



HIGH COURT BULLETIN

Produced by the Legal Research Officer,
High Court of Australia Library
[2019] HCAB 5 (8 July 2019)

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	18
5: Section 40 Removal	19
6: Special Leave Granted.....	20
7: Cases Not Proceeding or Vacated.....	31
8: Special Leave Refused.....	32

1: SUMMARY OF NEW ENTRIES

2: Cases Handed Down

Case	Title
<i>Masson v Parsons & Ors</i>	Constitutional Law
<i>Carter Holt Harvey Woodproducts Australia Pty Ltd v The Commonwealth of Australia & Ors</i>	Corporations Law
<i>Plaintiff M47/2018 v Minister for Home Affairs & Anor</i>	Immigration Law
<i>Australian Securities and Investments Commission v Kobelt</i>	Trade Practices

3: Cases Reserved

Case	Title
<i>Taylor v Attorney-General of the Commonwealth</i>	Administrative Law
<i>Minogue v State of Victoria</i>	Constitutional Law
<i>The Queen v A2; The Queen v Magennis; The Queen v Vaziri</i>	Criminal Law

<i>BVD17 v Minister for Immigration and Border Protection & Anor</i>	Migration Law
--	---------------

4: Original Jurisdiction

Case	Title
<i>Vella & Ors v Commissioner of Police (NSW) & Anor</i>	Constitutional Law

5: Section 40 Removal

6: Special Leave Granted

Case	Title
<i>Commonwealth of Australia v Helicopter Resources Pty Ltd & Ors</i>	Evidence
<i>State of Western Australia v Manado & Ors; State of Western Australia v Augustine & Ors; Commonwealth of Australia v Augustine & Ors; Commonwealth of Australia v Manado & Ors</i>	Native Title
<i>Franz Boensch as trustee of the Boensch Trust v Pascoe</i>	Trusts

7: Cases Not Proceeding or Vacated

8: Special Leave Refused

2: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the June 2019 sittings.

Constitutional Law

Masson v Parsons & Ors

S6/2019: [\[2019\] HCA 21](#)

Judgment delivered: 19 June 2019

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

Catchwords:

Constitutional law (Cth) – Courts – Federal courts – Federal jurisdiction – Matter arising under Commonwealth law – Where Commonwealth law provides rules in respect of parentage of children born of artificial conception procedures – Where State law provides irrebuttable presumption that biological father of child conceived by fertilisation procedure is not father in specified circumstances – Whether s 79(1) of *Judiciary Act 1903* (Cth) operates to pick up and apply text of State law as Commonwealth law – Whether State law regulates exercise of jurisdiction – Whether Commonwealth law has "otherwise provided" within meaning of s 79(1) of *Judiciary Act* – Whether tests for contrariety under s 79(1) of *Judiciary Act* and s 109 of Constitution identical – Whether State law applies of its own force in federal jurisdiction.

Family law – Parenting orders – Meaning of "parent" – Where *Family Law Act 1975* (Cth) presumes best interests of child served by shared parental responsibility – Where s 60H of *Family Law Act* provides rules in respect of parentage of children born of artificial conception procedures – Where appellant provided semen to first respondent to conceive child with belief that he was fathering child – Where appellant had ongoing role in child's financial support, health, education and general welfare and enjoyed extremely close and secure attachment relationship with child – Where first respondent later in de facto relationship with second respondent – Where appellant found to be "parent" within ordinary meaning of word but not under s 60H – Whether s 60H exhaustive of persons who may qualify as "parent" of child born of artificial conception procedure – Whether "parent" used in *Family Law Act* according to ordinary meaning except as otherwise provided – Whether appellant is "parent" within ordinary meaning – Whether ordinary meaning of "parent" excludes "sperm donor" – Whether appellant is "sperm donor".

Words and phrases – "artificial conception procedure", "complete upon its face", "federal courts", "federal jurisdiction", "implicit negative proposition", "inconsistency", "irrebuttable presumption", "jurisdiction", "matter", "ordinary meaning", "otherwise provided", "parent", "parentage", "parenting orders", "picked up and applied", "power", "presumptions", "regulates the exercise of jurisdiction", "sperm donor", "State jurisdiction", "State legislative power", "status".

Constitution – s 109.

Family Law Act 1975 (Cth) – ss 4, 60B, 60EA, 60G, 60H, 61D, 61DA.

Judiciary Act 1903 (Cth) – s 79(1).

Status of Children Act 1996 (NSW) – Pt 3 Div 1.

Appealed from FamCA (FC): [\[2018\] FamCAFC 115](#); (2018) 334 FLR 381; (2018) 59 Fam LR 37

Held: Appeal allowed; first and second respondents pay appellant's costs of appeal to this Court.

[Return to Top](#)

Corporations Law

Carter Holt Harvey Woodproducts Australia Pty Ltd v The Commonwealth of Australia & Ors

M137/2018: [\[2019\] HCA 20](#)

Judgment delivered: 19 June 2019

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

Catchwords:

Corporations – External administration – Receivers and other controllers of property – Priority debts – Where corporation carrying on business solely as trustee created circulating security interest over trust assets in favour of bank – Where receivers and managers appointed by bank realised trust assets and satisfied obligations to bank – Whether surplus proceeds required to be paid in accordance with *Corporations Act 2001* (Cth), s 433 – Whether corporation's right of indemnity is property of the company "comprised in or subject to a circulating security interest" within meaning of s 433 – Whether trust assets themselves are such "property of the company" – Whether statutory order of priorities for payment of debts applicable to distribution of surplus proceeds from trust

assets among trust creditors – Whether proceeds from exercise of insolvent corporate trustee's right of exoneration to be applied only in satisfaction of trust liabilities to which it relates.

Trusts – Trustees – Right of indemnity – Whether trustee's right of indemnity confers beneficial interest in trust assets – Whether such interest is "property" within meaning of Corporations Act, s 9.

Words and phrases – "beneficial interest", "circulating asset", "circulating security interest", "floating charge", "insolvent corporate trustee", "payment of creditors out of property", "power of exoneration", "PPSA security interest", "priority payments", "property", "property comprised in or subject to a circulating security interest", "property held by the bankrupt on trust", "property of the company", "right of exoneration", "right of indemnity", "taking possession or assuming control of property", "trust asset", "trust liabilities".

Corporations Act 2001 (Cth) – ss 9, 51, 51C, 433, 555, 556, 560.

Personal Property Securities Act 2009 (Cth) – ss 10, 12, 340.

Appealed from VSC (CA): [\[2018\] VSCA 41](#); (2018) 54 VR 230; (2018) 354 ALR 789; (2018) 124 ACSR 246; (2018) 330 FLR 149

Held: Appeal dismissed with costs.

