



# HIGH COURT BULLETIN

Produced by the Legal Research Officer,  
High Court of Australia Library  
[2017] HCAB 5 (28 June 2017)

A record of recent High Court of Australia cases: decided, reserved for judgment, awaiting hearing in the Court's original jurisdiction, granted special leave to appeal, refused special leave to appeal and not proceeding or vacated

1: Summary of New Entries .....	1
2: Cases Handed Down .....	3
3: Cases Reserved .....	8
4: Original Jurisdiction .....	17
5: Special Leave Granted.....	19
6: Cases Not Proceeding or Vacated.....	29
7: Special Leave Refused.....	30

## 1: SUMMARY OF NEW ENTRIES

### [2: Cases Handed Down](#)

Case	Title
<u><a href="#">The Queen v Dickman</a></u>	Criminal Law
<u><a href="#">GAX v The Queen</a></u>	Criminal Law
<u><a href="#">Rizeq v The State of Western Australia</a></u>	Criminal Law
<u><a href="#">Hughes v The Queen</a></u>	Criminal Law
<u><a href="#">State of New South Wales v DC &amp; Anor</a></u>	Negligence
<u><a href="#">Air New Zealand Ltd v Australian Competition and Consumer Commission; PT Garuda Indonesia Ltd v Australian Competition and Consumer Commission</a></u>	Trade Practices

3: Cases Reserved

<b>Case</b>	<b>Title</b>
<a href="#"><i>Chiro v The Queen</i></a>	Criminal Law
<a href="#"><i>Director of Public Prosecutions v Dalgliesh (a pseudonym)</i></a>	Criminal Law
<a href="#"><i>Hamra v The Queen</i></a>	Criminal Law
<a href="#"><i>The Queen v Dookheea</i></a>	Criminal Law
<a href="#"><i>The Queen v Holliday</i></a>	Criminal Law
<a href="#"><i>Van Beelen v The Queen</i></a>	Criminal Law

4: Original Jurisdiction5: Special Leave Granted

<b>Case</b>	<b>Title</b>
<a href="#"><i>Clone Pty Ltd v Players Pty Ltd (In Liquidation) (Receivers &amp; Managers Appointed) &amp; Ors</i></a>	Procedure
<a href="#"><i>Pike &amp; Anor v Tighe &amp; Ors</i></a>	Real Property
<a href="#"><i>Trkulja v Google Inc</i></a>	Torts
<a href="#"><i>Burns v Gaynor &amp; Ors; Burns v Corbett &amp; Ors; Attorney General for New South Wales v Burns &amp; Ors; Attorney General for New South Wales v Burns &amp; Ors; State of New South Wales v Burns &amp; Ors</i></a>	Constitutional Law

6: Cases Not Proceeding or Vacated

## 2: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the June 2017 sittings.

---

### Criminal Law

*The Queen v Dickman*

**M162/2016:** [\[2017\] HCA 24](#)

**Judgment delivered:** 21 June 2017

**Coram:** Kiefel CJ, Bell, Keane, Nettle and Edelman JJ

**Catchwords:**

Criminal law – Appeal against conviction – Identification evidence – Where victim's identification of accused on photoboard admitted at trial – Where police conveyed to victim that photograph of suspect would be on photoboard – Where victim had made erroneous previous identification – Whether probative value of identification evidence outweighed by unfair prejudice to accused – Whether evidence should have been excluded under s 137 of *Evidence Act 2008* (Vic) – Whether admission of identification evidence occasioned substantial miscarriage of justice.

Words and phrases – "identification evidence", "probative value", "substantial miscarriage of justice", "unfair prejudice".

*Evidence Act 2008* (Vic) – s 137.

**Appealed from VSC (CA):** [\[2015\] VSCA 311](#)

[Return to Top](#)

---

*GAX v The Queen*

**B72/2016:** [\[2017\] HCA 25](#)

**Judgment delivered:** 21 June 2017

**Coram:** Bell, Gageler, Nettle, Gordon and Edelman JJ

**Catchwords:**

Criminal law – Appeal – Verdict unreasonable or insupportable having regard to evidence – Where appellant convicted on one count of aggravated indecent dealing with child and acquitted on two counts of aggravated indecent dealing with same child – Where

appellant appealed conviction as unreasonable and inconsistent with acquittals – Whether Court of Appeal made independent assessment of sufficiency and quality of evidence in determining whether verdict unreasonable – Whether verdict unreasonable.

Words and phrases – "unreasonable verdict".

**Appealed from QSC (CA):** [\[2016\] QCA 189](#)

[Return to Top](#)

---

*Rizeq v The State of Western Australia*

**P55/2016:** [\[2017\] HCA 23](#)

**Judgment delivered:** 21 June 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Constitutional law (Cth) – Courts – State courts – Federal jurisdiction – Diversity jurisdiction – Where appellant resident of New South Wales – Where appellant indicted for offence against law of Western Australia – Where matter between State and resident of another State within meaning of s 75(iv) of Constitution – Where District Court of Western Australia exercising federal jurisdiction – Whether provisions of State Act picked up and applied as Commonwealth law – Whether s 79 of *Judiciary Act* 1903 (Cth) operates in respect of s 6(1)(a) of *Misuse of Drugs Act* 1981 (WA) – Whether s 79 of *Judiciary Act* 1903 (Cth) operates in respect of s 114(2) of *Criminal Procedure Act* 2004 (WA).

Criminal law – Appeal against conviction – Where trial by jury in federal jurisdiction – Where majority verdict of guilty returned – Whether unanimous jury verdict required by s 80 of Constitution – Whether majority jury verdict permitted under s 114(2) of *Criminal Procedure Act* 2004 (WA).

Words and phrases – "accrued jurisdiction", "diversity jurisdiction", "Federal Judicature", "federal jurisdiction", "jurisdiction", "matter", "picked up and applied", "power", "State jurisdiction", "State legislative capacity", "trial by jury".

Constitution – ss 75(iv), 80.

*Criminal Procedure Act* 2004 (WA) – s 114(2).

*Judiciary Act* 1903 (Cth) – ss 39(2), 79, 80.

*Misuse of Drugs Act* 1981 (WA) – s 6(1)(a).

**Appealed from WASC (CA):** [\[2015\] WASCA 164](#); (2015) 299 FLR 197

[Return to Top](#)

---

*Hughes v The Queen*

**S226/2016:** [\[2017\] HCA 20](#)

**Judgment delivered:** 14 June 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Evidence – Admissibility – Tendency evidence – *Evidence Act* 1995 (NSW), s 97(1)(b) – Where appellant charged with 11 sexual offences against five female children aged under 16 years – Where prosecution permitted to adduce evidence of each complainant and other witnesses as tendency evidence – Where alleged tendencies identified as having sexual interest in underage girls and as using relationships to gain access to underage girls in order to engage in sexual activities with them – Whether tendency evidence required to display features of similarity with facts in issue in order to have "significant probative value" – Whether tendency evidence had "significant probative value".

