

Yoorrook Justice Commission
Statement of Uncle Dennis Fisher (Den the Fish)

Introduction

My name is Uncle Dennis Fisher. I am a proud Waka Waka man, on both my mother and my father's side. I was born in 1957 and grew up with my family on the Cherbourg Aboriginal settlement in Queensland.

I was born before the 1967 referendum, and therefore was not born as an Australian citizen. I wasn't really classed as a human being.

I moved to Victoria approximately 30 years ago.

I currently work as a Koori cultural guide at the Melbourne Botanic Gardens. I have worked in this role for the past 10 years. I teach people about native plants, and about Aboriginal tools, food, and medicine. I teach people what the land means for Aboriginal people and how we look after the land. As I am not originally from Victoria, I have been given special permission by Wurundjeri and Boon Wurrung elders to conduct cultural walks on their land.

I also work as a DJ at 3KND radio, a dedicated Koori focused radio station that broadcasts from a studio located in Bundoora. We started the radio in 2003. I'm the oldest one there. I'm known as Den the Fish. The radio gives me a platform to speak to our people in truth. This is one of my poems published on the 3KND website:

3KND 1503AM

Have you listened to 3KND?
It's on radio - AM
Aboriginal movements, Aboriginal moments
What about Aboriginal music?

It's great to listen to
Makes you happy and sad
Most songs about life
Turn it down, have it loud

Tell about this country
What people been through
Ask friends to tune in
It's for all of us - me and you

Bring us all together
Standing up for our rights
You can't argue with the song
They can play day and night

There's a message for us all
To try and understand
Songs tell us a lot
Especially about this land

We all want respect
Some want to be free
So listen in you mob
To 3KND

1503AM
Amen

By Den the Fish
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Childhood and early life

At the Cherbourg Aboriginal settlement, from about the age of 10, I worked milking cattle for 'pocket money'. Our wages were stolen. My family were given rations, mostly in tins, by the white people who were operating the settlement.

When I was about 13, I ran away from the settlement, and when I returned, I commenced work as a farmhand. From about 15, until about 16 or 17, I worked for at a sawmill located on the settlement. During the whole time I worked at the Cherbourg Aboriginal settlement, I was underpaid.

In 2017, I was awarded some compensation through the Queensland Government's 'Stolen Wages' scheme for Aboriginal workers. I am also part of a stolen wages class action commenced on behalf of Aboriginal workers against the Queensland Government.

The Age Pension test case

Recently I took the Australian Government to court over the different life expectancy for Aboriginal people compared to non-Aboriginal people. I was represented in the case by lawyers from the Victorian Aboriginal Legal Service and the Human Rights Law Centre.

The government wants people like me to work until I am 67, even though Aboriginal and Torres Strait Islander people have a lower life expectancy. Aboriginal men like me are likely to live only to 71, which is 8.6 years fewer than non-Aboriginal men.

In the case we argued that I should be eligible for the age pension at the age of 64 rather than 67 because of my shorter life expectancy as an Aboriginal man. I thought it was unfair that I only qualify for the age pension at 67, the same as white people, even though they are living longer. We argued that the current social security law is racially discriminatory.

White people are living longer because they haven't lost what we have lost. If you look back 1,000 years, there was hardly any sickness. So many things that Aboriginal people are suffering from today, came here by the Europeans. They brought their diseases, and they brought their animals, their guns and their poison, and they ripped this country right apart.

On the settlement we ate a lot of food that was no good for our bodies. So many of us were locked away and stripped of our language. When you lose your language, that is your identity. People say Australia is the Lucky Country. But I say, lucky for who? Not for the people of this land.

Sadly, we lost the case. But some key points are worth highlighting.

In the agreed facts of the case, the Commonwealth accepted that:

The reason for the shorter life expectancies of Aboriginal and Torres Strait Islander Australians is ... that they experience greater adverse health outcomes compared to non-Indigenous Australians. Those outcomes are shaped by a range of interconnected structural, social and cultural determinants of health, including the historical and ongoing consequences of colonisation. As such, the gap in life expectancy between Aboriginal and Torres Strait Islander Australians and their non-Indigenous counterparts is a function of race. (*Fisher v Commonwealth of Australia* [2023] FCAFC 106 4 [7])

In their reasons, the Federal Court also found:

Indigenous Australians suffer to a greater degree than others from a range of physical and mental health problems which contribute to mortality rates and thus life expectancy. The facts agreed by the parties do not suggest that these disparities arise from something inherent in Indigenous people or their cultures that make them inherently likely to live shorter lives than other people. Rather, to the extent that underlying

causes are identified, those causes are connected to the ongoing effects of colonisation, dispossession, destruction of cultural bonds, poor access to services and racist policies. Thus, the gap in life expectancy is “a function of race” in the sense that it is (so far as the facts disclose) the product of disadvantages suffered by Indigenous Australians which, in turn, flow from their treatment by governments and by more powerful or fortunate Australians.

These facts, which the Australian government accepts for the purposes of the proceeding to be true, are a matter of grave concern for a society that values equality of opportunity. For that reason, as well as to give proper context to the short summary above, the statement of agreed facts contained in the special case is extracted (without its own annexure marked SC-01) and included as an annexure to these reasons. (*Fisher v Commonwealth of Australia* [2023] FCAFC 106 4 [9]).

Conclusion

We are supposed to be closing the gap, but instead it is widening more. More than a decade ago, the Australian government promised to “Close the Gap” in life expectancy between Aboriginal and non-Aboriginal people. But we are not making much progress. Governments are all talk and no action. There have been so many lies.

If things were the other way around, and white people were dying too young, they would have fixed this already, they wouldn't let it happen. Things will never get better unless the government closes the gaps it created.

English didn't just come here, it was brought here. Captain Cook did not discover the land, because people were living on it. You can't discover something when people are living on it. There was murders, there was killings. These people said they had nothing to do with that. But the big picture of it is that Aboriginal people did not have a problem. The problem came here.

I have seen too many of my people dying at a very early age. We are lucky if we get to 50 years old. I don't want my people to die at a very young age.

Everywhere I go, people who are younger than me call me Uncle. It's a sign of respect, because everything is passed on to our young people from their ancestors and their elders. It's part of our culture and our identity to respect our elders.

The pension is an important part of caring for and looking after our people when they can't earn any more. I don't earn a lot of money, and I don't get any Centrelink. If I could access the pension earlier, that would be a big thing to me. If I could get the Age Pension, I could think about working less hours. I would like to have the Age Pension as an option, if for some reason I can't keep working.

Things will never get better unless we acknowledge something is wrong. Truth and accountability are important. This case was about telling the truth and asking the government to work together with us, to give our people the same chance in life as everyone else. The case was for all Aboriginal people, all over.

I want all people to understand the history of what has happened here and how Aboriginal people are still impacted by it. Our language, our culture and our identity come from this land. It's not about blaming anyone, it's about understanding.

I carry three things with me and that is love, respect and understanding. And I always say if you don't like it to happen to you, then don't do it to others.

Laws and policies need to change so that my people are treated with the same love and respect as all other Australians. Our people deserve justice and I am not going to stop speaking up for my people.