[Return to Top](#)

Immigration Law

Plaintiff M47/2018 v Minister for Home Affairs & Anor

M47/2018: [\[2019\] HCA 17](#)

Reasons pronounced: 12 June 2019

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

Catchwords:

Immigration – Unlawful non-citizens – Detention pending removal from Australia – Where s 189 of *Migration Act 1958* (Cth) requires unlawful non-citizen be detained – Where s 196 requires unlawful non-citizen detained under s 189 be kept in immigration detention – Where plaintiff an unlawful non-citizen – Where plaintiff arrived in migration zone using false passport and personal details – Where plaintiff kept in immigration detention since arrival in migration zone – Where plaintiff previously used false personal details – Where plaintiff's identity and nationality not known – Whether

ss 189 and 196 authorise plaintiff's detention – Whether ss 189 and 196 constitutionally valid in application to plaintiff.

High Court – Original jurisdiction – Practice – Special case – Drawing of inferences – Where factual basis of questions of law depends on drawing inferences under r 27.08.5 of *High Court Rules 2004* (Cth) – Where inferences concern likelihood of plaintiff's future removal from Australia – Where prospects of plaintiff's future removal depend on information provided by plaintiff and cooperation by plaintiff – Where plaintiff made false statements and failed to assist and cooperate – Where plaintiff gave inconsistent accounts of personal and family background – Where plaintiff seeks to take advantage of falsehoods and non-cooperation – Whether inferences can be drawn.

Words and phrases – "habeas corpus", "identity", "immigration detention", "inferences", "onus of proof", "prospects of removal", "real prospect", "reasonably foreseeable", "special case", "unlawful non-citizen".

High Court Rules 2004 (Cth) – r 27. 08. 5.

Migration Act 1958 (Cth) – ss 189, 196, 198.

Special case

Held: Questions answered on 13 February 2019.

[Return to Top](#)

Trade Practices

Australian Securities and Investments Commission v Kobelt

A32/2018: [\[2019\] HCA 18](#)

Judgment delivered: 12 June 2019

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

Catchwords:

Trade practices – Consumer protection – Unconscionable conduct – Where s 12CB(1) of *Australian Securities and Investments Commission Act 2001* (Cth) relevantly prohibited "unconscionable" conduct in trade or commerce in connection with supply or possible supply of financial services – Where respondent provided "book-up" credit to Anangu customers of general store – Where book-up credit allowed deferral of whole or part of payment for goods subject to respondent retaining customer's debit card and personal identification number – Where respondent used debit card to

withdraw whole or nearly whole of wages or Centrelink payments shortly after credited to prevent customers having practical opportunity to access monies – Where respondent applied part of withdrawn funds to reduce customer's indebtedness and made remainder available for provision of future goods and services – Where respondent's record-keeping inadequate and often illegible – Where customers vulnerable due to remoteness, limitations on education, impoverishment and low levels of financial literacy – Where book-up system "tied" Anangu customers to general store – Where customers had understanding of basic elements of book-up system – Where withdrawals authorised by customers – Where customers generally supportive of book-up and respondent's business – Where book-up protected customers from cultural practices requiring sharing of resources with certain categories of kin – Where book-up ameliorated effects of "boom and bust" cycle of expenditure and allowed purchase of food between pay days – Whether respondent's conduct unconscionable within meaning of s 12CB(1) of Act.

Words and phrases – "agency", "book-up", "credit", "cultural practices", "demand sharing", "dishonesty", "exploitation", "financial literacy", "humbugging", "inequality of bargaining power", "legitimate interests", "moral obloquy", "passive acceptance", "power imbalance", "special disadvantage", "standard of conscience", "system or pattern of conduct", "transparency or accountability", "unconscientious conduct", "unconscionable conduct", "undue influence", "unfair", "unjust", "unwritten law", "victimisation", "voluntary", "vulnerability".

Australian Securities and Investments Commission Act 2001 (Cth) – ss 12CA, 12CB, 12CC..

Appealed from FCA (FC): [\[2018\] FCAFC 18](#); (2018) 352 ALR 689

Held: Appeal dismissed with costs.

[Return to Top](#)

3: CASES RESERVED

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

Administrative Law

Taylor v Attorney-General of the Commonwealth

M36/2018: [\[2019\] HCATrans 127](#)

Date heard: 19 June 2019 – questions answered, reasons to be published at a later date

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

Catchwords:

Administrative law – Judicial review – Where plaintiff lodged charge-sheet and summons at Magistrates’ Court against Aung Sun Suu Kyi (serving Foreign Minister of Myanmar) for a crime against humanity (deportation or forcible transfer of population) contrary to ss 268.11 and 268.115 of the *Criminal Code Act 1995* (Cth) – Where plaintiff sought defendant’s consent under s 268.121 of the *Criminal Code Act* to commence proceedings – Where consent refused – Whether the decision to refuse consent reviewable – Whether proceedings brought by plaintiff excluded by operation of s 268.121(1) of *Criminal Code Act*.

Referred to Full Court on 8 March 2019

[Return to Top](#)

Constitutional Law

Comcare v Banerji

C12/2018: [\[2019\] HCATrans 50](#); [\[2019\] HCATrans 51](#)

Date heard: 20, 21 March 2019

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

Catchwords:

Constitutional law – Implied freedom of political communication – Where employee of Department of Immigration and Citizenship used Twitter account to post anonymous “tweets” critical of

Department – Where Department terminated employment under s 15 of *Public Service Act 1999* (Cth) on basis employee used social media in breach of ss 13(1), 13(7) and 13(11) of Australian Public Service Code of Conduct – Where employee submitted claim for compensation under s 14 of *Safety, Compensation and Rehabilitation Act 1988* (Cth) on basis termination led to psychological condition – Where Comcare rejected claim – Where Administrative Appeals Tribunal set aside decision on basis termination infringed implied freedom of political communication so termination not “reasonable administrative action taken in a reasonable manner” within meaning of s 5A of *Safety, Compensation and Rehabilitation Act* – Whether ss 13(11) and 15 of *Public Service Act* incompatible with implied freedom of political communication – Whether Tribunal erred in failing to find decision to terminate employment constituted “reasonable administrative action taken in a reasonable manner”.

