



HIGH COURT OF AUSTRALIA

15 October 2025

CANDACE OWENS FARMER v MINISTER FOR HOME AFFAIRS & ANOR
[2025] HCA 38

Today, the High Court unanimously held that s 501(6)(d)(iv) of the *Migration Act 1958* (Cth) does not infringe the implied freedom of political communication under the *Constitution* and that the decision of the first defendant, the Minister for Home Affairs ("the Minister"), to refuse the plaintiff a visa was not invalid.

The plaintiff, Ms Farmer, is a citizen and resident of the United States of America. She intended to undertake a speaking tour in Australia in November 2024. On 12 September 2024, Ms Farmer applied for a visa to enter Australia to undertake the speaking tour.

On 25 October 2024, the Minister decided to refuse to grant Ms Farmer the visa because, pursuant to s 501(3) of the *Migration Act*, he reasonably suspected that Ms Farmer did not pass the "character test" on the basis that, if Ms Farmer were allowed to enter Australia, there was a risk that she would "incite discord in the Australian community or in a segment of that community", within the meaning of s 501(6)(d)(iv), and that he was also satisfied that the refusal of the visa was in the national interest, within the meaning of s 501(3)(d). In making that decision, the Minister said that he had considered Ms Farmer's profile as a political commentator, author and activist known for her controversial and conspiratorial views. The Minister found that there was a risk of Ms Farmer's controversial views leading to increased hostility and violent or radical action.

Ms Farmer sought a declaration that s 501(6)(d)(iv) of the *Migration Act* is invalid on the ground that it infringes the implied freedom of political communication. In the alternative, Ms Farmer contended that, in deciding to refuse to grant her the visa, the Minister misconstrued s 501(6)(d)(iv).

The High Court unanimously held that, properly construed, s 501(6)(d)(iv) applies where, in the event that the person were allowed to enter or to remain in Australia, there is a risk that the person would stir up or encourage dissension or strife in the Australian community, or a segment of that community, of a kind or to a degree that is harmful to that community or segment. The Court unanimously held that s 501(6)(d)(iv) does not infringe the implied freedom of political communication. By majority, the Court held that s 501(6)(d)(iv) effectively burdens the implied freedom but that any burden imposed by s 501(6)(d)(iv) is justified. The Court unanimously held that, reading the Minister's decision fairly and as a whole, the Minister did not misconstrue s 501(6)(d)(iv) in deciding to refuse to grant Ms Farmer the visa.

This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.