Words and phrases – "modus operandi", "pattern of conduct", "probative value", "significant probative value", "tendency evidence", "underlying unity".

*Evidence Act* 1995 (NSW) – s 97(1)(b).

**Appealed from NSWSC (CCA):** [\[2015\] NSWCCA 330](#)

[Return to Top](#)

---

## Negligence

*State of New South Wales v DC & Anor*

**S35/2017:** [\[2017\] HCA 22](#)

**Judgment delivered:** 14 June 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane and Gordon JJ

**Catchwords:**

Negligence – Duty of care – Statutory power to report abuse of child to police – Where duty of care in exercise of statutory powers conceded – Where scope or extent of duty disputed – Where

primary judge found that no authority acting reasonably could regard failure to report abuse to police as reasonable exercise of statutory powers in present case – Where State conceded that only reasonable exercise of statutory powers in some cases may be to report abuse to police – Whether appropriate in light of concessions to consider scope or extent of duty – Special leave to appeal revoked.

Tort – Vicarious liability – Where State conceded vicarious liability for breach of duty of care – Where statute providing for vicarious liability of Crown not in force – Where concession may not have reflected applicable law at relevant times – Special leave to appeal revoked.

Words and phrases – "duty of care", "scope or extent of duty", "statutory discretionary power", "vicarious liability".

*Child Welfare Act 1939 (NSW)* – Pt XIV, s 148B(5).

*Civil Liability Act 2002 (NSW)* – s 43A.

*Law Reform (Vicarious Liability) Act 1983 (NSW)* – s 8.

**Appealed from NSWSC (CA):** [\[2016\] NSWCA 198](#); (2016) Aust Tort Reports 32-295

[Return to Top](#)

---

## Trade Practices

*Air New Zealand Ltd v Australian Competition and Consumer Commission; PT Garuda Indonesia Ltd v Australian Competition and Consumer Commission*

**S245/2016; S248/2016:** [\[2017\] HCA 21](#)

**Judgment delivered:** 14 June 2017

**Coram:** Kiefel CJ, Bell, Keane, Nettle and Gordon JJ

### **Catchwords:**

Trade practices – Restrictive trade practices – Price fixing – Market identification – Location of market – Meaning of market "in Australia" – Where airlines competed to supply unidirectional air cargo services from ports of origin outside Australia to destination ports within Australia – Where airlines arrived at understanding to impose various surcharges and fees for supply of air cargo services – Whether market for air cargo services "in Australia" for purposes of *Trade Practices Act 1974 (Cth)*.

Trade practices – Restrictive trade practices – Price fixing – Foreign state compulsion – Where airlines contravened s 45 of *Trade Practices Act 1974* (Cth) – Whether conduct compelled by foreign law or foreign regulator's administrative practices.

Statutory interpretation – Inconsistency – Where s 13(b) of *Air Navigation Act 1920* (Cth) required airlines to comply with "agreement or arrangement" – Where Australia-Indonesia Air Services Agreement "agreement or arrangement" within meaning of ss 12(2) and 13(b) of *Air Navigation Act* – Where Australia-Indonesia Air Services Agreement required agreement between international airlines on minimum tariffs – Where ss 45 and 45A of *Trade Practices Act 1974* (Cth) prohibited arriving at understandings concerning prices with competitors – Whether ss 12 and 13 of *Air Navigation Act* inconsistent with ss 45 and 45A of *Trade Practices Act* such that latter did not apply to contravening conduct.

Words and phrases – "competition", "foreign state compulsion", "market identification", "market in Australia", "otherwise competitive with", "practically and operatively inconsistent", "price fixing", "rivalrous behaviour", "substitutability", "supply and demand".

*Air Navigation Act 1920* (Cth) – ss 12, 13.

*Trade Practices Act 1974* (Cth) – ss 4, 4E, 45(2), 45(3), 45A.

**Appealed from FCA (FC):** [\[2016\] FCAFC 42](#); (2016) 330 ALR 230

[Return to Top](#)

---

## 3: CASES RESERVED

The following cases have been reserved or part heard by the High Court of Australia.

---

### Bankruptcy

*Ramsay Health Care Australia Pty Ltd v Compton*

**S53/2017:** [\[2017\] HCATrans 95](#)

**Date heard:** 4 May 2017

**Coram:** Kiefel CJ, Gageler, Keane, Nettle and Edelman JJ

**Catchwords:**

Bankruptcy – *Bankruptcy Act* 1966 (Cth) s 52 – Application to “go behind” judgment debt – Principle of finality – Whether Full Federal Court applied wrong test for “going behind” judgment – Whether court may go behind judgment in any circumstance where debtor adduces evidence which shows “substantial reason to believe” debt not owed.

*Orders made on 4 May 2017 dismissing the appeal with costs.  
Written reasons of the Court to be published at a future date.*

**Appealed from FCA (FC):** [\[2016\] FCAFC 106](#)

[Return to Top](#)

---

### Compensation

*Transport Accident Commission v Katanas*

**M160/2016:** [\[2017\] HCATrans 102](#)

**Date heard:** 11 May 2017

**Coram:** Kiefel CJ, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Compensation – Transport accident – *Transport Accident Act* 1986 (Vic) – Meaning of “serious injury” – Test for establishing whether an injury is a “serious injury” within meaning of s 93 of the *Transport Accident Act* 1986 (Vic) – Application of *Humphries v*



*Poljak* [1992] 2 VR 129 – Whether Court of Appeal applied correct test.

**Appealed from VSC (CA):** [\[2016\] VSCA 140](#); (2016) 76 MVR 161

[Return to Top](#)

---

---

## Constitutional Law

*Brown & Anor v The State of Tasmania*

**H3/2016:** [\[2017\] HCATrans 93](#); [\[2017\] HCATrans 94](#)

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Date heard:** 2 and 3 May 2017

**Catchwords:**

Constitutional Law – Implied freedom of political communication – *Workplaces (Protection from Protesters) Act* 2014 (Tas) – Where Forestry Tasmania was authorised to undertake forestry operations in the Lapoinya Forest – Where plaintiffs protested against forestry operations in vicinity of the operations – Where plaintiffs were charged on separate occasions for breaching s 8 of the Act – Where charges were dismissed against both plaintiffs – Whether Act impermissibly burdens the implied freedom of political communication.