Removed from Federal Court of Australia into High Court under s 40 of Judiciary Act 1903 (Cth) on 12 September 2018

[Return to Top](#)

Glencore International AG & Ors v Commissioner of Taxation of the Commonwealth of Australia & Ors

S256/2018: [\[2019\] HCATrans 82](#)

Date heard: 17 April 2019

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

Catchwords:

Constitutional law – Constitution s 75(iii) – Where defendants obtained documents held by overseas law practice – Where plaintiffs claim documents created by law practice for sole or dominant purpose of providing legal advice to plaintiffs – Whether documents subject to legal professional privilege – Whether plaintiffs entitled to injunction under *Judiciary Act 1903* (Cth) s 31 or s 32 restraining defendants and any other officer of Australian Taxation Office from relying upon, referring to or making use of documents – Whether common law of Australia confers on privilege holder actionable right to restrain use by third party of privileged communication – Whether defendants entitled and/or obliged to retain and use communications under *Income Tax Assessment Act 1936* (Cth) s 166.

Referred to Full Court on 5 November 2018

[Return to Top](#)

Minogue v State of Victoria

[M162/2018](#): [\[2019\] HCATrans 124](#)

Date heard: 18 June 2019

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

Catchwords:

Constitutional law – Parole – Where plaintiff convicted of murder of police officer – Where plaintiff sentenced to life imprisonment – Where non-parole period expired on 30 September 2016 – Where *Corrections Amendment (Parole) Act 2018* (Vic) inserted new ss 74AAA, 74AB and 127A into *Corrections Act 1986* (Vic) – Whether s 74AAA applies to plaintiff or to consideration of grant of parole to him – Whether ss 74AB and (if applicable) 74AAA substantively amount to cruel, inhuman or degrading treatment or punishment within meaning of Art 7 of International Covenant on Civil and Political Rights – Whether provision(s) invalid as unconstitutional and/or beyond power of Victorian Parliament.

Referred to Full Court on 5 April 2019

[Return to Top](#)

Palmer & Ors v Australian Electoral Commission & Ors

[B19/2019](#): [\[2019\] HCATrans 87](#); [\[2019\] HCATrans 88](#)

Date heard: 6, 7 May 2019 – orders pronounced, reasons to be published at a later date

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

Catchwords:

Constitutional law – Federal election – Where each plaintiff endorsed by United Australia Party as candidate in House of Representatives or Senate for purpose of 2019 federal election – Whether the exercise by any/all defendants of their powers under *Commonwealth Electoral Act 1918* (Cth) is constrained by a statutory limitation preventing publication or release to a nationwide audience, at a time when any poll remains open in Australia, of the identity of the two candidates selected by the Commission for each Electoral Division or of results of the indicative two-candidate-preferred count – Whether there is a constitutional limitation to similar effect by reason of the mandate for direct and popular choice contained in ss 7 and 24 of the Constitution (Cth).

Referred to Full Court on 5 April 2019

[Return to Top](#)

Contract Law

Mann & Anor v Paterson Constructions Pty Ltd

M197/2018: [\[2019\] HCATrans 92](#)

Date heard: 14 May 2019

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

Catchwords:

Contracts – Termination – Repudiation – Where appellants and respondent entered into building contract – Where appellants purported to terminate on basis respondent repudiated – Where respondent then purported to terminate on basis appellants' conduct constituted repudiation – Where Victorian Civil and Administrative Tribunal upheld claim by respondent for quantum meruit in amount exceeding contract price – Where Supreme Court and Court of Appeal dismissed appeals – Whether Court of Appeal erred in holding respondent entitled to sue on quantum meruit for works carried out – Whether Court of Appeal erred in holding contract price did not operate as ceiling on amount claimable – Whether Court of Appeal erred in concluding respondent able to recover for variations to works because s 38 of *Domestic Building Contracts Act 1995* (Vic) did not apply to quantum meruit claim.

Appealed from VSC (CA): [\[2018\] VSCA 231](#)

[Return to Top](#)

Corporations Law

Connective Services Pty Ltd & Anor v Slea Pty Ltd & Ors

M203/2018: [\[2019\] HCATrans 98](#)

Date heard: 15 May 2019

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

Catchwords:

Corporations – Financial assistance to acquire shares – *Corporations Act 2001* (Cth) s 260A – Where appellants' constitutions require member who wishes to transfer shares of particular class to first

offer shares to existing holders of that class (“pre-emptive rights provisions”) – Where appellants commenced proceeding alleging first and second respondents entered into agreement to avoid pre-emptive rights provisions – Where primary judge held proceeding not instituted in breach of s 260A – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in holding appellants’ conduct capable of amounting to financial assistance to acquire shares within meaning of s 260A – Whether Court of Appeal erred in concluding open to primary judge to characterise appellants’ conduct as net transfer of value to appellants’ shareholders – Whether Court of Appeal erred in concluding open to primary judge to characterise conduct as capable of materially prejudicing interests of appellants and/or shareholders or creditors – Whether Court of Appeal erred in concluding financial assistance directed to enabling appellants’ shareholders to acquire shares.

Appealed from VSC (CA): [\[2018\] VSCA 180](#); (2018) 359 ALR 159; (2018) 129 ACSR 540

[Return to Top](#)

Costs

Bell Lawyers Pty Ltd v Pentelow & Anor
S352/2018: [\[2019\] HCATrans 91](#)

Date heard: 9 May 2019

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

Catchwords:

Costs – *Chorley* exception – *London Scottish Benefit Society v Chorley* (1884) 13 QBD 872 – Where first respondent is barrister – Where first respondent commenced proceedings against appellant – Where Supreme Court entered judgment for first respondent and ordered appellant to pay first respondent’s costs – Where first respondent sought to recover costs for work performed by her in addition to costs and disbursements of solicitors and counsel – Where costs assessor and review panel disallowed costs for work performed by first respondent – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in concluding first respondent entitled to recover costs for time spent in conduct of proceedings – Whether Court of Appeal erred in concluding *Chorley* exception applied in circumstances where first respondent had retained solicitors and counsel – Whether Court of Appeal erred in determining s 98 of *Civil Procedure Act 2005* (NSW) permitted application of *Chorley* exception.

Appealed from NSWSC (CA): [\[2018\] NSWCA 150](#)

[Return to Top](#)

The Northern Territory of Australia v Sangare

D11/2018: [\[2019\] HCATrans 68](#)

Date heard: 11 April 2019

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

Catchwords:

Costs – Discretion to award costs – Impecuniosity – Where Department of Infrastructure offered employment to respondent – Where respondent sought support for skilled migration visa application from Minister for Infrastructure – Where Departmental officers provided briefing to Minister – Where respondent alleged briefing contained defamatory material fabricated by Department – Where respondent commenced proceedings seeking damages for publication of defamatory statements in briefing – Where Supreme Court dismissed claim – Where Court of Appeal dismissed respondent’s appeal – Where Court of Appeal declined to award appellant costs because respondent impecunious – Whether Court of Appeal erred in refusing to award costs because respondent unlikely to be able to pay any costs awarded against him.

