

Human Rights Act used in compensation test case

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Three people who are suing the ACT Government for wrongful imprisonment will now have the chance to claim compensation under the Human Rights Act.

In what lawyers say is the first such case in Canberra, the ACT Human Rights Commission has been granted leave to intervene in the test case involving three separate plaintiffs. The three say they suffered after being wrongfully detained. One of the plaintiffs, Brian Morro of Scullin, spent 73 days in prison after the Sentencing Administration Board revoked his periodic detention. The board made the order after Mr Morro, a disability pensioner, had breached conditions of court orders imposed for a series of traffic offences. He will be joined in his action by Toorage Ahadizad and a third person, whose name has been suppressed.

While the territory has admitted liability for the wrongful imprisonment and is ready to award damages under the common law, it is claiming the plaintiffs have no separate cause of action under the Act. But lawyers for the plaintiffs say this position is inconsistent with the language in the Act, and with advice from the Human Rights Commission. Under section 18(7) of the Act, anyone who has been unlawfully arrested or detained has the right to claim compensation, although the Act does not specify what this compensation should cover. Whether this section comes into play will affect what the plaintiffs receive by way of damages, how the damages are calculated, and whether they flow from basic human rights or the common law. The hearing before Justice Malcolm Gray is set to begin in the ACT Supreme Court next week.