

# Could Mark Latham be charged with contempt of court?

Calling your trial judge a Nazi is probably not a great move. But could it land Latham in contempt of court?

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IMAGE: AAP/DARREN ENGLAND

“Lawfare”. This is what Mark Latham, with wicked cleverness, calls the defamation suit brought against him by the journalist Osman Faruqi. Latham’s entire defence was struck out last week and he hasn’t taken the setback particularly well, launching straight into a rancid [Facebook attack](#) on the judge.

Latham is an “outsider”, self-described. He has been working on his schtick for some time, and the Faruqi case is clearly offering a platform for honing it.

Faruqi claims he was defamed by a video on *Mark Latham’s Outsiders* in which Latham called Faruqi an “anti-white racist” and said he was “fermenting” hatred of white people and thereby aiding, abetting and encouraging Islamic terrorism. Faruqi was at the time an editor at *Junkee*, a keen tweeter and not afraid to have a frequent crack at white privilege. [One of his tweets](#), in which he’d said “the white people are getting fucked ... it’s happening”, had apparently provoked Latham’s attack.

Faruqi alleges that the Latham video portrays him as a person who knowingly assists terrorist fanatics, condones the murder of innocent people by Islamic terrorists and encourages and facilitates terrorism. Which is, by any definition, pretty defamatory.

Latham's defence ran to 76 pages. Faruqi asked the court to strike it out. There are technical legal terms for why, but basically the argument was that the document was a load of incomprehensible shit.

[\[Highlights from the Latham v Faruqi defamation case, presented without comment\]](#)

Justice Michael Wigney, presiding over the case, [struck out the whole defence](#). He wrote a detailed (and very entertaining) set of reasons for this decision, but they can be summarised by his conclusion:

*They [most of the components of the defence] will not facilitate the just resolution of the dispute according to law as quickly, inexpensively and efficiently as possible. Rather, they would, if permitted, unquestionably hamper, prolong and complicate the proceedings. Indeed, they would transform the trial of the action into a three-ring circus.*

This is when Latham chimed in with [the Facebook post](#), accusing Wigney of denying the existence of anti-white racism:

*[Wigney] adheres to the identity-Left argument that white people are inherently powerful and privileged and as such, any attack on them is justified in evening out power relations in society. Interestingly for Wigney, this is the same argument Nazi Germany used in its persecution of the Jews ...*

Mmm, calling your trial judge a Nazi, good move, Latho. But is this, as some have suggested, a move that could land Latham in contempt of court?

There is a species of contempt of court called "scandalising the court", involving undue and improper criticisms of judges, which are so over the top that they risk undermining the public's confidence in the courts. The rule is ancient, rarely invoked and frequently criticised because, you know, free speech.

Boiled down, Latham's criticism of Wigney is that he's fallen into the "identity-Left" trap, which apparently is how Nazis are made. That's a bit batshit, but I don't think that Latham pointing out that he and the judge don't occupy the same intellectual planet is either untrue or actionably contemptuous.

What the judge actually said was that Latham's defence contained no material that was capable of proving that Faruqi is an anti-white racist or, more importantly, even if he is, that there's a connection between his conduct and Islamic terrorism. There's also the minor question of whether, as Latham assumes but the facts don't support, that Islamic terrorism is inherently anti-white (as opposed to being, say, anti-West). I'm looking forward to his second attempt at drafting a defence. As Wigney said, "It can be expected that he will not make the same mistakes twice ... If [he] does not, and parts of it are again struck out, he should not expect that he will necessarily be given another opportunity." Feel the burn.