Appealed from NTSC (CA): [\[2018\] NTCA 10](#)

[Return to Top](#)

Criminal Law

The Queen v A2; The Queen v Magennis; The Queen v Vaziri

S43/2019; S44/2019; S45/2019: [\[2019\] HCATrans 122](#)

Date heard: 12 June 2019

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

Catchwords:

Criminal law – Female genital mutilation – Where A2 and Magennis had been convicted of offences of female genital mutilation contrary to s 45(1)(a), *Crimes Act 1990* (NSW) – Where Vaziri had been convicted of being an accessory to those offences – Where, on appeal, the Court of Criminal Appeal of New South Wales (CCA) entered verdicts of acquittal for A2, Magennis and Vaziri – Whether

the CCA erred in construing the words “otherwise mutilates” and “clitoris” in s 45(1)(a) of the *Crimes Act* – Whether “otherwise mutilates” extends to include any injury and/or damage to another person’s clitoris in s 45(1)(a) of the *Crimes Act* – Whether “clitoris” includes the clitoral hood or prepuce in s 45(1)(a) of the *Crimes Act*.

Appealed from NSWSC (CCA): [\[2018\] NSWCCA 174](#)

[Return to Top](#)

Insurance Law

Lee v Lee & Ors; Hsu v RACQ Insurance Limited; Lee v RACQ Insurance Limited

[B61/2018](#); [B62/2018](#); [B63/2018](#): [\[2019\] HCATrans 67](#)

Date heard: 10 April 2019

Coram: Kiefel CJ, Bell, Gageler, Nettle, Edelman JJ

Catchwords:

Insurance law – Motor vehicles – Personal injury – Where appellant injured in motor vehicle collision – Where appellant alleged injuries caused by negligence of father – Where appellant gave evidence father driving vehicle at time of collision – Where appellant’s blood located on driver airbag – Where pathologist gave evidence relating to possible source of blood – Where mechanical engineer gave evidence relating to seatbelts and airbag design – Where trial judge concluded appellant driving vehicle – Where Court of Appeal dismissed appeal – Whether Court of Appeal failed to give adequate reasons by failing to address aspects of mechanical engineer’s evidence and inferences arising from evidence – Whether Court of Appeal erred by failing to conclude trial judge misused advantage as trial judge – Whether finding appellant was driver contrary to compelling inferences from uncontroverted evidence.

Appealed from QSC (CA): [\[2018\] QCA 104](#); (2018) 84 MVR 316

[Return to Top](#)

Interpretation

Victorian Building Authority v Andriotis

[M134/2018](#): [\[2019\] HCATrans 8](#)

Date heard: 12 February 2019

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

Catchwords:

Interpretation – *Mutual Recognition Act 1999* (Cth) s 17, 20 – Where respondent registered in New South Wales as waterproofing technician – Where respondent applied to appellant for registration under *Building Act 1993* (Vic) – Where appellant refused to grant registration because respondent not of “good character” as required by s 170(1)(c) of *Building Act* – Where Administrative Appeals Tribunal affirmed decision – Where Full Federal Court allowed appeal – Whether Full Federal Court erred in holding appellant required by s 20(2) to register respondent for equivalent occupation under *Building Act* notwithstanding appellant found respondent not of good character – Whether Full Federal Court erred in holding exception to mutual recognition principle in s 17(2) of *Mutual Recognition Act* does not quality “entitlement” to be registered under s 20(1) – Whether Full Court erred in holding “good character” requirement in *Building Act* not law regulating “manner” of carrying out occupation within meaning of s 17(2) of *Mutual Recognition Act*.

Appealed from FCA (FC): [\[2018\] FCAFC 24](#); (2018) 259 FCR 354; (2018) 74 AAR 78; (2018) 359 ALR 427; (2018) 161 ALD 258

[Return to Top](#)

Migration Law

BVD17 v Minister for Immigration and Border Protection & Anor
S46/2019: [\[2019\] HCATrans 123](#)

Date heard: 13 June 2019

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

Catchwords:

Migration law – Procedural fairness – Where certificate issued under s 473GB of *Migration Act 1958* (Cth) – Where failure to disclose the fact of certification and appellant unaware of certificate – Whether Immigration Assessment Authority denied procedural fairness by not disclosing that part of the review material included material subject of certificate – Whether Immigration Assessment Authority failed to consider exercising discretion to disclose information – Whether Immigration Assessment Authority acted legally unreasonable in circumstances.

Appealed from FCA (FC): [\[2018\] FCAFC 114](#); (2018) 261 FCR 35

[Return to Top](#)

Love v Commonwealth of Australia; Thoms v Commonwealth of Australia

B43/2018; B64/2018: [\[2019\] HCATrans 90](#)

Date heard: 8 May 2019

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

Catchwords:

Migration law – Where Love born in Papua New Guinea to Australian father – Where Love identifies as descendant of the Kamilaroi tribe – Where Love has five Australian children – Where Love was sentenced for an offence of assault occasioning bodily harm against s 339 of the *Criminal Code 1899* (Qld) and sentenced to imprisonment of 12 months – Where Love’s Class BF Transitional (permanent) Visa cancelled under s 501(3A) of the *Migration Act 1958* (Cth) – Where Love detained under s 189 of *Migration Act 1958* (Cth) on suspicion of being an “unlawful non-citizen” – Where cancellation of Love’s visa revoked under s 501CA(4) of the *Migration Act* and Love released from immigration detention – Where Thoms born in New Zealand to Australian mother – Where Thoms identifies as member of Gunggari People – Where Thoms has one Australian child – Where Thoms sentenced to imprisonment of 18 months for assault occasioning bodily harm contrary to ss 339(1) and 47(9) of the *Criminal Code* – Where Thoms’ Subclass 444 Special Category (temporary) Visa cancelled under s 501(3A) of the *Migration Act* – Where Thoms was and remains detained purportedly under s 189 of the *Migration Act* on suspicion of being an “unlawful non-citizen” – Whether each of Love and/or Thoms an “alien” within the meaning of s 51(xix) of the *Constitution* (Cth).

Referred to Full Court on 5 March 2019

[Return to Top](#)

Procedure

Brisbane City Council v Amos

B47/2018: [\[2019\] HCATrans 66](#)

Date heard: 9 April 2019

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

Catchwords:

Procedure – Limitation periods – *Limitation of Actions Act 1974* (Qld) – Where Council commenced proceeding against respondent for overdue rates and charges – Where primary judge gave judgment for Council – Where majority of Court of Appeal allowed appeal on basis part of claim beyond 6 year limitation period in s 10(1)(d) of Act – Whether majority erred in holding proceeding falls within both ss 10(1)(d) and 26(1) of Act and inconsistency should be resolved by applying shorter limitation period in s 10(1)(d).