[Return to Top](#)

---

*Knight v State of Victoria & Anor*

**M251/2015:** [\[2017\] HCATrans 61](#)

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Date heard:** 28 March 2017

**Catchwords:**

Constitutional law – Chapter III of the Constitution – Where plaintiff pleaded guilty to seven counts of murder and 46 counts of attempted murder in Supreme Court of Victoria – Where plaintiff was sentenced to life imprisonment with minimum term of 27 years – Where minimum term has expired – Where prior to expiry Victorian Parliament passed *Corrections Amendment (Parole) Act* 2014 (Vic) which inserted s 74AA into *Corrections Act* 1986 (Vic) – Where s 74AA requires Adult Parole Board to not release plaintiff unless in imminent danger of dying or seriously incapacitated and

as result no longer has physical ability to harm any person – Where judicial officers, including Judges of Supreme Court of Victoria, may be appointed as members of Adult Parole Board – Whether s 74AA impermissibly interferes with exercise of judicial power by Supreme Court of Victoria – Whether s 74AA authorises State judicial officers to participate in decision-making process that undermines judicial independence and renders courts on which they sit unsuitable to be repositories of federal judicial power.

[Return to Top](#)

---

## Criminal Law

*Chiro v The Queen*

**A9/2017:** [\[2017\] HCATrans 133](#); [\[2017\] HCATrans 134](#)

**Date heard:** 20 and 21 June 2017

**Coram:** Kiefel CJ, Bell, Keane, Nettle and Edelman JJ

**Catchwords:**

Criminal law – Sentencing – Where appellant convicted by jury of “persistent sexual exploitation of a child” pursuant to *Criminal Law Consolidation Act 1935 (SA)* s 50 – Where complainant gave evidence of sexual exploitation ranging in seriousness – Where trial judge directed jury they may convict if satisfied appellant kissed complainant in circumstances amounting to indecent assault on two occasions – Whether Court of Criminal Appeal erred in failing to hold trial judge erred in failing to ask jury which two or more sexual offences were subject of guilty verdict for purposes of sentencing – Whether in absence of such answer it was open to trial judge to sentence on basis appellant guilty of all alleged sexual offending.

**Appealed from SASC (CCA):** [\[2015\] SASCF 142](#); (2015) 123 SASR 583

[Return to Top](#)

---

*Director of Public Prosecutions v Dalgliesh (A Pseudonym)*

**M1/2017:** [\[2016\] HCATrans 122](#)

**Date heard:** 14 June 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane and Gordon JJ

**Catchwords:**

Criminal law – Sentencing – *Sentencing Act* 1991 (Vic) s 5(2)(b) – Where respondent pleaded guilty to four sexual acts on two children under age of 16 – Where Charge 1 alleged respondent, contrary to *Crimes Act* 1958 (Vic) s 44 (“incest”), took part in act of sexual penetration of person under age of 18 years whom respondent knew was child of de facto wife – Where child, aged 13, fell pregnant – Where sentencing judge imposed sentence of 3 years 6 months imprisonment for Charge 1 and total effective sentence of 5 years 6 months for all counts – Where appellant appealed to Court of Appeal on grounds sentence imposed for Charge 1 and total effective sentence were manifestly inadequate – Where Court informed parties that Court would consider adequacy of “current sentencing practices” for incest – Where Court of Appeal dismissed appeal but stated current sentencing practices for incest inadequate – Whether Court of Appeal erred in failing to find sentence for Charge 1 manifestly inadequate – Whether s 5(2)(b) alters common law principle of “instinctive synthesis” in sentencing.

**Appealed from VSC (CA):** [\[2016\] VSCA 148](#)

[Return to Top](#)

---

*Hamra v The Queen*

**A14/2017:** [\[2017\] HCATrans 133](#); [\[2017\] HCATrans 134](#)

**Date heard:** 20 and 21 June 2017

**Coram:** Kiefel CJ, Bell, Keane, Nettle and Edelman JJ

**Catchwords:**

Criminal law – Persistent sexual exploitation of child under *Criminal Law Consolidation Act* 1935 (SA) s 50 – Where trial judge held no case to answer because allegations of generalised nature such that it was not possible to identify two or more proved sexual offences within meaning of s 50 – Where Court of Criminal Appeal quashed acquittal and remitted matter for retrial – Whether s 50 requires proof of commission of two or more prescribed sexual offences on particular occasions – Whether Court of Criminal Appeal failed to address appellant’s submission that respondent’s appeal should not be granted having regard to considerations relating to double jeopardy.

**Appealed from SASC (CCA):** [\[2016\] SASCFC 130](#); (2016) 126 SASR 374

[Return to Top](#)

---

*IL v The Queen*

**[S270/2016](#)**: [\[2017\] HCATrans 65](#)

**Date heard:** 4 April 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Criminal law – Constructive murder – Joint criminal enterprise – *Crimes Act* 1900 (NSW) s 18 – Where deceased’s death caused by ignition of ring burner in inadequately ventilated room – Where evidence insufficient to establish that appellant ignited burner – Whether ignition of ring burner within scope of joint criminal enterprise to manufacture methylamphetamine – Whether subjective foresight of risk of death required for charge of constructive murder – Whether element of “malice” in s 18(2)(a) satisfied by proof of intention to commit foundational offence – Whether “malice” established by recklessness.

**Appealed from NSWSC (CCA):** [\[2016\] NSWCCA 51](#)

[Return to Top](#)

---

*The Queen v Dookheea*

**[M159/2016](#)**: [\[2016\] HCATrans 132](#)

**Date heard:** 19 June 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle and Edelman JJ

**Catchwords:**

Criminal law – Jury directions – Where trial judge directed jury that prosecution must prove element of crime “not beyond any doubt, but beyond reasonable doubt” – Where respondent convicted of murder – Where Court of Appeal quashed conviction and ordered re-trial – Whether Court of Appeal erred in finding trial judge impermissibly explained meaning of “beyond reasonable doubt” – Whether Court of Appeal erred in concluding that jury direction occasioned substantial miscarriage of justice.

**Appealed from VSC (CA):** [\[2016\] VSCA 67](#)

[Return to Top](#)

---

*The Queen v Holliday*

**[C3/2017](#)**: [\[2017\] HCATrans 123](#)

**Date heard:** 15 June 2017

**Coram:** Kiefel CJ, Bell, Gageler, Nettle and Gordon JJ

**Catchwords:**

Criminal law – Where respondent in custody awaiting trial offered to reward fellow inmate for arranging third person to kidnap and murder two witnesses in case against respondent – Whether offence of incitement under *Criminal Code* 2002 (ACT) s 47 can be committed by inciting another person to procure a third person to commit an offence – Whether offence of incitement complete at the point of the urging – Whether *Criminal Code* 2002 (ACT) ss 45(2)(a) and 45(3) constitute a “limitation or qualifying provision” for purposes of s 47(5) such that offence of incitement not complete until offence of kidnapping committed.

