether evidence obtained under the *Crimes (Forensic Procedures) Act 2000* or *Law Enforcement (Powers and Responsibilities) Act 2002* – no application was made to a magistrate for an order for a forensic procedure – whether fingerprints taken in order to "identify a person who is in lawful custody" or to match them to fingerprints found at the scene of the crime – young person's fingerprints were already on police database.

#### Supreme Court Decisions

##### [Re Timothy \[2010\] NSWSC 524 - Rein J](#)

ADMINISTRATIVE LAW - judicial review - grounds of review - jurisdictional error and procedural fairness - decisions of Children's Court Magistrates – who may make application for interim order regarding placement – Aboriginal Care Circle.

#### Papers

##### [Procedural tips in running unusual care applications: undertakings, supervision, contempt and s90A orders](#)

Rod Best, A/Executive Director, Accountability & Review Community Services, Department of Human Services.

### CLN 1 - May 2010

#### Children's Court Decisions

##### [DPP v JJM and ALW – Lerve CM](#)

Matters to be taken into consideration when determining whether to exercise the discretion under section 31 of the *Children (Criminal Proceedings) Act 1987* and commit the young persons to the District Court to be dealt with according to law.

##### [Police v AR – Judge M. Marien SC](#)

Children's Court – fitness to plead – dismissal of charges – matters to be taken into consideration when determining whether to discharge some of the offences under s32 of the *Mental Health (Forensic Provisions) Act 1990*.

##### [Re: Alison Claire, Lauren Donovan and Victoria Claire – Denes CM](#)

Determining whether there is a realistic possibility of restoration - Do the care plans for each of the children adequately identify and consider permanency planning - What contact orders need to be made, especially if the children remain separated from each other.

##### [The Department of Community Services And "Rachel Grant", "Tracy Reid", "Sharon Reid" and "Frank Reid" – Judge M. Marien SC](#)

Determining whether there is a realistic possibility of restoration.

##### [Department of Human Services and "Kieran", "Siobhan" and "Robert Isaac" – Judge M. Marien SC](#)

Determining what constitutes "special circumstances" under s100 of the *Children and Young Persons (Care and Protection) Act 1998* warranting the appointment of a guardian ad litem – role of an independent legal representative.