

# After six years, Australian jury clears Jack Thomas of all terrorism charges

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In what amounts to a further discrediting of the "war on terrorism," Melbourne worker Jack Thomas was acquitted last week by a Victorian Supreme Court jury of the only remaining terrorist charge against him. Nearly six years after he was first detained in Pakistan, he was declared not guilty on a charge of receiving cash and an air ticket from Al Qaeda, and convicted on a charge of falsifying his passport. Thomas had admitted removing from his passport a visa granted by the Taliban, in a desperate attempt to return home to Australia.

The six-year saga has been a measure of the determination of both major parties—through the previous Howard Liberal-National government and the current Rudd Labor government—to secure a terrorist conviction against Thomas in order to justify the draconian laws they have passed in the name of combatting terrorism.

From the outset, Thomas's seizure at Lahore airport in January 2003 was accompanied by a concerted media witch-hunt, to whip up fears of homegrown "terrorist cells". The young man was dubbed "Jihad Jack" and in November 2004 he was accused of planning to set up an Al Qaeda bombers' network in Australia and charged with several serious offences. It is now clear that no evidence ever existed to support any of them.

From all the available evidence, Thomas, now 35, was a somewhat disoriented young man who found himself in the wrong place at the wrong time. Having grown up in Melbourne's working class western suburbs, he had converted to Islam during the 1990s and gone to Afghanistan in March 2001, six months before the September 11 attacks, in an effort to defend the fundamentalist Taliban regime against the warlords of the Northern Alliance.

Once the US-led invasion of Afghanistan commenced in October 2001, Thomas quickly fled the fighting and sought refuge with Islamic groups in Pakistan. In all his statements, he maintained that he had never heard of Al Qaeda before September 11, and responded to the atrocities in the United States with shock and disbelief. Horrified by the suggestion that he assist a terrorist attack in Australia, he decided to accept cash from an Al Qaeda-linked individual to get back home.

For five months, from January to June 2003, Pakistani, US and Australian intelligence and police officials tortured him in Pakistan, using intense physical and mental abuse. During more than 100 hours of interrogations, he was choked and suffocated, and chained to a metal plate on the floor of his "dog kennel" cell, with his hands cuffed behind his back and a hood covering his face. He was threatened with execution, told his wife would be raped and that his testicles would be crushed.

Finally, the Australian Federal Police (AFP), basing itself on statements extracted from Thomas, recorded a formal interview, not only relying on torture but deliberately flouting Australian law by denying Thomas access to legal advice beforehand. Even so, there was no evidence of any terrorist intent or plan by Thomas, and Pakistani police finally released him without charge.

From mid-2003, Thomas lived in Melbourne with his wife and children, under close surveillance by police and the Australian Security Intelligence Organisation (ASIO), which have vast powers to tap phones, intercept mail, bug premises, hack into computers and surreptitiously search homes. Without any new evidence of terrorist involvement, he was suddenly arrested in late 2004, after 18 months, just as the Howard government was preparing a further round of

"anti-terrorist" legislation, including provisions for closed trials, secret witnesses and media restrictions.

Thomas was ultimately placed on trial in early 2006 amid an ongoing scare campaign, launched by Prime Minister John Howard in November 2005, in order to smother widespread opposition to yet another expansion of the terrorism powers. New federal and state anti-terrorism bills were passed with virtually no discussion, introducing two new forms of detention without trial, as well as far-reaching sedition offences.

Under these conditions, the original trial judge allowed Thomas's trial to proceed almost entirely on the basis of his AFP interview, setting an extraordinary precedent for the use of statements extracted by torture. The jury, however, cleared Thomas of the two terror charges: that he was actually involved in, or intended to carry out, terrorist acts by providing himself as a resource to Al Qaeda through his training in Pakistan in 2001, and by agreeing to become an Al Qaeda "sleeper," awaiting instructions upon his return to Australia.

Thomas was found guilty on two lesser charges—accepting money from Al Qaeda, and altering his passport when he tried to leave Pakistan—becoming the first person to be convicted under the terrorism laws. But even this partial victory for the Howard government was shattered in August 2006, when the Victorian Court of Appeal unanimously reversed Thomas's convictions and five-year jail sentence. The court ruled that Thomas's AFP statement should never have been allowed as evidence, because it was based on coercion, violence and "emotional manipulation".

Amid a continuing campaign of media vilification, Thomas was placed by the Howard government under a "control order"—a form of house arrest—and four months later was ordered by the same appellate court to face a re-trial, this time based on interviews he had given to the Australian Broadcasting Corporation and the Age newspaper. Both decisions set further dangerous precedents, for detention without trial and for ripping up the centuries-old double jeopardy rule that is meant to outlaw being tried twice for the same offence.

Thomas's two appeals to the High Court were thrown out, on the basis that the federal government could constitutionally detain people without trial under the wartime "defence" power, and that the re-trial did not violate double jeopardy.

When, after two days of deliberations, the jury in this year's re-trial threw out the last terrorist charge, their verdict reflected a deep shift in public sentiment against the abuses by the entire political establishment of basic democratic and legal rights during the previous seven years. Central among these were the detention of Mamdouh Habib and David Hicks for years without trial at Guantanamo Bay, and the collapsed frame-ups of Mohamed Haneef and Izhar ul-Haque.

Thomas expressed his gratitude to the jury, mouthing "thank you" across the courtroom. In a sentencing hearing on the passport conviction on Wednesday, Justice Elizabeth Curtain ruled that while his offence was serious, he was unlikely to reoffend and ordered his immediate release. Thomas has already spent five months behind bars in Pakistan and nine months in Australia. His lawyers said their client, who suffered a breakdown in his high-security prison cell in 2006, would never recover from the ordeal of the past six years.

Lawyer Rob Stary, who represented Thomas for the first trial, has called for an inquiry into the conduct of the AFP and Commonwealth Director of Prosecutions in pursuing him on terrorism charges. Stary said an inquiry was needed to see who was pushing the case and how much it cost. Left in the hands of the Rudd government, however, any such inquiry would be essentially designed to smother the truth, at the very most making cosmetic proposals to try to allay growing public distrust of the terrorism laws and the police and intelligence agencies. This is precisely the purpose of Labor's present closed-door inquiry into the Haneef debacle.



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