**Appealed from ACTSC (CA):** [\[2016\] ACTCA 42](#); (2016) 312 FLR 77

[Return to Top](#)

---

*Van Beelen v The Queen*

**A8/2017:** [\[2017\] HCATrans 135](#); [\[2017\] HCATrans 137](#)

**Date heard:** 21 and 22 June 2017

**Coram:** Bell, Gageler, Keane, Nettle and Edelman JJ

**Catchwords:**

Criminal law – *Criminal Law Consolidation Act* 1935 (SA) s 353A – Second or subsequent appeal – Where appellant seeks to appeal against murder conviction on basis that new evidence shows expert evidence as to time of victim’s death flawed – Whether new evidence is “compelling” – Whether majority of Court of Criminal Appeal erred in holding further attack on expert evidence precluded because expert evidence contested at trial – Whether evidence could have been adduced at original trial – Whether majority of Court of Criminal Appeal erred in finding principle of finality relevant to s 353A appeal – Whether in “interests of justice” to allow appeal.

**Appealed from SASC (CCA):** [\[2016\] SASFCF 71](#); (2016) 125 SASR 253

[Return to Top](#)

---

## Migration

*Graham v Minister for Immigration and Border Protection; Te Puia v Minister for Immigration and Border Protection*

**[M97/2016](#); [P58/2016](#): [\[2017\] HCATrans 63](#)**

**Date heard:** 30 March 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Migration – Constitutional law – Where plaintiffs are citizens of New Zealand – Where plaintiffs were granted a class TY subclass 444 Special Category (Temporary) visa when they each respectively last entered Australia – Where defendant cancelled plaintiffs’ visas under s 501(3) of the *Migration Act* 1958 (Cth) – Where defendant received information in accordance with s 503A(1) of the *Migration Act* 1958 (Cth) – Where s 503A(2) prevents defendant from disclosing confidential information to the Court – Whether ss 501(3) and 503A(2) invalid as requiring a Federal court to exercise judicial power in a manner inconsistent with the essential character of a court – Whether invalid as limiting ability of affected person to seek relief under s 75(v) of Constitution.

[Return to Top](#)

---

*Plaintiff S195/2016 v Minister for Immigration and Border Protection & Ors*

**[S195/2016](#): [\[2017\] HCATrans 99](#)**

**Date heard:** 9 May 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Migration – Constitutional law – Where plaintiff is citizen of Iran – Where plaintiff was “unauthorised maritime arrival” – Where plaintiff unwilling to return to Iran – Where plaintiff sent to Papua New Guinea under regional processing arrangements – Where Papua New Guinea Supreme Court handed down *Belden Norman Namah, MP Leader of the Opposition v Hon Rimbank Pato, Minister for Foreign Affairs & Immigrations SCA NO 84 of 2013* (“*Namah Decision*”) – Whether designation of Papua New Guinea as regional processing country beyond power under s 198AB(1) of *Migration Act* 1958 (Cth) by reason of *Namah Decision* – Whether taking plaintiff to Papua New Guinea beyond power under s 198AD by reason of *Namah Decision* – Whether entry into re-settlement arrangements beyond power conferred by Constitution s 61 – Whether authority of Commonwealth to undertake conduct in respect of regional processing arrangements in Papua New Guinea

conferred by s 198AHA dependent on those arrangements being lawful under law of Papua New Guinea.

[Return to Top](#)

---

*SZTAL v Minister for Immigration and Border Protection & Anor; SZTGM v Minister for Immigration and Border Protection & Anor*  
**[S272/2016](#); [S273/2016](#): [\[2017\] HCATrans 68](#)**

**Date heard:** 5 April 2017

**Coram:** Kiefel CJ, Gageler, Nettle, Gordon and Edelman JJ

**Catchwords:**

Migration – Statutory interpretation – *Migration Act* 1958 (Cth) – s 36(2)(aa), complementary protection criteria – Where appellants are nationals of Sri Lanka – Where appellants left Sri Lanka illegally – Where Tribunal accepted that it was likely that appellants would be jailed upon return to Sri Lanka – Whether Full Court of the Federal Court erred in holding that requirement of intentional infliction of “cruel and inhuman treatment or punishment” or “degrading treatment or punishment” requires proof of subjective intention.

**Appealed from FCA (FC):** [\[2016\] FCAFC 69](#); (2016) 243 FCR 556

[Return to Top](#)

---

## Mining

*Forrest & Forrest Pty Ltd v Wilson & Ors*  
**[P59/2016](#): [\[2017\] HCATrans 64](#)**

**Date heard:** 31 March 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane and Nettle JJ

**Catchwords:**

Mining – Statutory Construction – *Mining Act* 1978 (WA) – Where applications for mining leases lodged without mining operations statements or mineralisation reports specified in s 74(1)(ca)(ii) – Where mineralisation reports subsequently lodged – Where Warden recommended Minister grant applications subject to conditions – Whether lodgement of mineralisation report at time of application for mining lease was essential condition that must be satisfied in order to enliven jurisdiction of Director to prepare report under s

74A(1) – Whether lodgement of mineralisation report at time of application for mining lease was essential condition that must be satisfied in order to enliven Warden’s jurisdiction to hear application under s 75(4) and make recommendation under s 75(5).

**Appealed from WASC (CA):** [\[2016\] WASCA 116](#); (2016) 10 ARLR 81

[Return to Top](#)

---

---

## Taxation

*Commissioner of Taxation v Jayasinghe*

**S275/2016:** [\[2017\] HCATrans 62](#)

**Date heard:** 29 March 2017

**Coram:** Kiefel CJ, Gageler, Keane, Gordon and Edelman JJ

**Catchwords:**

Taxation – *International Organisations (Privileges and Immunities) Act 1963 (Cth) s 6(1)(d)(i)* – Where respondent was civil engineer engaged by United Nations Office of Project Services under “Individual Contractor Agreement” – Whether respondent was a person who “holds an office in an international organisation” under the Act and Regulations made under the Act – Meaning of “holds an office in an international organisation” – Whether common law concept of “office” applies – Whether determined by establishment and designation of office by international organisation.

**Appealed from FCA(FC):** [\[2016\] FCAFC 79](#); (2016) ATC 20-571

[Return to Top](#)

---

---



## 4: ORIGINAL JURISDICTION

The following cases are ready for hearing in the original jurisdiction of the High Court of Australia.

