HIGH COURT BULLETIN

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High Court of Australia Library
[2020] HCAB 9 (13 November 2020)

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

2: Cases Handed Down

Case	**Title**
GBF v The Queen	Criminal Practice
Calidad Pty Ltd & Ors v Seiko Epson Corporation & Anor	Patents
Deguisa & Anor v Lynn & Ors	Real Property

3: Cases Reserved

Case	**Title**
Wigmans v AMP Limited & Ors	Civil Procedure
Gerner & Anor v The State of Victoria	Constitutional Law

Palmer & Anor v The State of Western Australia & Anor	Constitutional Law
Minister for Immigration and Border Protection v Makasa	Migration Law

4: Original Jurisdiction

Case	**Title**
Zhang v Commissioner of Police & Ors	Constitutional Law

5: Section 40 Removal

Case	**Title**
Minister for Home Affairs v Benbrika	Constitutional Law

6: Special Leave Granted

Case	**Title**
Deputy Commissioner of Taxation v Shi	Evidence

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 September 2020 sittings.

Criminal Practice

GBF v The Queen
B18/2020: [2020] HCA 40

Judgment delivered: 4 November 2020

Coram: Kiefel CJ, Bell, Keane, Gordon and Edelman JJ

Catchwords:

Criminal practice – Trial – Directions to jury – Where appellant charged in seven counts with sexual offences allegedly committed against complainant half-sister when she was 13 and 14 years old – Where prosecution case wholly dependent on acceptance of complainant's evidence – Where appellant did not give or call evidence at trial – Where trial judge directed jury in unexceptional terms with respect to presumption of innocence and onus and standard of proof – Where trial judge later stated that failure of appellant to give sworn evidence "may make it easier" to assess complainant's credibility ("impugned statement") – Where neither prosecutor nor defence counsel applied for redirection arising from making of impugned statement – Whether impugned statement occasioned miscarriage of justice because its effect was to invite jury to reason to appellant's guilt from his exercise of right to silence – Whether influence of impugned statement weakened because it was comment not direction of law – Whether failure of either counsel to seek redirection weighed against conclusion that integrity of trial compromised – Whether impugned statement ambiguous such that there was no reasonable possibility jury would have felt it open to reason impermissibly.

Words and phrases – "absence of evidence", "contradictory instruction", "directions of law", "exercise of the right to silence", "false process of reasoning", "irregularity", "judicial observation on the facts", "miscarriage of justice", "onus of proof", "presumption of innocence", "proviso", "real chance of acquittal", "reason to guilt by an impermissible path", "redirection", "standard of proof", "sworn evidence".

Criminal Code (Qld) – s 668E(1), (1A).

Appealed from QCA (CA): [2019] QCA 4

Held: Appeal allowed.

Return to Top

Patents

Calidad Pty Ltd & Ors v Seiko Epson Corporation & Anor
S329/2020: [2020] HCA 41

Judgment delivered: 12 November 2020

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

Catchwords:

Patents – Infringement – Where printer ink cartridges embodied inventions claimed in two patents – Where used cartridges acquired by third party and modified for re-use – Where modified cartridges imported into Australia for sale to public – Where patentee alleged infringement of patent rights – Where s 13(1) of *Patents Act 1990* (Cth) provides patentee has exclusive rights to exploit invention – Where "exploit" includes make, hire, sell or otherwise dispose of product and to use it – Whether modifications to cartridges constituted impermissible "making" of new product – Whether doctrine that patentee's exclusive rights with respect to product are exhausted on first sale ("exhaustion doctrine") should be accepted – Whether doctrine that implied licence arises on sale of patented goods to purchaser ("implied licence doctrine") should continue to be applied.

Words and phrases – "conditions as to use", "embodying the claimed invention", "essential features", "exclusive statutory rights", "exhaustion doctrine", "exhaustion of rights", "exploit", "implied licence", "implied licence doctrine", "infringement", "invention", "make, hire, sell or otherwise dispose of", "make, use, exercise, and vend", "making", "manufacture", "modifications", "monopoly", "monopoly rights", "patent", "patent rights", "personal property", "product", "repair", "re-use", "single use", "use".

Patents Act 1903 (Cth) – s 62.

Patents Act 1990 (Cth) – ss 2A, 13, 135, 144, Sch 1.

Appealed from FCA (FC): [2019] FCAFC 115; (2019) 270 FCR 572; (2019) 370 ALR 563; (2019) 142 IPR 381

Held: Appeal allowed with costs.

