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0 Orders to Preserve Culture

[Share](#) By [Michael Lynch](#), 19 February 2016

When a court is considering what parenting orders to make, the court must make orders in the child's 'best interest'. One of the 'best interest' factors under the *Family Law Act* includes the right to enjoy his or her culture. A recent case has considered this.

The Facts:

- The children were 13, 11 and 7 at the time of the trial pursuant to interim orders the three children were living with the father. The children were ordered to 'live with' the father on an interim basis following family violence in the mother's household by her new partner.
- The father sought orders on a final basis that the children live with him and spend alternate weekend time with the mother. The mother sought that that children 'live with' her.
- The children had a mixed racial heritage, and part of that heritage being Indigenous Australians. During their lives the maternal grandmother had fostered the children's exposure to their culture by taking them to family gatherings and ancestral homelands.



Court Found:

- The mother had limited interest in her indigenous culture and the maternal grandmother was clearly the custodian of the children's indigenous culture.
- If the children lived with the mother, it was inevitable that they would have more contact with their maternal grandmother and therefore more exposure to their indigenous culture. The court however was satisfied, that the maternal grandmother would even if the children were living with the father still keep in regular contact with the children.

Court Order:

- The children were ordered to remain living with the father and spend time with the mother each alternate weekend.
- Whilst the maternal grandmother was not a party to the proceedings, the court also ordered for the father to ensure that for 1 week of his holiday time with the children he make arrangements for the children to spend time with their maternal grandmother. The court considered such an order would enable the children to genuinely enjoy their Aboriginal heritage with other people who share that culture.

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About Michael Lynch



Michael has practiced for over 25 years, specialising in [Family Law and De Facto Relationship Law](#). He is well recognised and respected as one of Queensland's leading [Family Law Specialists](#) and has extensive experience in complex Family Law matters, including [Property Settlement](#) and Children's matters.

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