---

### Constitutional Law

*ResourceCo Material Solutions Pty Ltd & Anor v State of Victoria & Anor*

[M32/2016](#): Demurrer

**Catchwords:**

Constitutional law – Section 92 – *Environment Protection (Industrial Waste Resource) Regulations 2009 (Vic)* – Where reg 26(3) prohibits interstate transport of prescribed industrial waste for destruction/deposit unless interstate facility has better environmental performance standards – Contract to dispose of contaminated soil in Victoria by transporting to and disposing of in South Australia – Where second plaintiff obtained approval from South Australian Environment Protection Authority (“EPA”) for treatment of soil in South Australia – Where first plaintiff sought approval from EPA Victoria for transport of waste from Victoria to South Australia – Where approval refused because EPA Victoria not satisfied waste would be deposited at facility in South Australia with better environmental performance standards than in Victoria – Whether reg 26 or 26(3) *Environment Protection (Industrial Waste Resource) Regulations 2009 (Vic)* contrary to s 92 and therefore invalid – Whether protectionist effect of reg 26(3) can be inferred from discriminatory burden imposed on interstate trade – Whether objects of reg 26(3) must be actual motivating objects of the regulation.

*Hearing vacated (1 February 2017).*

[Return to Top](#)

---

### Migration

*Plaintiff M174/2016 v Minister for Immigration and Border Protection*

[M174/2016](#): Special Case

**Catchwords:**

Constitutional law – Migration – *Migration Act* 1958 (Cth) ss 57(2), 473CA, 473CC – Where plaintiff applied for Temporary Protection (Class XD) (Subclass 785) visa – Where delegate of Minister refused to grant visa – Whether delegate failed to comply with s 57(2) of Act – If so, whether failure to comply with s 57(2) had consequence that there was no decision capable of referral to Immigration Assessment Authority under s 473CA or essential precondition for valid exercise of power by Authority under s 473CC not satisfied – Whether Authority failed to conduct review in accordance with Pt 7AA by unreasonably failing to exercise statutory powers to obtain or consider new information.

[Return to Top](#)

---

*Falzon v Minister for Immigration and Border Protection*

**S31/2017**: *Application to Show Cause*

**Catchwords:**

Constitutional law – Migration – Where plaintiff's visa cancelled pursuant to *Migration Act* 1958 (Cth) s 501(3A) – Where Minister decided not to revoke cancellation under s 501CA – Whether s 501(3A) is invalid because it purports to confer judicial power of Commonwealth on Minister.

[Return to Top](#)

---

---

## 5: SPECIAL LEAVE GRANTED

The following cases have been granted special leave to appeal to the High Court of Australia.

---

### Administrative Law

*Woollahra Municipal Council v Minister for Local Government & Ors*

**S141/2017:** [\[2017\] HCATrans 108](#)

**Date heard:** 12 May 2017 – *Special leave granted.*

**Catchwords:**

Administrative law – *Local Government Act 1993* (NSW) – Where Minister made proposal under s 218E(1) for forced amalgamation of Woollahra, Waverley and Randwick local government areas – Where Government published document disclosing part of analysis by KPMG – Where Delegate heard evidence in secret from KPMG – Whether obligation to hold inquiry under s 263(2A) did not permit evidence to be heard in secret and not disclosed to public – Whether Court of Appeal erred in failing to find that no prescribed inquiry at which there was examination of required statutory factors had been held – Whether Court of Appeal erred in failing to find that requirement to inquire into financial advantages and disadvantages of proposed amalgamation not discharged without having regard to specific financial advantages and disadvantages to residents and ratepayers of each local government area.

**Appealed from NSWSC (CA):** [\[2016\] NSWCA 380](#); (2016) 219 LGERA 180

[Return to Top](#)

---

### Constitutional Law

*Burns v Gaynor & Ors; Burns v Corbett & Ors; Attorney General for New South Wales v Burns & Ors; Attorney General for New South Wales v Burns & Ors; State of New South Wales v Burns & Ors*

**S41/2017; S42/2017; S43/2017; S44/2017; S45/2017:** [\[2017\] HCATrans 136](#)

**Date determined:** 22 June 2017 – *Special leave granted.*

**Catchwords:**

Constitutional law – Diversity jurisdiction – Where resident of New South Wales made complaints to Anti-Discrimination Board of NSW about statements made by Victorian resident and Queensland resident – Where Victorian resident ordered to make apologies by Administrative Decisions Tribunal of New South Wales (ADT) – Where complaints against Queensland resident referred to New South Wales Civil and Administrative Tribunal (NCAT) – Where Court of Appeal held ADT and NCAT lacked jurisdiction – Whether Court of Appeal erred in failing to find state diversity jurisdiction retained by state tribunals – Whether Court of Appeal erred in concluding state law purporting to confer jurisdiction upon state tribunal with respect to matters identified in ss 75 and 76 of Constitution inconsistent with s 39(2) of *Judiciary Act* within meaning of s 109 of Constitution – Whether a state can validly confer judicial power in any matters dealt with in ss 75, 76 of Constitution on person or body that is not a “court of a State” – Whether judicial power conferred upon NCAT to determine matters under *Anti-Discrimination Act* 1977 (NSW) between residents of different states regarding conduct that occurs outside New South Wales.

**Appealed from NSWSC (CA):** [\[2017\] NSWCA 3](#); (2017) 316 FLR 448

[Return to Top](#)

---

## Criminal Law

*Kalbasi v The State of Western Australia*

**P21/2017:** [\[2017\] HCATrans 113](#)

**Date heard:** 12 May 2017 – *Special leave granted on limited grounds.*

**Catchwords:**

Criminal law – Appeal against conviction – *Criminal Appeals Act* 2004 (WA) s 30(4) – Where appellant convicted of attempt to possess prohibited drug with intent to sell or supply contrary to *Misuse of Drugs Act* 1981 (WA) ss 6(1)(a), 33(1) – Where Court of Appeal concluded jury directions on intention erroneous as presumption of intent to sell or supply under s 11 of Act did not apply, but held no substantial miscarriage of justice – Whether Court of Appeal erred in finding no substantial miscarriage of justice and applying proviso – Whether *Weiss v The Queen* (2005) 224 CLR 300 should be revisited and/or qualified and/or overruled.

**Appealed from WASC (CA):** [\[2016\] WASCA 144](#)

[Return to Top](#)

---

*Craig v The Queen*

**[B24/2017](#)**; [\[2017\] HCATrans 73](#)

**Date heard:** 7 April 2017 – *Special leave granted.*

**Catchwords:**

Criminal law – Murder – *Criminal Code* 1899 (Qld) s 668E – Miscarriage of justice – Where appellant advised by trial counsel that if he gave evidence at trial, he would likely be cross-examined on prior convictions, including manslaughter conviction – Where appellant did not give evidence – Where proposed evidence would have been relevant to defence of provocation and would have raised self-defence – Where Court of Appeal held it was not likely that appellant would have been cross-examined on criminal history – Whether Court of Appeal erred in finding erroneous advice did not result in miscarriage of justice – Whether “alternative rational basis” for not giving evidence test appropriate where counsel gave erroneous advice – Whether denial of opportunity to make informed decision as to whether to give evidence amounts to “such a serious breach of the presuppositions of the trial” that the proviso cannot apply.

