

Wife of Terrorist Recruiter Found Guilty of 'Disrespectful Behaviour'

By Sonia Hickey and Ugur Nedim

In the first case prosecuted under [new provisions](#) that make it a crime to act disrespectfully in court without necessarily going so far as to act in [contempt of court](#), a devout Muslim woman has been [found guilty of engaging in disrespectful behaviour](#) after repeatedly refusing to stand for a judge.

Moutiaa El-Zahed's prosecution was brought in the wake of legislation introduced in 2016 which makes it an offence to engage in conduct such as refusing to stand in court, yelling at judges and ignoring their directions.

The NSW law was the first of its kind in Australia. It comes with a maximum penalty of 14 days in prison and/or a \$1,100 fine and is embodied in the following legislation:

- [Section 131](#) of the Supreme Court Act 1970,
- [Section 200A](#) of the District Court Act 1973,
- [Section 24A](#) of the Local Court Act 2007, and
- [Section 103A](#) of the Coroners Act 2009.

[The provisions were introduced](#) after a number of Islamic defendants refused to stand for judges in court, on the basis of their beliefs that they are only required to stand before God.

Circumstances of the case

Ms El-Zahed is the wife of convicted Islamic State recruiter Hamdi Alqudsi, who is currently serving a prison sentence for arranging seven men to travel to Syria to fight for extremists.

She was charged last year with [nine counts of engaging in disrespectful behaviour](#) on the basis that she did not stand when [District Court](#) Judge Audrey Balla came in and out of court during a civil hearing in 2016.

Ms El-Zahed and her sons took [civil proceedings against the Commonwealth and NSW governments for assault, false imprisonment and wrongful arrest](#) after a high-profile terrorism raid on their home 2014. She reported punched in the head during the raid and that her teenage sons were jostled violently, restrained and handcuffed in their bedrooms.

Police defended the claim and, when the case went to court, Ms El-Zahed refused to remove her niqab (a full head covering) when entering the witness stand. Judge Audrey Balla offered her opportunity to give evidence by video-link from another room, but she refused as her face would still be seen by male lawyers in the courtroom.

The judge also offered to close the court, but Ms Elzahed declined the offer and then elected not to attend court at the time she was scheduled to give evidence.

Judge Bella also challenged Ms El-Zahed for failing to follow court protocol of standing when the judge enters and leaves the courtroom. At the time, her lawyer told the court that Ms Elzahed, “won’t stand for anyone except Allah, which I’m not particularly happy with, Your Honour.”

The judge responded with a warning that Ms El-Zahed could face criminal charges for refusing to comply.

Ms El-Zahed was later charged with nine charges of engaging in disrespectful behaviour.

Continuing refusal

When the proceedings came before Magistrate Carolyn Huntsman for a defended hearing in Downing Centre Local Court, Ms El-

Zahed continued her refusal to stand – remaining seated when her Honour entered the courtroom, when she exited for the morning adjournment and when she re-entered to deliver her judgment.

Found guilty

Ms El-Zahed was ultimately found guilty of all nine charges.

In delivering her judgement, Magistrate Huntsman remarked: “I am satisfied the defendant repeatedly and intentionally failed to stand for the judge in District Court proceedings and in doing so intended to communicate lack of respect to the court and judge”.

“El-Zahed’s son, George, stood for the judge when she was seated behind him and the defendant well knew the expected behaviour was to stand for the judge when they entered or left the courtroom.”

“There is no evidence before this court that she genuinely held any religious beliefs [and] there is no evidence that the teachings of Islam compelled this conduct,” her Honour remarked.

The Magistrate rejected defence submissions that the legislation is unconstitutional.

The matter returns to court in June for sentencing.