Return to Top

Real Property

Deguisa & Anor v Lynn & Ors
A4/2020: [2020] HCA 39

Judgment delivered: 4 November 2020

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

Catchwords:

Real property – Torrens system – Where appellants registered proprietors of land – Where appellants obtained planning approval to subdivide land and build two townhouses – Where present certificate of title for land referred to memorandum of encumbrance which prohibited erection of any buildings other than "a dwellinghouse" and prohibited "multiple dwellings" – Where back-cover sheet of memorandum of encumbrance had typed statement indicating that encumbrance formed part of common building scheme – Where neither memorandum of encumbrance nor present certificate of title identified other lots benefited by restrictive covenants in memorandum of encumbrance – Where s 69 of Real Property Act 1886 (SA) provided title to land indefeasible subject to encumbrances and interests "notified" on original certificate of title of such land – Whether appellants were notified of restrictive covenants in memorandum of encumbrance in accordance with s 69.

Words and phrases – "cancelled certificate of title", "certificate of title", "common building scheme", "encumbrance", "memorandum of encumbrance", "notice", "notified", "notified on the certificate of title", "prudent conveyancer", "purpose of the Torrens system", "Register Book", "restrictive covenants", "search and inspection", "searches of the Register", "sufficiently notified", "title", "title by registration", "title of the registered proprietor", "Torrens system".

Real Property Act 1886 (SA) – ss 51B, 69.

Appealed from SASC (FC): [2019] SASCFC 107

Held: Appeal allowed 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

Oakey Coal Action Alliance Inc v New Acland Coal Pty Ltd & Ors
B34/2020: [2020] HCATrans 154

Date heard: 6 October 2020

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

Catchwords:

> Administrative law – Apprehended bias – Relief – Jurisdiction of inferior courts – Where first respondent applied for two mining leases and to amend existing environmental authority – Where appellant lodged objections to applications – Where Land Court of Queensland rejected applications – Where first respondent sought judicial review of Land Court's decision, urging grounds that included apprehended bias and errors in relation to groundwater issues – Where Queensland Supreme Court rejected bias grounds but accepted groundwater grounds and remitted issues relating to groundwater to Land Court for redetermination, holding that Land Court bound by original findings and conclusions on questions other than groundwater issues – Where appellant appealed against remittal orders and first respondent cross-appealed on apprehended bias issue – Where Land Court, differently constituted, proceeded with hearing in accordance with remittal orders despite pending appeal, and recommended that applications should be approved – Where Court of Appeal subsequently dismissed appeal on groundwater issues but allowed cross-appeal on apprehended bias – Where despite allowing cross-appeal and making declaration that Land Court's original decision affected by want of procedural fairness, Court of Appeal did not set aside remittal orders – Whether in circumstances where reviewing court concludes decision of inferior court affected by reasonable apprehension of bias, reviewing court can refuse to set aside decision below and order new trial either at all, in the absence of exceptional circumstances, or on the basis of futility – Whether order of superior court requiring inferior court to proceed in certain way can augment jurisdiction of inferior court so as to validate decision of inferior court that would otherwise be nullity.

Appealed from QSC (CA): [2019] QCA 184; (2019) 2 QR 271; (2019) 242 LGERA 309

Return to Top

Civil Procedure

Wigmans v AMP Limited & Ors
S67/2020: [2020] HCATrans 182

Date heard: 10 November 2020

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

Catchwords:

Civil procedure – Representative proceedings – Where multiple representative proceedings on foot against respondent in single forum – Where each plaintiff sought stay of proceedings commenced by other plaintiffs – Where primary judge applied multifactorial analysis to determine which proceeding should progress – Where NSW Court of Appeal dismissed appeal from primary judge's decision – Whether Pt 10 of *Civil Procedure Act 2005* (NSW) authorised approach taken by primary judge – Whether permissible for court faced with multiple open class actions conducted on basis of different funding models and with different incentives, disincentives and risk profiles to assume, without findings in evidence, that different proceedings equally likely to achieve possible settlement or judgment outcome within range of possible outcomes.

