

FEDERAL COURT OF AUSTRALIA

Wertheim v Haddad [2025] FCA 720

Summary

In accordance with the practice of the Federal Court in some cases of public interest, importance or complexity, the following summary has been prepared to accompany the reasons for judgment and orders made today. This summary is intended to assist in understanding the outcome of this proceeding and is not a complete statement of the conclusions reached by the Court. The only authoritative statement of the Court's reasons is that contained in the published reasons for judgment which will be available on the internet at www.fedcourt.gov.au together with this summary.

William Haddad is a preacher and teacher at, and a founder of, Al Madina Dawah Centre Inc (AMDC). AMDC operates a Muslim religious centre located on Kitchener Parade, Bankstown, NSW. In November 2023, Mr Haddad delivered a series of three lectures to a small group of congregants at the Centre. He was also interviewed by someone associated with the Centre and he delivered a sermon to 300 to 400 congregants at Friday prayers. The three lectures, the interview and the sermon (together referred to as the Speeches) were all video-recorded and uploaded to various social media platforms where they were then available to be viewed by anyone.

Peter Wertheim AM and Robert Goot AO SC, leaders in the Jewish community and associated with the Executive Council of Australian Jewry, claim that the speeches constitute unlawful offensive behaviour based on race or ethnic origin under s 18C of the *Racial Discrimination Act 1975* (Cth) (RDA).

The Court has found that the series of lectures, titled “The Jews of Al Madina”, conveys disparaging imputations against Jewish people that, in all the circumstances, were reasonably likely to offend, insult, humiliate and intimidate Jews in Australia, and that the imputations were conveyed because of the race or ethnic origin of that group. The imputations include age-old tropes against Jewish people that are fundamentally racist and antisemitic; they make perverse generalisations against Jewish people as a group. Jews in Australia in November 2023 and thereafter would experience them to be harassing and intimidating. That is because of their profound offensiveness and the long history of persecution of Jews associated with the use of such rhetoric. Those effects on Jews in Australia would be profound and serious. That is all the more so because the lectures were delivered at a time of heightened vulnerability and fragility experienced by Jews in Australia following the attack by Hamas on 7 October 2023, Israel’s bombardment and blockade of Gaza in response, and resultant solidarity protests and other actions in Australia.

The Court has found that the impugned passages in the interview and the sermon say critical and disparaging things about the actions of Israel and in particular the Israel Defense Forces in Gaza and about Zionists, but that the ordinary, reasonable listener would not understand those things to be about Jewish people in general. That person would understand that not all Jews are Zionists and that disparagement of Zionism constitutes disparagement of a philosophy or ideology and not a race or ethnic group. Also, political criticism of Israel, however inflammatory or adversarial, is not by its nature criticism of Jews in general or based on Jewish racial or ethnic identity. The conclusion that it is not antisemitic to criticise Israel is the corollary of the conclusion that to blame Jews for the actions of Israel is antisemitic; the one flows from the other.

The Court has rejected Mr Haddad's and AMDC's defences that rely on s 18D of the RDA because the lectures were not delivered "reasonably and in good faith". That is principally because Mr Haddad sought to justify the imputations on the basis that he was teaching Tafsir but the expert witnesses on Islamic theology from both sides agree that neither the Qur'an nor the Hadith teach that Jews have any inherent negative qualities as a people. Sheikh Ibrahim, the respondents' expert, said that "Islam does not encourage hatred towards Jews". The Court was not called on to decide whether religious belief can ever be a justification for propagating racist bigotry and hate.

Following *Faruqi v Hanson* [2024] FCA 1264, the Court rejected the respondents' argument that Pt IIA of the RDA (containing ss 18C and 18D) is beyond the legislative power of the Parliament as being in conflict with the implied freedom of political communication. The Court also rejected the respondents' contention that Pt IIA of the RDA is beyond the power of the Parliament under s 116 of the *Constitution* as a law "for prohibiting the free exercise of any religion".

As a consequence of finding that Mr Haddad and AMDC contravened s 18C of the RDA by delivering and publishing the lectures, the Court has made declarations to that effect and ordered the respondents to remove the lectures from their social media. The Court has restrained Mr Haddad from causing words, sounds or images to be communicated otherwise than in private, which attribute characteristics to Jewish people on the basis of their group membership and which convey any of the disparaging imputations identified as being conveyed by the lectures. The Court has given the parties the opportunity to address it further on whether and, if so, the manner in which the respondents should be ordered to publish corrective notices. Finally, the Court has ordered that the respondents pay the costs of the proceeding.

STEWART J
1 JULY 2025