

# HIGH COURT OF AUSTRALIASIM

NeatSaucer J

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ThanksHeadMod

COMPLAINANT

AND

Gregor\_The\_Beggar

RESPONDENT

*ThanksHeadMod v. Gregor\_The\_Beggar*  
[2021] HCA 33  
18th January 2021

## ORDERS

- 1. Gregor\_The\_Beggar is not guilty of all of the charges laid and is therefore acquitted without having to pay any damages.*

## REPRESENTATIONS

ThanksHeadMod (Complainant) did not appear.  
Gregor\_The\_Beggar (Respondent) appeared.

Note: This copy of the Court's Reasons for Judgment is subject to formal revision prior to publication in the Commonwealth Law Reports.

## NeatSaucer J:

### Facts

1. The Court has been assembled together to deliver its verdict on a charge laid down by ThanksHeadMod (Complainant) that certain pieces of information published by Gregor\_The\_Beggar (Respondent) is said to be 'defamatory' and requires that we take appropriate action and has [presented their case](#) to this Court for action.
2. The Court has heard from both sides, in our hearing and now has the important task of deciding the verdict in this case. Over the span of the case, the Court has considered many previously granted verdicts in order to deliver its orders today and I hope that can be understood by all those assembled.
3. Due to the case application using Northern Australian Defamation Laws, as highlighted by the Applicant for convenience purposes, the Court will also use similar references within the judgement to illustrate our claims.
4. Now moving to the opinion; in ascertaining whether the published content is defamatory, I am going to divide this opinion into the type and nature of the matter, as a first category with the question of analyzing the text with respect to the regulations on Defamation shall be considered with the third part prescribing the orders adopted by the Court.

### Type and Nature of Matter

5. The Complainant argues that a series of two tweets put out by Gregor\_The\_Beggar, is composed of matter in meaning with the Defamation Act (Northern Territory) 2006. Upon some reading of law, you could relate the matter put out, or as it is normally called tweets as material or in legal terms, matter. So the first part of the issue, the fact that the complaint is made on an actual piece of matter.
6. Now whether it is published or not, in today's world, we all can consider Twitter to be a social media platform which would directly mean that it is a proper publication based platform to put out the content that is satisfied.
7. If the Complainant is named in the defamatory matter, they will have been identified. On the other hand, a person may be impliedly identified as with precedent outlined in Cassidy v Daily Mirror Newspapers Ltd [1929] 2 KB 331. Therefore, we can conclude that the complainant is the subject of the matter.

### The Question of Defamation

8. The text on the first instance looks as though, it attempts to paint the Liberal Party Leader as someone who is delusional or someone who is, as per Legal Dictionary

“A diseased state of the mind, in which persons believe things to exist, which exist only, or in the degree they are conceived of only in their own imaginations, with a persuasion so fixed and firm, that neither evidence nor argument can convince them to the contrary.”, however as we all know delusions could exist in other forms.

9. For example, a young politician visualizing that his party will win all seats in an election when he wins only two, so would you consider or class it as delusional, completely no, so here is where we apply a sense of logic and determine whether a particular phrase is directly harming the prestige of an individual, otherwise known as reputation.
10. As demonstrated in *Farquar v. Bottom* [1980] 2 NSWLR 380, “whether matter is defamatory is a question of law to be determined by reference to the hypothetical referee or ‘ordinary reasonable reader’, who “is a person of fair average intelligence, who is neither perverse, nor morbid or suspicious of mind, nor avid for scandal””.
11. Now, we should also consider *Radio 2UE Sydney Pty Ltd v Chesterton* [2009] HCA 16; 238 CLR 460; where the Court did state “The general test for defamation is relevant to all imputations which are said to have injured a plaintiff’s reputation in some respect ... Any standards which might be applied by the ordinary reasonable reader will vary according to the nature of the imputation ... and it should not be assumed that it will be necessary in every case to apply a standard in order to conclude that a plaintiff’s reputation has been injured.”
12. This clearly provides the Court with enough ground to determine what the general test for defamation is, and also that each individual might review the words differently. As I stated earlier with the example of the young politician, it is not necessary that the word delusion means the same to every individual and therefore the chance of having an arbitrary definition.
13. To support my point of view, I would quote former Justice *advantagegaming12* in their judgement in *Re: Winston Wilhelmus v. Copelonian de Bangkok* [2020] HCA 29 - “However, being offensive does not make something defamatory, and examining the relevant context makes it clear that a reasonable person would have understood the reference for what it was, and it being a reference to a fact, it can not be defamatory, as a fact cannot be defamation.”
14. The word “delusional” is indeed offensive in most contexts, but whether it is defamatory requires us to consider the statement as a whole and apply it to the context of politics and the political world. A massive example for this is the verdict delivered in *Re: Sungravure Pty Ltd v Middle East Airlines Airliban SAL* [1975] HCA 6.
15. In that particular case, it was held that stating an airline was the target of a terrorist attack was not defamatory, as although it may damage the business of the airline, the statement did not disparage the airline. We should also consider a similar case,

in *Boyd v Mirror Newspapers Ltd* [1980] 2 NSWLR 449, it was held that a newspaper article describing the plaintiff as ‘fat’ and ‘slow’ was held not to disparage him because no blameworthiness was implied.

16. Now both of these cases demonstrate that a statement effectively disparages or implies a sense of blameworthiness, it is not required for us to declare that the texts presented would be effectively defamatory. We must also consider Section 30 of the Defamation (Northern Territory) Act 2006, wherein “It is a defence to the publication of defamatory matter if the defendant proves that the circumstances of publication were such that the plaintiff was unlikely to sustain any harm”.
17. Whilst the Defendant did make a defence on Section 28, the Court does believe it is more relatable to Section 30, wherein the election of the Plaintiff as the Member for Lingiari clearly proves that such a remark would not sustain any form of harm to the personal, professional and occupational reputation. As many judgements before us have said, the heart of defamation is the fact that it has hurt some individual’s reputation and that we do not notice any such trend.

### Orders

18. Therefore the court makes the following orders

- 1. Gregor\_The\_Beggar is not guilty of all of the charges laid and is therefore acquitted without having to pay any damages.*

**BloodyChrome CJ:** I concur with NeatSaucer J.

**Ohprkl J:** I concur with NeatSaucer J.

**Jayden\_Williamson J:** I concur with NeatSaucer J.