Appealed from NSWSC (CA): [2019] NSWCA 243; (2019) 373 ALR 323

Return to Top

Constitutional Law

Gerner & Anor v The State of Victoria
M104/2020: [2020] HCATrans 181

Date heard: 6 November 2020

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

Catchwords:

Constitutional law – Validity of legislative instruments – *Public Health and Wellbeing Act 2008* (Vic) ("Act"), sub-ss 200(1)(b), (d) – Directions made under sub-ss 200(1)(b), (d) – Where Directions

made under Act purported to authorise lockdown in Victoria – Where first plaintiff is resident of Victoria restrained from moving freely within that State by Directions – Where second plaintiff is restaurant business in Victoria owned and managed by first plaintiff – Where first plaintiff and employees and customers of second plaintiff have been restricted from visiting second plaintiff's premises, with adverse consequences for second plaintiff's business – Whether sub-ss 200(1)(b), (d) and/or Directions made under those provisions are invalid because they impermissibly burden an implied freedom of movement said to be contained in the *Constitution* (Cth).

Orders made on 6 November 2020 allowing the demurrer with costs. Written reasons of the Court to be published at a future date.

Return to Top

Palmer & Anor v The State of Western Australia & Anor

B26/2020: [2020] HCATrans 178; [2020] HCATrans 179; [2020] HCATrans 180

Dates heard: 3-4 November 2020

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

Catchwords:

Constitutional law – Section 92 – *Quarantine (Closing the Border) Directions* (WA) ("Directions") – *Emergency Management Act 2005* (WA) ("Act") – Where on 15 March 2020, pursuant to s 56 of Act, WA Minister for Emergency Services declared state of emergency over whole State of WA to address pandemic caused by COVID-19 – Where state of emergency continued and extended – Where on 5 April 2020, State Emergency Coordinator (second defendant) issued Directions, purportedly pursuant to ss 61, 67, 70 and 72A of Act – Where Directions prohibited entry to WA with limited exceptions for "exempt travellers" – Where Directions subsequently amended, but no change made to broad aim of implementing "hard border" policy – Where first plaintiff Chairman and Managing Director of second plaintiff – Where second plaintiff corporation holds interests in mining projects in WA, and has offices and staff in Brisbane and Perth – Where first plaintiff ordinarily resides in Queensland, but travels to WA often for business, social, charitable, and political purposes – Where first plaintiff unsuccessfully applied for "exempt traveller" status – Whether Directions and/or Act wholly or partly invalid on basis that they impermissibly infringe s 92 *Constitution* (Cth).

Orders made on 6 November 2020 answering questions in special case. Written reasons of the Court to be published at a future date.

Return to Top

Corporations

Westpac Securities Administration Ltd & Anor v Australian Securities and Investments Commission
S69/2020: [2020] HCATrans 155; [2020] HCATrans 157

Dates heard: 7-8 October 2020

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

Catchwords:

> Corporations – Financial product advice – *Corporations Act 2001* (Cth) s 766B(3)(b) – Distinction between personal advice and general advice – Where bank customers received letters or emails highlighting benefits of consolidating superannuation and offering to conduct free search to identify superannuation accounts that customers may have held with other providers – Where representative of bank then called customers, providing them with any relevant search results and offering to roll over superannuation accounts into their account with bank – Where Full Court of Federal Court held that bank provided financial product advice (within meaning of s 766B(1) of *Corporations Act*) to customers – Whether that financial product advice was personal advice – Whether objective limb of definition of "personal advice" in s 766B(3)(b) depends on whether reasonable person might expect that advice provider had *in fact* considered recipient's personal circumstances or that advice provider *should* have considered those circumstances – Whether consideration of recipient's personal circumstances (within meaning of s 766B(3)(b)) requires advice provider to engage with and evaluate those circumstances in formulating advice – Extent to which a recipient's "objectives, financial situation and needs" must be considered by advice provider for advice to be personal advice.

Appealed from FCA (FC): [2019] FCAFC 187; (2019) 272 FCR 170; (2019) 373 ALR 455; (2019) 141 ACSR 1

Return to Top

Criminal Law

Peniamina v The Queen
B32/2020: [2020] HCATrans 165

Date heard: 15 October 2020

Coram: Bell, Gageler, Keane, Gordon and Edelman JJ

Catchwords:

Criminal law – Defences – Provocation – *Criminal Code* (Qld) s 304 – Where applicant charged with murdering his wife – Where applicant pleaded not guilty to murder but guilty to manslaughter on basis of provocation – Where applicant bore onus of proving provocation – Where jury convicted applicant of murder – Where Court of Appeal held by majority that jury had not been misdirected as to provocation and dismissed applicant's appeal against conviction – Whether operation of s 304(3)(c) confined to provocative conduct identified by applicant as causing loss of self-control, or whether jury may also consider other conduct.

