

# Calling a trans woman a man 'not necessarily vilification', a Canberra court has ruled

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A Canberra court has ruled that calling a trans woman a man is “not necessarily” vilification, setting a higher bar for “victimisation” in the transgender debate.

The new ruling by the ACT Civil and Administrative Tribunal partly upholds an appeal by Canberra newsreader Beth Rep, who was challenging an earlier finding that she had vilified and victimised Queensland transwoman Bridget Clinch.

Ms Clinch, former military man Captain Matthew Clinch, was in 2020 awarded \$10,000 damages against Ms Rep, over Facebook posts referring to transwomen as males.

Ms Rep appealed and earlier in November the appellant panel partly upheld the challenge, finding that only nine of 46 posts were vilification and that there had been no victimisation.

Further, the appeal tribunal ruled that discussion on trans issues was “in the public interest” and that “calling a transwoman a man will not necessarily be vilification”.

“Our approach is that in order to amount to vilification it is necessary that the post incite hatred toward, revulsion of, serious contempt for, or severe ridicule of Ms Clinch or the group of transwomen,” the ruling says.

This could include words likely to encourage hatred or suggesting a transwoman was “inferior, a threat, or a criminal”.

“Generally, we do not think that referring to a transwoman as a man will necessarily do so (amount to vilification),” the appeal tribunal rules.

The decision reduces the damages to be paid by Ms Rep to \$5000, while also striking down the original tribunal's order that Ms Rep be refrained from making social media posts similar to those complained about. Amid ongoing backlash from some feminists about transwomen's access to female-only services and places, the appeal tribunal found such issues were legitimate topics of public discussion.

"It was argued (by Ms Rep) that the posts were for purposes in the public interest – that is, discussion and debate on the nature and position of transwomen," the decision says. "We accept that discussion and debate of this issue is in the public interest."

Despite the limited win, Ms Rep's legal team is considering an appeal to the ACT Supreme Court to further strike down the original tribunal ruling. But Ms Rep said she would not appeal this decision.

Ms Clinch, a former Greens candidate, said she did not intend to appeal, either, despite the appeal tribunal "walking back some of the original decision".

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