



## Galileo Wins Court Case

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‘Vindicated. The score is 17-nil, the judge’s findings were damning. It could not have gone better,’ Professor Peter Ridd explains shortly after the historic judgement in *Ridd v. James Cook University* was handed down in Brisbane last week.

This was a momentous occasion. It came 1,082 days after this whole ordeal began when Ridd was first unlawfully censured by the university for sending an email to a journalist for criticising the reliability of science about the Great Barrier Reef and 511 days after Ridd was informed that he violated the university policies for an appearance on Sky News.

Judge Salvatore Vasta explains in the judgement that, in narrowest formulation, the case is a dispute under the *Fair Work Act* and ‘purely and simply about the proper construction of a clause in an Enterprise Agreement’. However, the implications of this case for free speech at Australia’s universities are broad. There is now a clear legal precedent that protects the ability for academics to express controversial ideas in a forthright manner. This is an absolute necessity for our universities to function, for academics to be able to separate good ideas from the bad in the

pursuit of truth. This is not just a left-right issue. The precedent set by the Ridd case will serve to protect everyone, even radical left-winger Tim Anderson who is currently challenging University of Sydney for his sacking in the courts.

This case was never straightforward. 'It has been a very difficult time,' Ridd says. 'I had felt like I was hunted down and fired and my reputation as a scientist tarnished.' The university came after Ridd time and time again, which required the raising of \$260,000 from 2,405 donors across the world to mount a legal defence. He was told to stop critiquing his colleagues' science. His emails were searched and used against him. He was instructed to remain silent about the disciplinary process, and not even speak about it with his wife. On this last point, Judge Vasta described the university's actions as 'quite frankly, appalling' and the lack of apology as 'inexcusable'.

This case ultimately came down to whether academic freedom, enshrined in section 14 of Ridd's Enterprise Agreement but a principle that pre-exists the establishment of JCU, had any real meaning in the context of university policies that require collegiality and upholding the university's reputation. Properly constructed, the written words of the contractual agreement take precedence over the university policies. If it went the other way around and the intellectual freedom provision was narrow in its application, as the university asserted, it would render the intellectual freedom protection completely meaningless.

JCU complained that Ridd's criticisms of his colleagues' science was not undertaken in a collegial and academic spirit, as required by JCU's *Code of Conduct*. 'But there is no need for such enquiry, examination, criticism or challenge to be done that way under the rights conferred upon Professor Ridd by cl.14 [the intellectual freedom provision],' Judge Vasta concluded. The Judge also expressed the view that 'rather than disciplining Professor Ridd, the better option would have been to provide evidence that would illustrate the errors in what he has said.'

Judge Vasta also explained that intellectual freedom 'allows academics to express their opinions without fear of reprisals. It allows a Charles Darwin to break free of the constraints of creationism. It allows an Albert Einstein to break free of the constraints of Newtonian physics. It allows the human race to question conventional wisdom in the neverending search for knowledge and truth. And that, at its core, is what higher learning is about.'

The Ridd judgement is a huge victory for free speech – but the fight may only just be beginning. JCU has responded to the judgement like a screaming child incapable of being told they're wrong. Rather than admit guilt and apologise, JCU has rejected the judgement in a lengthy statement and left open the possibility of using their taxpayer-funded resources to appeal.

If so, this process could continue for years and even reach the highest court in the land. Thankfully there are many who remain committed. As one commentator on Ridd's GoFundMe wrote last week: 'If you need more money I think collectively your supporters will see you through to the High Court if that is what it takes.'

Ridd's experience might also be unique. 'I have never felt as elated as when the cavalry of 2,405 GoFundMe donors came to the rescue,' Ridd said. For most, this cavalry will never arrive. It is

also too big a risk for many to put their livelihoods on the line for the sake of principle. It's much easier to just keep your head down and be uncontroversial. Additionally, students, the ones who are being exposed to fewer arguments and are receiving a weaker education, have no contractual protection for free intellectual inquiry.

JCU's decision to go after Ridd and argue that intellectual freedom is a narrow concept is a serious indictment on the state of free speech at Australia's universities. As Stuart Wood QC, Ridd's barrister, explained in his concluding remarks: 'We've listened for a day to the university advocating for a narrow construction of intellectual freedom. It would be like listening to someone from the church come and advocate for a narrow view of religious freedom.'

In the damning conclusion to the judgement, Judge Vasta says that:

'Incredibly, the university has not understood the whole concept of intellectual freedom. In the search for truth, it is an unfortunate consequence that some people may feel denigrated, offended, hurt or upset. It may not always be possible to act collegiately when diametrically opposed views clash in the search for truth.'

JCU is not the only university that doesn't get this. Right across Australia, academics are still self-censoring. University policies, as former Chief Justice Robert French's *University Freedom of Speech Review* found, can limit free expression. There is a serious lack of diversity of viewpoint and challenging of ideas from different perspectives.

Ridd's success is a huge victory, but it is just the start.

*Matthew Lesh's profile on Peter Ridd appeared in the May 2018 edition of the IPA Review and can be viewed [here](#).*

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