Appealed from QSC (CA): [2019] QCA 273; (2019) 2 QR 658

Return to Top

Evidence

Roy v O'Neill
D2/2020: [2020] HCATrans 135

Date heard: 8 September 2020

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

Catchwords:

Evidence – Admissibility of evidence obtained in course of "pro-active" policing of compliance with Domestic Violence Order – Whether common law recognises implied license permitting all people, including police, to attend upon unobstructed private property as far as front door and to knock on front door for purpose of lawful communication, such licence only being excluded where attendee otherwise has unlawful purpose – How to ascertain existence and scope of any implied licence at common law in favour of person who attends on unobstructed private property only so far as front door – Nature of relationship between common law doctrines of implied licence and police powers to prevent breach of peace.

Appealed from NTSC (CA): [2019] NTCA 8; (2019) 345 FLR 29

Return to Top

Family Law

Clayton v Bant
B21/2020: [2020] HCATrans 137

Date heard: 9 September 2020

Coram: Kiefel CJ, Bell, Gageler, Gordon and Edelman JJ

Catchwords:

> Family law – Foreign divorce – *Res judicata* – Where respondent obtained fault-based divorce from Dubai court with orders that appellant repay him marriage dowry – Where appellant sought orders in Australia concerning property interests and spousal maintenance under *Family Law Act 1975* (Cth) – Whether foreign divorce precluded prosecution of those proceedings on basis that Dubai court finally determined relevant causes of action between the parties.

Appealed from FamCA (FC): [2019] FamCAFC 200; (2019) 60 Fam LR 152

Return to Top

Migration Law

Minister for Home Affairs v DUA16 & Anor; Minister for Home Affairs v CHK16 & Anor
M57/2020; M58/2020: [2020] HCATrans 164

Date heard: 14 October 2020

Coram: Kiefel CJ, Bell, Keane, Gordon and Edelman JJ

Catchwords:

> Migration law – Third party fraud – Where migration agent ("Agent") acting for each of respondents provided "submissions" to Immigration Assessment Authority ("IAA") on their behalf – Where "submissions" pro forma and contained information that did not relate to respondents – Where there was no evidence that respondents had asked Agent to make particular "submissions" to IAA, nor evidence that either respondent wanted to provide "new information" to IAA – Where Full Court of Federal Court held that Agent engaged in fraudulent conduct and dismissed appeal from

decision of Federal Circuit Court to quash IAA's decisions in respondents' cases on ground that they were stultified by Agent's fraud – Whether Agent's fraudulent conduct in how respondents' cases put to IAA stultified, disabled, or subverted IAA's review of Minister's delegate's decision – Status and significance of "submissions" in assessing effect of fraudulent conduct on IAA's review processes.

Appealed from FCA (FC): [2019] FCAFC 221; (2019) 273 FCR 213

Return to Top

Minister for Home Affairs & Ors v DMA18 as Litigation Guardian for DLZ18 & Anor; Minister for Home Affairs & Anor v Marie Theresa Arthur as Litigation Representative for BXD18; Minister for Home Affairs & Anor v FRX17 as Litigation Representative for FRM17; Minister for Home Affairs & Anor v DJA18 as Litigation Representative for DIZ18
M27/2020; M28/2020; M29/2020; M30/2020: [2020] HCATrans 127

Date heard: 1 September 2020

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

Catchwords:

Migration law – Regional processing – Jurisdiction of Federal Court of Australia – Where respondents commenced proceedings against Commonwealth – Where s 494AB of *Migration Act 1958* (Cth) barred certain proceedings relating to "transitory persons" from being instituted or continued in any court other than High Court – Whether proceedings were, for purposes of s 494AB(1)(ca), proceedings "relating to the performance or exercise of a function" under s 198AHA(2) in relation to a transitory person – Whether proceedings were, for purposes of s 494AB(1)(a), proceedings relating to exercise of powers under s 198B of Act – Whether proceedings were, for purposes of s 494AB(1)(d), proceedings relating to removal of a transitory person from Australia under the Act.