**Appealed from QSC (CA):** [\[2016\] QCA 166](#)

[Return to Top](#)

---

*Commissioner of the Australian Federal Police v Hart & Ors; Commonwealth of Australia v Yak 3 Investments Pty Ltd as Trustee for Yak 3 Discretionary Trust & Ors; Commonwealth of Australia & Anor v Flying Fighters Pty Ltd & Ors*

**[B21/2017](#)**; **[B22/2017](#)**; **[B23/2017](#)**: [\[2017\] HCATrans 69](#)

**Date determined:** 6 April 2017 – *Special leave granted.*

**Catchwords:**

Criminal law – Proceeds of crime – *Proceeds of Crime Act* 2002 (Cth) – Where Commonwealth obtained restraining order under s 17 of the Act over property under first respondent’s effective control – Where first respondent subsequently found guilty of nine offences of defrauding the Commonwealth – Where property forfeited to Commonwealth under s 92 – Where Commonwealth granted pecuniary penalty order (PPO) against first respondent

under s 116 – Where Commonwealth Director of Public Prosecutions sought declaration under s 141 that forfeited property available to satisfy PPO – Where primary judge dismissed application under s 141 on discretionary grounds – Where majority of Court of Appeal dismissed appeal on basis that s 141 did not apply to property the subject of a restraining order under s 17 – Whether majority of Court of Appeal erred in holding that s 141 does not apply to property subject to restraining orders under s 17 – Whether majority of Court of Appeal erred in construing date of effective control under s 141(1)(c) as date on which application is determined notwithstanding that property was subject of restraining orders under s 17 – Whether primary judge erred in exercising discretion to refuse to make order under s 141.

**Appealed from QSC (CA):** [\[2016\] QCA 215](#); (2016) 336 ALR 492 and [\[2016\] QCA 284](#)

[Return to Top](#)

---

*Koani v The Queen*

**B20/2017:** [\[2017\] HCATrans 70](#)

**Date determined:** 6 April 2017 – *Special leave granted.*

**Catchwords:**

Criminal law – Murder – Criminal negligence – *Criminal Code* 1899 (Qld) ss 289 and 23(1)(a) – Where appellant convicted of murder of de facto partner – Where there was evidence that would allow jury to conclude it was reasonably possible that appellant intended only to frighten deceased – Where trial judge directed jury that, if not satisfied discharge of gun resulted from willed act of appellant, jury could still convict for murder if discharge was consequence of omission to perform duty under s 289 to use reasonable care in his control of shotgun and at time of discharge appellant intended to kill victim or cause grievous bodily harm – Whether criminal negligence in breach of s 289 can found a conviction for murder.

**Appealed from QSC (CA):** [\[2016\] QCA 289](#)

[Return to Top](#)

---

## Family Law

*Thorne v Kennedy*

**B14/2017:** [\[2017\] HCATrans 54](#)

**Date heard:** 10 March 2017 – *Special leave granted on limited grounds.*

**Catchwords:**

Family law – *Family Law Act 1975* (Cth) ss 90K, 90KA – Where parties signed financial agreements prior to and shortly after wedding – Where parties subsequently separated – Where trial judge found wife signed agreements under duress – Where Full Court declared second financial agreement binding – Whether financial agreements should be set aside on grounds of duress, undue influence or unconscionable conduct – Whether Full Court erred in finding trial judge failed to provide adequate reasons.

**Appealed from FamFC (FC):** [\[2016\] FamCAFC 189](#); [2016] FLC 93-737

[Return to Top](#)

---

## Industrial Law

*Regional Express Holdings Limited v Australian Federation of Air Pilots*

**M71/2017:** [\[2017\] HCATrans 105](#)

**Date heard:** 12 May 2017 – *Special leave granted.*

**Catchwords:**

Industrial law – *Fair Work Act 2009* (Cth) – *Fair Work (Registered Organisations) Act 2009* (Cth) – Standing – Where appellant sent letter to unidentified persons who applied for cadet employment program – Where respondent, a registered organisation, commenced proceedings in Federal Circuit Court seeking pecuniary penalty orders against appellant on basis letter contravened various provisions of *Fair Work Act* – Where appellant sought orders dismissing or striking out application on basis respondent lacked standing – Whether respondent “entitled to represent the industrial interests” of letter recipients under s 540(6)(b)(ii) because recipients capable of becoming members of respondent despite not actually being members.

**Appealed from FCA (FC):** [\[2016\] FCAFC 147](#); (2016) 244 FCR 344

[Return to Top](#)

---

*Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union & Anor*

**M65/2017:** [\[2017\] HCATrans 106](#)

**Date heard:** 12 May 2017 – *Special leave granted.*

**Catchwords:**

Industrial law – *Fair Work Act 2009* (Cth) – Where respondents admitted contravention of s 348 of the Act – Where pecuniary penalties imposed on respondents – Where primary judge ordered first respondent not to indemnify second respondent against penalties – Where Full Federal Court set aside order on basis that Court had no power to make such order – Whether Federal Court has power to order party not to indemnify another party in respect of pecuniary penalty order made under s 546.

**Appealed from FCA (FC):** [\[2016\] FCAFC 184](#)

[Return to Top](#)

---

*Aldi Foods Pty Limited v Shop, Distributive & Allied Employees Association & Anor*

**M33/2017:** [\[2017\] HCATrans 48](#)

**Date determined:** 8 March 2017 – *Special leave granted.*

**Catchwords:**

Industrial law – Jurisdictional error – *Fair Work Act 2009* (Cth) – Approval of enterprise agreements – Whether Fair Work Commission fell into jurisdictional error in exercising functions under s 186 – Whether within Fair Work Commission’s jurisdiction to determine whether group of employees who voted on single enterprise agreement within coverage of agreement – Whether Fair Work Commission fell into jurisdictional error in determining agreement satisfied “better off overall test” under s 193 – Unreasonableness in jurisdictional sense.

