

# Racial discrimination and vilification

## Case study 1

### 'Street language' ruled not vilification

**Author:** Paige Taylor

**Publication:** The Australian (003, Fri 15 Sep 2006)

AN Aboriginal girl who kicked a woman and called her a "white slut" did not engage in racial vilification because the slur was common street language.

A magistrate from the West Australian goldfields threw out a landmark race-hate charge yesterday against the 16-year-old, saying the slur against Kalgoorlie woman Melissa Blackney was "the patois of the street".

Magistrate Kate Auty sentenced the girl to four months of intensive supervision, including 60 hours of community service, for kicking Ms Blackney during the April attack.

In a 90-minute address to the Kalgoorlie Children's Court, Dr Auty noted yesterday that the girl swore at least once during her recorded police video when she referred to a footpath as "that f..king thing there". "(F..k) is a fairly innocuous word in her argot," Dr Auty said.

The girl was 15 when in May she became the first person in the state to be charged under tough racial vilification laws brought in after white supremacists terrorised Perth with a racist poster and graffiti campaign.

Dr Auty found that the girl's one-off slur in a heated confrontation did not constitute "serious, substantial or severe" racial harassment as legally defined.

But she told the girl: "That does not mean that I find that language acceptable; it's offensive.

"And when people come in here and I find that they have called someone a black c..., I tell them the same thing."

The court heard that when the girl kicked Ms Blackney, she was being urged on by her older sister, who repeatedly told her: "You're not coming home till you make her piss."

Dr Auty was critical of the Director of Public Prosecutions and listed 26 inconsistencies in the case against the girl.

She described witnesses as argumentative, unreliable and inconsistent, and said that one had changed her story and had a selective memory.

She also did not accept the evidence of prosecution witness Ruben Brockman, who the prosecution did not charge with assault even though he was implicated in the attack.

A resident claimed to have seen Mr Brockman kicking Ms Blackney while she lay on the ground. The neighbour, whose evidence Dr Auty found credible, said he saw the girl and her sister standing back.

Dr Auty told the girl that she believed she had tried to take the blame for the attack to protect her sister and Mr Brockman.

"You tried to shield them," she said. "You probably lacked the sort of guidance you needed to have on that day."

The court heard that Ms Blackney confronted the girl and three others after she was awoken in her car by the sound of a rock denting the paintwork.

The court heard that Ms Blackney, who has signed an exclusive agreement with the Nine Network's A Current Affair, drove aggressively at the group over a footpath and had also used racist language.

The girl said Ms Blackney had mocked her, saying that Aborigines could not buy their own cars.

## Questions

1. According to the article, which event changed the seriousness of racial vilification laws in Western Australia?

.....

.....

.....

.....

.....

.....

.....

.....

2. Do any stereotypes exist in this article?

.....

.....

.....

.....

3. Should street language be considered a crime?

.....

.....

.....

.....

4. What is acceptable language in your home/school? Is it different to the language you use on the street?

.....

.....

.....

.....

.....

.....

.....

.....