Appealed from QSC (CA): [\[2018\] QCA 11](#); (2018) 230 LGERA 51

[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

Vella & Ors v Commissioner of Police (NSW) & Anor
S30/2019: *Special Case*

Catchwords:

Constitutional law – Judicial power – Incompatibility – Where proceeding commenced by first defendant in Supreme Court of New South Wales under *Crimes (Serious Crime Prevention Orders) Act 2016* (NSW) seeking orders against plaintiffs prohibiting contact with members and former members of any Outlaw Motor Cycle Gang and limiting travel and possession of encrypted communications devices – Where proceeding asserts involvement of plaintiffs in serious crime-related activity for which plaintiffs have not been convicted in addition to conduct for which plaintiffs convicted – Whether s 5(1) of the Act is invalid (in whole or in part) because it is inconsistent with and prohibited by Chapter III of the Constitution.

Referred to Full Court on 3 June 2019

[Return to Top](#)

5: SECTION 40 REMOVAL

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

[Return to Top](#)

6: SPECIAL LEAVE GRANTED

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

Constitutional Law

BMW Australia Ltd v Brewster & Anor

S152/2019: [\[2019\] HCATrans 94](#)

Date determined: 15 May 2019 – *Special leave granted.*

Catchwords:

Constitutional law – Separation of powers – Acquisition of property on just terms – “Common fund order” in class action proceeding – Where Brewster is representative plaintiff in class action against BMW Australia Ltd – Whether Court of Appeal erred in concluding that s 183 of *Civil Procedure Act 2005* (NSW) (“CPA”) on its proper construction empowered the Supreme Court of New South Wales to make common fund order – Whether Court of Appeal erred in failing to conclude that insofar as s 183 of CPA empowered making of common fund order it was not picked up by s 79 of *Judiciary Act 1903* (Cth) because that would infringe Chapter III and/or s 51(xxxi) of *Constitution*.

Appealed from NSWSC (CA): [\[2019\] NSWCA 35](#)

[Return to Top](#)

Westpac Banking Corporation & Anor v Lenthall & Ors

S154/2019: [\[2019\] HCATrans 95](#)

Date determined: 15 May 2019 – *Special leave granted.*

Catchwords:

Constitutional law – Separation of powers – Principle of legality – Acquisition on just terms – Where representative proceeding under Part IVA of *Federal Court of Australia Act 1976* (Cth) – Where primary judge determined making of common fund order appropriate to do justice in proceedings – Whether Full Court erred in holding that properly construed s 33ZF of *Federal Court of Australia Act 1976* (Cth) (“FCAA”) empowers court to make common fund order – Whether Full Court erred in holding that s 33ZF permitted creation of right in litigation funder to share of any settlement or judgment in favour of a group member – Whether

Full Court erred in holding principle of legality does not apply because common fund order "supports and fructifies" rather than diminishes rights of group members – Whether Full Court erred in holding as matter of construction and notwithstanding *Anthony Hordern* principle s33ZF supported making of common fund order – Whether Full Court erred in holding s 33ZF conferred judicial power or power incidental to the exercise of judicial power on court – Whether Full Court erred in holding neither s 33ZF nor common fund order resulted in acquisition of property for purposes of s 51(xxxi) of *Constitution* – Whether Full Court erred in holding if s 33ZF is law with respect to acquisition of property it is not invalid because appellants failed to demonstrate group members would not receive pecuniary equivalent of property acquired.

Appealed from FCA (FC): [\[2019\] FCAFC 34](#)

[Return to Top](#)

Corporations Law

Australian Securities and Investments Commission v King & Anor
B29/2019: [\[2019\] HCATrans 104](#)

Date heard: 17 May 2019 – *Special leave granted.*

Catchwords:

Corporations law – Officers of corporation – Where the Australian Securities and Investments Commission (“ASIC”) commenced civil penalty case against MFS Investment Management Ltd (“MFSIM”) and various directors, officers and employees of the MFS Group of companies – Where proceedings against MFSIM resolved by consent but trial proceeded against individuals – Whether Court of Appeal erred by concluding that it was necessary for ASIC to prove that the first respondent acted in an “office” of MFSIM in order for him to be an “officer” of MFSIM for the purposes of ss 601FD and 9(b)(ii) of *Corporations Act 2001* (Cth).

Appealed from QSC (CA): [\[2018\] QCA 352](#)

[Return to Top](#)

Criminal Law

De Silva v The Queen
B24/2019: [\[2019\] HCATrans 70](#)

Date heard: 12 April 2019 – *Special leave granted on limited grounds.*

Catchwords:

Criminal law – Misdirection or non-direction – Where appellant was acquitted of one count of rape and convicted of another count of rape – Where appellant neither gave nor called evidence at trial – Where appellant’s account of events was contained in a recording of his police interview that was tendered by prosecution – Where, in summing up, trial judge addressed evidence of appellant’s interview with police – Whether trial judge’s failure to tell jury that, even if they did not positively believe appellant’s account, they could not find against him if his answers gave rise to reasonable doubt, amounted to a miscarriage of justice – Whether Court of Appeal erred in finding that a *Liberato* direction is not required if defendant does not give evidence.

Appealed from QSC (CA): [\[2018\] QCA 274](#)

[Return to Top](#)

Fennell v The Queen

B20/2019: [\[2019\] HCATrans 58](#)

Date heard: 22 March 2019 – *Special leave granted on limited grounds.*

Catchwords:

Criminal law – Where appellant convicted by jury of murder and sentenced to life imprisonment – Where appellant contended on appeal that there was reasonable hypothesis consistent with innocence open on evidence – Whether Court of Appeal erred in failing to find that the verdict was unreasonable or could not be supported having regard to evidence, in part because it made significant errors of fact.

Appealed from QSC (CA): [\[2017\] QCA 154](#)

[Return to Top](#)

HT v The Queen

S123/2019: [\[2019\] HCATrans 75](#)

Date heard: 12 April 2019 – *Special leave granted.*

Catchwords:

Criminal law – Procedural fairness – Public interest immunity – Where appellant pleaded guilty to five counts of obtaining money by

deception and six counts of dishonestly obtaining a financial advantage by deception – Where Crown appeal resulted in longer sentence of imprisonment – Where appellant as respondent to Crown appeal denied access to evidence admitted in sentencing proceedings which may have provided basis for reduction in sentence – Whether appellant was denied procedural fairness at hearing of Crown appeal against sentence by being refused access to evidence regarding her assistance to authorities on basis of public interest immunity – Whether Court of Criminal Appeal erred in exercising its discretion in s 5D of *Criminal Appeal Act 1912* (NSW) to vary sentence imposed on appellant.