**Appealed from FCA (FC):** [\[2016\] FCAFC 161](#); (2016) 262 IR 329

[Return to Top](#)

---

*Esso Australia Pty Ltd v Australian Workers’ Union; Australian Workers’ Union v Esso Australia Pty Ltd*

**M185/2016; M187/2016:** [\[2016\] HCATrans 311](#)

**Date heard:** 16 December 2016 – *Special leave granted on limited grounds.*

**Catchwords:**



Industrial Law – *Fair Work Act 2009 (Cth)* – Construction of s 413(5) – Where s 413(5) requires that certain persons “must not have contravened any orders that apply to them” for industrial action to be protected – Whether under s 413(5) the order must be operative at the time of organising or taking industrial action – Whether under s 413(5) the organising or taking of industrial action must be in contravention of order – Whether under s 413(5) the contravention must be occurring at the time of organising or taking industrial action.

Industrial Law – *Fair Work Act 2009 (Cth)* – Construction of ss 343 and 348 – Where sections prevent actions being taken against another person “with intent to coerce” the other person to take or not take industrial action – Whether sections require knowledge that action was unlawful.

**Appealed from FCA (FC):** [\[2016\] FCAFC 72](#); (2016) 258 IR 396

*Hearing vacated (4 May 2017).*

[Return to Top](#)

---

## Judicial Review

*Probuild Constructions (Aust) Pty Ltd v Shade Systems Pty Ltd & Anor*

**S145/2017:** [\[2017\] HCATrans 112](#)

**Date heard:** 12 May 2017 – *Special leave granted.*

### **Catchwords:**

Jurisdiction – Error of law on face of record – *Building and Construction Industry Security of Payment Act 1999 (NSW)* – Where adjudicator made determination under s 22(1) that progress payment to be paid by appellant – Where primary judge made order in nature of certiorari under *Supreme Court Act 1970 (NSW)* s 69 quashing determination for error of law on face of record – Where Court of Appeal held relief not available to quash determination under Act for error of law on face of record – Whether Court of Appeal erred in holding that Supreme Court’s power to make orders in nature of certiorari for error of law on face of record ousted in relation to determinations under Act.

**Appealed from NSWSC (CA):** [\[2016\] NSWCA 379](#)

[Return to Top](#)

---

*Maxcon Constructions Pty Ltd v Vadasz & Ors*  
**A17/2017:** [\[2017\] HCATrans 112](#)

**Date heard:** 12 May 2017 – *Special leave granted.*

**Catchwords:**

Jurisdiction – Error of law on face of record – *Building and Construction Industry Security of Payment Act 2009 (SA)* – Where adjudicator made determination that amount be paid by appellant – Where appellant sought judicial review of determination – Where Full Court considered it was required by *Farah Constructions Pty Ltd v Say-Dee Pty Ltd* (2007) 230 CLR 89 to follow *Shade Systems Pty Ltd v Probuild Constructions (Aust) Pty Ltd (No 2)* [2016] NSWCA 379 (“*Probuild*”) – Whether Full Court erred in following *Probuild* and concluding that Act excluded judicial review on ground of error of law on face of record – Whether Full Court erred in holding that error of law in application of s 12 did not amount to jurisdictional error – Whether Full Court erred in holding that, if error enlivened Court’s jurisdiction to grant certiorari, appropriate order would be to partially set aside but partially preserve determination.

**Appealed from SASC (CA):** [\[2017\] SASCF 2](#)

[Return to Top](#)

---

## Negligence

*Briggs v State of New South Wales*  
**S144/2017:** [\[2017\] HCATrans 109](#)

**Date heard:** 12 May 2017 – *Special leave granted.*

**Catchwords:**

Negligence – *Works Compensation Act 1987 (NSW)* – Breach of duty – Where appellant suffered psychological injury due to exposure to traumatic events in course of duties as police officer – Where appellant told supervisor he was “struggling” and applied for “theoretical demotion” – Where appellant interviewed by Professional Standards Command while on sick leave – Whether Court of Appeal erred in finding respondent did not breach duty of care by failing to make enquiries as to appellant’s reasons for seeking demotion – Whether Court of Appeal erred in formulation of content of duty of care – Whether Court of Appeal erred in finding respondent did not breach duty of care in manner in which professional standards enquiry conducted while appellant was on sick leave.

**Appealed from NSWSC (CA):** [\[2016\] NSWCA 344](#); (2016) Aust Tort Reports 82-319

[Return to Top](#)

---

## Procedure

*Clone Pty Ltd v Players Pty Ltd (In Liquidation) (Receivers & Managers Appointed) & Ors*

**A1/2017; A2/2017:** [\[2017\] HCATrans 130](#)

**Date heard:** 16 June 2017 – *Special leave granted on limited grounds.*

### Catchwords:

Procedure – Jurisdiction to set aside judgment – Whether power of Supreme Court to set aside perfected orders in its equitable jurisdiction extends to malpractice not amounting to fraud – Where document lodged by first respondent was contained in files of fifth respondent – Where primary judge found that appellant’s legal advisers engaged in “serious malpractice” by recklessly failing to discover document – Where primary judge found that first respondent failed to exercise reasonable diligence in searching for document – Where primary judge ordered new trial on basis that there was “real possibility” that issue would have been decided differently – Whether Court of Appeal erred in formulation and application of principles that inform jurisdiction to set aside perfected judgment on ground of malpractice for failure to disclose document.

**Appealed from SASC (CA):** [\[2016\] SASCFC 134](#); (2016) 127 SASR 1

[Return to Top](#)

---

## Real Property

*Pike & Anor v Tighe & Ors*

**B5/2017:** [\[2017\] HCATrans 127](#)

**Date heard:** 16 June 2017 – *Special leave granted.*

### Catchwords:

Real property – Statutory interpretation – *Sustainable Planning Act 2009* (Qld) – Where second respondent granted approval for reconfiguration of original lot into Lots 1 and 2 – Where approval subject to condition that easement for “pedestrian and vehicle

access, on-site manoeuvring and connection of services and utilities” be registered for benefit of Lot 2 – Where registered easement does not permit “on-site manoeuvring and connection of services and utilities” – Where first respondents registered owners of Lot 1 and appellants registered owners of landlocked Lot 2 – Whether Court of Appeal erred in concluding that power to make enforcement order under s 604(1) arose only upon Planning and Environment Court being satisfied that first respondents committed development offence against s 580(1) – Whether Court of Appeal erred in failing to conclude that condition of development approval imposed continuing obligation despite reconfiguration approval by registration of survey plan.

**Appealed from QSC (CA):** [\[2016\] QCA 353](#)

[Return to Top](#)

---

## Torts

*Trkulja v Google Inc*

**M13/2017:** [\[2017\] HCATrans 129](#)

**Date heard:** 16 June 2017 – *Special leave granted.*

### Catchwords:

Torts – Defamation – Publication – Respondent internet search engine – Search results – Images – Text – Autocomplete predictions – Whether respondent “published” matter relied on by applicant.