Appealed from NSWSC (CCA): *R v HT* (unreported, New South Wales Court of Criminal Appeal, 17 July 2017)

[Return to Top](#)

Lordianto & Anor v Commissioner of the Australian Federal Police; Kalimuthu & Anor v Commissioner of the Australian Federal Police
S110/2019; P17/2019: [\[2019\] HCATrans 54](#)

Date heard: 22 March 2019 – *Special leave granted.*

Catchwords:

Criminal law – Proceeds of crime – Where large number of deposits were made into bank accounts in amounts of less than \$10,000 – Whether each Court of Appeal misconstrued “third party” in s 330(4)(a) of the *Proceeds of Crime Act 2002* (Cth) to exclude person who acquires property at time it becomes proceeds or an instrument of an offence – Whether each Court of Appeal wrongly interpreted term “sufficient consideration” in ss 330(4)(a) and 338 as requiring connection between third party acquirer of property and person from whom property passed – Whether each Court of Appeal erred in interpreting and applying “circumstances that would not arouse a reasonable suspicion, that the property was proceeds of an offence or an instrument of an offence” in s 330(4)(a).

S110/2019 Appealed from NSWSC (CA): [\[2018\] NSWCA 199](#); (2018) 337 FLR 17

P17/2019 Appealed from WASC (CA): [\[2018\] WASCA 192](#)

[Return to Top](#)

The Queen v Guode
M75/2019: [\[2019\] HCATrans 100](#)

Date heard: 17 May 2019 – *Special leave granted on limited grounds.*

Catchwords:

Criminal law – Sentencing — Manifest excess – Infanticide, murder and attempted murder — Where mother caused death of three children and attempted to kill fourth — Where mother pled guilty — Where mother had had traumatic life and suffered a major depressive disorder as consequence of giving birth to her youngest child — Whether mother suffering from post-traumatic stress disorder – Whether Court of Appeal erred in taking into account as relevant consideration in making its determination as to manifest excess fact that prosecution had accepted plea to infanticide in respect of Charge 1 on the indictment.

Appealed from VSC (CA): [\[2018\] VSCA 205](#)

[Return to Top](#)

Evidence

Commonwealth of Australia v Helicopter Resources Pty Ltd & Ors
S71/2019: [\[2019\] HCATrans 131](#)

Date heard: 21 June 2019 – *Special leave granted on conditions.*

Catchwords:

Evidence – Admissions made with authority – Where coronial inquest commenced and summary criminal proceedings brought against company and Commonwealth of Australia – Where subpoena issued to company’s employee to give evidence at hearing in inquest, with proposed topics relating to matters required to be proved in criminal prosecution – Whether s 87(1)(b) of *Evidence Act 2011* (ACT) has effect that, by reason of any answers given by employee, company is itself being compelled to provide that information – Whether s 87(1)(b) dictates that employee answers will be admitted into evidence in prosecution if adduced by prosecutor or co-accused – Whether s 87(1)(b) has effect that exercise of compulsory power with respect to employee will compromise protections afforded to accused company by accusatorial process – Whether accusatorial principle require accused company to be protected by precluding employees from being subject to such compulsory power or preventing prosecution or co-accused from learning how accused company may defend charge – Whether compulsory attendance of employee for questioning is inconsistent with accusatorial process.

Appealed from FCA (FC): [\[2019\] FCAFC 25](#)

[Return to Top](#)

DG v The Queen; ZK v The Queen
[S163/2019](#); [S160/2019](#): [\[2019\] HCATrans 106](#)

Date heard: 17 May 2019 – *Special leave granted.*

Catchwords:

Evidence – Discretionary exclusion – Where evidence obtained improperly or illegally – *Evidence Act 1995* (NSW) – Whether the New South Wales Court of Criminal Appeal (“CCA”) erred in finding appealable error in the trial judge’s decision on basis that trial judge did not assess each item of evidence individually – Whether the CCA erred in finding error in trial judge’s finding that s 138 factors governing exclusion of recordings “directly applicable” to other evidence obtained as consequence of illegally obtained recordings – Whether CCA erred in its application of s 138 by failing to apply correctly the onus of proof and taking into account considerations contrary to evidence and failing to take into account material consideration.

Appealed from NSWSC (CCA): [\[2017\] NSWCCA 288](#)

[Return to Top](#)

Migration Law

CNY17 v Minister for Immigration and Border Protection & Anor
[M72/2019](#): [\[2019\] HCATrans 101](#)

Date heard: 17 May 2019 – *Special leave granted.*

Catchwords:

Migration law – Fast track review process – Apprehended bias – Where Secretary of Department of Immigration and Border Protection provided documents to the Immigration Assessment Authority (“IAA”) – Where the documents contained information about criminal conviction, charges, and appellant’s conduct while in immigration detention – Whether in considering apprehended bias the Full Court erred in finding that materials were not prejudicial – Whether Full Court erred in failing to find decision of IAA vitiated by apprehended bias – Whether Full Court erred in failing to find IAA obliged to afford opportunity to appellant to comment on materials before it in circumstances where their existence not known to appellant – Whether Full Court erred in finding it was open to delegate to lawfully form view documents relevant to task of IAA –

Whether Full Court erred in failing to find review conducted by IAA led to a decision made in excess of jurisdiction.

Appealed from FCA (FC): [\[2018\] FCAFC 159](#)

[Return to Top](#)

Native Title

State of Western Australia v Manado & Ors; State of Western Australia v Augustine & Ors; Commonwealth of Australia v Augustine & Ors; Commonwealth of Australia v Manado & Ors
P4/2019; P5/2019; P6/2019; P7/2019: [\[2019\] HCATrans 132](#)

Date heard: 21 June 2019 – *Special leave granted on condition.*

Catchwords:

Native title – Native title interest – Determinations of native title – Whether Full Federal Court erred in holding that existing public access to and enjoyment of waterways, beds and banks or foreshores of waterways, coastal waters or beaches located upon Crown land below high water mark, confirmed by s 14 of *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA) in accordance with s 212(2) of *Native Title Act 1993* (Cth), was not a right or privilege in connection with land or waters within the definition of "interest" in s 253 of *Native Title Act* – Whether, to be included in determination of native title, is it necessary for public access and enjoyment to be an "interest", as defined in s 253 of *Native Title Act* – Whether existing public access to and enjoyment of waterways, beds and banks or foreshores of waterways, coastal waters or beaches located on unallocated Crown land should be stated in a determination of native title made in accordance with s 225 of *Native Title Act*.

Appealed from FCA (FC): [\[2018\] FCAFC 238](#); (2018) 364 ALR 337

[Return to Top](#)

Taxation

BHP Billiton Limited (now named BHP Group Limited) v Commissioner of Taxation
B28/2019: [\[2019\] HCATrans 93](#)

Date determined: 15 May 2019 – *Special leave granted.*

Catchwords:

Taxation – Where appellant is part of a dual-listed company arrangement with non-resident company – Where third company (BMAG) indirectly owned by appellant and non-resident company – Where BMAG derived income from sale of commodities purchased from non-resident company's Australian subsidiaries – Whether non-resident company's Australian subsidiaries were "associates" of BMAG within meaning of s 318 of *Income Tax Assessment Act 1936* (Cth) – Whether BMAG, appellant and/or the non-resident company were "sufficiently influenced" by appellant and/or the non-resident company within meaning of s 318(6) – Whether Full Court erred in concluding that a person or entity acts "in accordance with" directions, instructions or wishes of another entity for purposes of s 318(6)(b) if person or entity merely acts "in harmonious correspondence, agreement or conformity with" those directions, instructions or wishes – Whether Full Court should have found that, in order to act "in accordance with" directions, instructions or wishes of another entity for purposes of s 318(6)(b) a person or entity must treat that other entity's directions, instructions or wishes as themselves being a sufficient reason so to act – Whether Full Court erred in finding that at a minimum appellant and BHP Billiton Plc each acted "in accordance with" the "directions, instructions or wishes" of the other for the purposes of s 318(6)(b) – Whether Full Court should have concluded that such actions were not done "in accordance with" the "directions, instructions or wishes" of the other for the purposes of s 318(6)(b).

Appealed from FCA (FC): [\[2019\] FCAFC 4](#)

[Return to Top](#)

Commissioner of State Revenue v Rojoda Pty Ltd
P26/2019: [\[2019\] HCATrans 103](#)

Date heard: 17 May 2019 – *Special leave granted.*

Catchwords:

Taxation – Stamp duty assessment - Partnership – Winding up of partnership – Nature of partners' proprietary rights in partnership assets – Whether Court of Appeal erred in holding that after dissolution of partnership but prior to completion of its winding up where surplus of assets each former partner has specific and fixed beneficial or equitable interest in the assets comprising a surplus – Whether cl 3 of two deeds each constituted declarations of trust for the purposes of s 11(1)(c) of the *Duties Act 2008* (WA).

Appealed from WASC (CA): [\[2018\] WASCA 224](#)

[Return to Top](#)

Commissioner of Taxation of the Commonwealth of Australia v Sharpcan Pty Ltd

M52/2019: [\[2019\] HCATrans 48](#)

Date determined: 20 March 2019 – *Special leave granted.*

Catchwords:

Taxation – Where Administrative Appeals Tribunal held that outgoing of \$600,300 incurred by the trustee of the Daylesford Royal Hotel Trust in the year ended 30 June 2010 for acquisition of 18 gaming machine entitlements under *Gambling Regulation Act 2003* (Vic) was on revenue account and therefore deductible under s 8-1 of the *Income Tax Assessment Act 1997* (Cth) – Whether Full Court (by majority) erred in upholding the decision of Tribunal instead of finding that outgoing was “of capital, or of a capital nature” – Whether Full Court erred in holding that if it was outgoing of capital or of a capital nature, it was expenditure to which s 40-880(6) of *Income Tax Assessment Act* applied and accordingly a deduction was allowable to trustee in respect of expenditure under s 40-880(2).

Appealed from FCA (FC): [\[2018\] FCAFC 163](#); (2018) 262 FCR 151; (2018) 362 ALR 123

[Return to Top](#)

Comptroller-General of Customs v Pharm-A-Care Laboratories Pty Ltd

S161/2019: [\[2019\] HCATrans 107](#)

Date determined: 17 May 2019 – *Special leave granted.*

Catchwords:

Taxation – Customs and Excise – Tariff classification – Classifying vitamin preparations and garcinia preparations – Medicaments – Whether Full Court erred in holding that the Administrative Appeals Tribunal (“Tribunal”) had not erred in construing Note 1(a) to Chapter 30 of Sch 3 of the *Customs Tariff Act 1995* (Cth) (“Act”) – Whether Full Court erred in holding that the Tribunal had not erred in construing heading 2106 of the Act.

Appealed from FCA (FC): [\[2018\] FCAFC 237](#)

[Return to Top](#)

Tort Law

State of New South Wales v Robinson

S119/2019: [\[2019\] HCATrans 76](#)

Date heard: 12 April 2019 – *Special leave granted.*

Catchwords:

Tort law – False imprisonment and wrongful arrest – Where respondent suspected of breach of apprehended violence order by police officer – Where respondent was arrested under s 99 of *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) – Where no decision to charge made at time of arrest – Whether Court of Appeal erred in concluding that for an arrest to be lawful under s 99 there is implied requirement that arresting officer intend to charge arrested person with offence.

Appealed from NSWSC (CA): [\[2018\] NSWCA 231](#)

[Return to Top](#)

Trusts

Franz Boensch as trustee of the Boensch Trust v Pascoe

S29/2019: [\[2019\] HCATrans 133](#)

Date heard: 21 June 2019 – *Special leave granted.*

Catchwords:

Trusts – Bankruptcy – Where respondent trustee in bankruptcy found to hold caveatable interest in real property held by bankrupt on trust by operation of s 58(1) of *Bankruptcy Act 1966* (Cth) – Whether Full Court erred in concluding any caveatable interest vested in respondent – Where claim under s 74P of *Real Property Act 1900* (NSW) for compensation in relation to lodging and maintenance of caveat over piece of real property against trustee in bankruptcy – Whether it was permissible for trustee in bankruptcy to claim in his caveat under s 74P(1) of *Real Property Act* inconsistent interests in Rydalmere property – Whether existence of caveatable interest rendered it unnecessary for Court to embark upon enquiry of whether trustee in bankruptcy lodged caveat, or failed or refused to remove it, “without reasonable cause”.