Practice and procedure – Service outside jurisdiction – *Supreme Court (General Civil Procedure) Rules 2015* (Vic) r 7.01(1)(i) and (j) – Where respondent served in United States – Where Court of Appeal held service should be set aside because no real prospect of success in providing that respondent was publisher – Whether Court of Appeal erred in confining case to primary publisher rather than secondary.

**Appealed from VSC (CA):** [\[2016\] VSCA 333](#)

[Return to Top](#)

---

# **6: CASES NOT PROCEEDING OR VACATED**

---

---

## 7: SPECIAL LEAVE REFUSED

---

### Publication of Reasons: 14 June 2017

---

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Hera Project Pty Ltd	Bisognin & Anor (M22/2017)	Supreme Court of Victoria (Court of Appeal) [2016] VSCA 322 and [2017] VSCA 7	Application dismissed with costs <a href="#">[2017] HCASL 129</a>
2.	SZWCH	Minister for Immigration and Border Protection & Anor (S20/2017)	Federal Court of Australia [2016] FCA 1551	Application dismissed with costs <a href="#">[2017] HCASL 130</a>
3.	Anglo American Investments Pty Ltd & Ors	Deputy Commissioner of Taxation (S51/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 17	Application dismissed with costs <a href="#">[2017] HCASL 131</a>

[Return to Top](#)

## Publication of Reasons: 15 June 2017

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Chundru	Minister for Immigration and Border Protection & Anor (M32/2017)	High Court of Australia [2017] HCATrans 033	Application dismissed <a href="#">[2017] HCASL 132</a>
2.	Dickens	Levine (S59/2017 & S60/2017)	Full Court of the Family Court of Australia	Applications dismissed <a href="#">[2017] HCASL 133</a>
3.	Dickens	Dickens & Anor (S61/2017, S62/2017 & S63/2017)	Full Court of the Family Court of Australia	Applications dismissed <a href="#">[2017] HCASL 134</a>
4.	SZVVB	Minister for Immigration and Border Protection & Anor (S66/2017)	Federal Court of Australia [2017] FCA 207	Application dismissed <a href="#">[2017] HCASL 135</a>
5.	Davis	NSW Land and Housing Corporation (S25/2017)	Supreme Court of New South Wales (Court of Appeal) [2016] NSWCA 325	Application dismissed with costs <a href="#">[2017] HCASL 136</a>
6.	SZUVE	Minister for Immigration and Border Protection & Anor (S36/2017)	Federal Court of Australia [2017] FCA 38	Application dismissed with costs <a href="#">[2017] HCASL 137</a>
7.	GJ	AS (C5/2017)	Supreme Court of the Australian Capital Territory (Court of Appeal) [2017] ACTCA 7	Application dismissed <a href="#">[2017] HCASL 138</a>
8.	Kenney	Commonwealth Bank of Australia (P13/2017)	Supreme Court of Western Australia (Court of Appeal) [2017] WASCA 21	Application dismissed <a href="#">[2017] HCASL 139</a>
9.	SZUQB	Minister for Immigration and Border Protection & Anor (S58/2017)	Federal Court of Australia [2017] FCA 135	Application dismissed <a href="#">[2017] HCASL 140</a>
10.	SZFRG & Anor	Minister for Immigration and Border Protection (S65/2017)	Federal Court of Australia [2017] FCA 189	Application dismissed <a href="#">[2017] HCASL 141</a>
11.	AAY	The Queen (B8/2017)	Supreme Court of Queensland (Court of Appeal) [2016] QCA 300	Application dismissed <a href="#">[2017] HCASL 142</a>
12.	Save Our Rail NSW Incorporated INC 9883299	Hunter Development Corporation & Ors (S258/2015)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 346	Application dismissed with costs <a href="#">[2017] HCASL 143</a>
13.	Cherupalli	Minister for Immigration and Border Protection & Anor (S291/2016)	Federal Court of Australia [2016] FCA 1361	Application dismissed with costs <a href="#">[2017] HCASL 144</a>

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
14.	Power Rental Op Co Australia, LLC & Anor	Forge Group Power Pty Limited (in liquidation) (receivers and managers appointed) & Anor (S39/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 8	Application dismissed <a href="#">[2017] HCASL 145</a>

[Return to Top](#)



## 16 June 2017: Sydney

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Proudlove	Burridge & Ors (P7/2017)	Supreme Court of Western Australia (Court of Appeal) [2017] WASCA 6	Special leave refused with costs <a href="#">[2017] HCATrans 128</a>
2.	Donai	The Queen (S278/2016)	Supreme Court of New South Wales (Court of Criminal Appeal) [2016] NSWCCA 212	Special leave refused <a href="#">[2017] HCATrans 125</a>
3.	Margaret Binetter for the Estate of Erwin Binetter	Commissioner of Taxation (S1/2017)	Full Court of the Federal Court of Australia [2016] FCAFC 163	Special leave refused with costs <a href="#">[2017] HCATrans 126</a>
4.	Binetter	Commissioner of Taxation (S2/2017 and S3/2017)	Full Court of the Federal Court of Australia [2016] FCAFC 163	Special leave refused with costs <a href="#">[2017] HCATrans 126</a>
5.	Bai	Commissioner of Taxation (S4/2017)	Full Court of the Federal Court of Australia [2016] FCAFC 163	Special leave refused with costs <a href="#">[2017] HCATrans 126</a>

[Return to Top](#)

**16 June 2017: Melbourne**

---

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Lindsay	The Queen (A3/2017)	Full Court of the Supreme Court of South Australia (Court of Criminal Appeal) [2016] SASFC 129	Special leave refused <a href="#">[2017] HCATrans 131</a>

[Return to Top](#)

## Publication of Reasons: 22 June 2017

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Santos	State Director of Public Prosecutions & Ors (P11/2017)	Supreme Court of Western Australia (Court of Appeal) [2016] WASCA 230	Application dismissed <a href="#">[2017] HCASL 146</a>
2.	Santos	Department of Corrective Services & Ors (P12/2017)	Supreme Court of Western Australia (Court of Appeal) [2016] WASCA 230	Application dismissed <a href="#">[2017] HCASL 147</a>
3.	SZVHE & Ors	Minister for Immigration and Border Protection & Anor (S57/2017)	Federal Court of Australia [2017] FCA 154	Application dismissed <a href="#">[2017] HCASL 148</a>
4.	SZVZQ	Minister for Immigration and Border Protection & Anor (S67/2017)	Federal Court of Australia [2017] FCA 196	Application dismissed <a href="#">[2017] HCASL 149</a>
5.	CCC15	Minister for Immigration and Border Protection & Anor (S69/2017)	Federal Court of Australia [2017] FCA 201	Application dismissed <a href="#">[2017] HCASL 150</a>

[Return to Top](#)