Appealed from FCA (FC): [\[2018\] FCAFC 234](#); (2018) 16 ABC(NS) 365

[Return to Top](#)

7: CASES NOT PROCEEDING OR VACATED

[Return to Top](#)

8: SPECIAL LEAVE REFUSED

Publication of Reasons: 12 June 2019

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Chibanda	Chief Executive Queensland Health & Anor (B10/2019)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 334	Application Dismissed [2019] HCASL 182
2.	FGY17	Minister for Home Affairs & Anor (D6/2019)	Federal Court of Australia [2019] FCA 417	Application Dismissed [2019] HCASL 183
3.	ACM15	Minister for Home Affairs & Anor (M39/2019)	Federal Court of Australia [2019] FCA 217	Application Dismissed [2019] HCASL 184
4.	CRK15	Minister for Immigration and Border Protection & Anor (M56/2019)	Federal Court of Australia [2019] FCA 420	Application Dismissed [2019] HCASL 185
5.	Shimoga Damodara Kamath	Lakshman (P15/2019)	Supreme Court of Western Australia (Court of Appeal) [2018] WASCA 80	Application Dismissed [2019] HCASL 186
6.	Dickson	The Queen (S51/2019)	Supreme Court of New South Wales (Court of Criminal Appeal) [2018] NSWCCA 183	Applications Dismissed [2019] HCASL 187
	Dickson	The Queen (S52/2019)	Supreme Court of New South Wales (Court of Criminal Appeal) [2018] NSWCCA 242	
7.	FLW17	Minister for Immigration and Border Protection & Anor (S112/2019)	Federal Court of Australia [2019] FCA 352	Application Dismissed [2019] HCASL 188
8.	CDV16	Minister for Immigration and Border Protection (S114/2019)	Federal Court of Australia [2019] FCA 371	Application Dismissed [2019] HCASL 189
9.	McDonald	Victorian Legal Services Commissioner (M36/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 18	Application Dismissed with costs [2019] HCASL 190
10.	BM	The Queen (S27/2019)	Supreme Court of New South Wales (Court of Criminal Appeal) [2017] NSWCCA 133	Application Dismissed [2019] HCASL 191

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
11.	AZ	The Queen (S50/2019)	Supreme Court of New South Wales (Court of Criminal Appeal) [2018] NSWCCA 294	Application Dismissed [2019] HCASL 192

[Return to Top](#)

Publication of Reasons: 19 June 2019

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	In the matter of an application by Leonard William Clampett for leave to appeal (B13/2019)		High Court of Australia [2019] HCATrans 2	Application Dismissed [2019] HCASL 193
2.	ASB17	Minister for Home Affairs & Anor (M53/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 38	Application Dismissed [2019] HCASL 194
3.	MCA	The State of Western Australia (P18/2019)	Supreme Court of Western Australia (Court of Appeal) [2019] WASCA 22	Application Dismissed [2019] HCASL 195
4.	AYU16	Minister for Immigration and Border Protection & Anor (S101/2019)	Federal Court of Australia [2019] FCA 269	Application Dismissed [2019] HCASL 196
5.	BLG15	Minister for Immigration and Border Protection & Anor (S103/2019)	Federal Court of Australia [2019] FCA 332	Application Dismissed [2019] HCASL 197
6.	Burton	Family and Community Services NSW (S106/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 21	Application Dismissed [2019] HCASL 198
7.	AKU18	Minister for Home Affairs & Anor (S111/2019)	Federal Court of Australia [2019] FCA 267	Application Dismissed [2019] HCASL 199
8.	AYG18	Minister for Home Affairs & Anor (S122/2019)	Federal Court of Australia [2019] FCA 454	Application Dismissed [2019] HCASL 200
9.	BUU18	Minister for Home Affairs & Anor (S132/2019)	Federal Court of Australia [2019] FCA 457	Application Dismissed [2019] HCASL 201
10.	AJL16	Minister for Immigration and Border Protection & Anor (M48/2019)	Federal Court of Australia [2019] FCA 255	Application Dismissed [2019] HCASL 202
11.	COP15	Minister for Immigration and Border Protection & Anor (M57/2019)	Federal Court of Australia [2019] FCA 282	Application Dismissed [2019] HCASL 203
12.	McCourt	National Australia Bank Limited (P64/2018)	Supreme Court of Western Australia (Court of Appeal) [2018] WASCA 132	Application Dismissed [2019] HCASL 204
13.	ANY16	Minister for Immigration and Border Protection & Anor (S87/2019)	Federal Court of Australia [2019] FCA 265	Application Dismissed [2019] HCASL 205
14.	AVI16 & Ors	Minister for Immigration and Border Protection & Anor (S107/2019)	Federal Court of Australia [2019] FCA 306	Application Dismissed [2019] HCASL 206

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
15.	Campbell	Hamilton & Ors (S116/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 22	Application Dismissed [2019] HCASL 207
16.	BLO16	Minister for Immigration and Border Protection & Anor (S118/2019)	Federal Court of Australia [2019] FCA 418	Application Dismissed [2019] HCASL 208
17.	Bradford	Donnellan & Anor (S120/2019)	Full Court of the Family Court of Australia	Application Dismissed [2019] HCASL 209
18.	Kaur & Anor	Minister for Home Affairs & Anor (S129/2019)	Federal Court of Australia [2019] FCA 507	Application Dismissed [2019] HCASL 210
19.	Plaintiff S11/2019	Minister for Immigration, Citizenship and Multicultural Affairs & Ors (S130/2019)	High Court of Australia [2019] HCATrans 62	Application Dismissed [2019] HCASL 211
20.	Winky Pop Pty Ltd & Anor	Mobil Refining Australia Pty Ltd & Anor (M29/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 9	Application Dismissed with costs [2019] HCASL 212
21.	GG	The Queen (S28/2019)	Supreme Court of New South Wales (Court of Criminal Appeal) [2018] NSWCCA 280	Application Dismissed [2019] HCASL 213
22.	Flowline Industries Pty Ltd (ACN 004871 489)	Aycicek (M51/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 37	Application Dismissed with costs [2019] HCASL 214
23.	MRWF	Minister for Home Affairs & Anor (P68/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 206	Application Dismissed with costs [2019] HCASL 215

[Return to Top](#)

21 June 2019: Brisbane

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	The Queen	FAR (B66/2018)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 317	Application refused [2019] HCATrans 129
2.	O'Dempsey	The Queen (B5/2019)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 364	Application refused [2019] HCATrans 128
3.	MCI	The Queen (B6/2019)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 141	Application refused [2019] HCATrans 130

[Return to Top](#)

21 June 2019: Sydney

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	DSC17	Minister for Immigration and Border Protection & Anor (S280/2018)	Federal Court of Australia [2018] FCA 1414	Application refused with costs [2019] HCATrans 134

[Return to Top](#)