Appealed from FCA (FC): [2019] FCAFC 148; (2019) 271 FCR 254

Return to Top

Minister for Immigration and Border Protection v Makasa
S103/2020: [2020] HCATrans 190

Date heard: 12 November 2020

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

Catchwords:

Migration law – Visa cancellation – Character test – Substantial criminal record – Where Minister's delegate cancelled respondent's visa on character grounds – Where Administrative Appeals Tribunal ("AAT") set aside delegate's decision and decided not to cancel visa – Where Minister subsequently personally purported to cancel respondent's visa – Whether the Minister can re-exercise discretion conferred by s 501(2) of *Migration Act 1958* (Cth) to cancel person's visa where AAT has previously set aside Minister's delegate's earlier decision to cancel visa under s 501(2) – If yes, whether Minister can rely on same offences (going to whether person has substantial criminal record for purposes of character test) to enliven discretion in s 501(2) as AAT relied upon when reviewing delegate's decision.

Appealed from FCA (FC): [2020] FCAFC 22; (2020) 376 ALR 191

Orders made on 12 November 2020 dismissing the appeal with costs. Written reasons of the Court to be published at a future date.

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

LibertyWorks Inc v Commonwealth of Australia
S10/2020: [2020] HCATrans 116

Catchwords:

Constitutional law – Validity of legislation – *Foreign Influence Transparency Scheme Act 2018* (Cth) ("*FITS Act*") – Where plaintiff is a not-for-profit think-tank incorporated in Queensland – Where in August 2019, plaintiff organised and held Conservative Political Action Conference in Sydney – Where US corporation, American Conservative Union ("ACU"), runs conference with same name in US, where ACU board members spoke at Sydney conference, and where ACU was advertised as "Think Tank Host Partners" for Sydney conference – Where plaintiff not registered under *FITS Act* – Where in October 2019, notice under s 45 of *FITS Act* issued to President of plaintiff, requiring plaintiff to provide certain information within specified period – Where s 59 of *FITS Act* provides for offence of failing to comply with s 45 notice within time – Where in November 2019, President of plaintiff replied to notice, refusing to provide requested information and disputing validity of notice – Whether terms, operation, or effect of *FITS Act* impermissibly burden implied freedom of political communication – Whether *FITS Act* contravenes s 92 of *Constitution* (Cth) by impermissibly burdening freedom of intercourse – Whether *FITS Act* supported by head of power in s 51 *Constitution*.

Special case referred for consideration by Full Court on 20 August 2020.

Return to Top

Zhang v Commissioner of Police & Ors
S129/2020

Catchwords:

Constitutional law – Validity of legislation – Validity of warrants – Where plaintiff under investigation for alleged foreign interference offences, contrary to *Criminal Code* (Cth) sub-ss 92.3(1), (2) – Where plaintiff formerly employed part-time in office of member of New South Wales Parliament – Where magistrate, purporting to

exercise power in s 3E of *Crimes Act 1914* (Cth), issued search warrant authorising AFP officers to enter and search plaintiff's residential premises – Where magistrate also purported to make order under s 3LA, requiring plaintiff to provide information or assistance to officers enabling them to access, copy, or convert data held on computers or devices found in execution of warrant – Where searches took place, and pursuant to s 3K, certain items removed for examination – Where magistrate purported to exercise s 3E power and issued warrant authorising search of warehouse premises from which plaintiff and his wife conducted business – Where searches took place, material seized pursuant to s 3F, and electronic devices removed for examination pursuant to s 3K – Where registrar purported to exercise s 3E power and issued warrant authorising AFP officers to enter and search premises within NSW Parliament House – Where searches took place, and data copied to USB thumb drives pursuant to s 3F – Where magistrate made s 3LA order requiring plaintiff to provide information and assistance to police that would allow them to access data held in or accessible from phones moved to another place for examination after search of residential premises – Whether either or both of sub-ss 92.3(1), (2) invalid for impermissibly burdening implied freedom of political communication – Whether some or all of warrants are wholly or partly invalid on basis that they misstate substance of s 92.3(2) of *Criminal Code*, that they fail to state offences to which they relate with sufficient precision, or that either or both of sub-ss 92.3(1), (2) are invalid – If some or all of warrants are wholly or partly invalid, whether one or both of s 3LA orders are invalid.

Special case referred for consideration by Full Court on 12 November 2020.

Return to Top

5: SECTION 40 REMOVAL

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

Minister for Home Affairs v Benbrika
M112/2020: [2020] HCATrans 177

Removed into the High Court under s 40 of the Judiciary Act 1903 *(Cth) on 30 October 2020*.

Catchwords:

> Constitutional law – Question reserved – Validity of legislation – *Criminal Code* (Cth) Div 105A – Continuing detention orders – Where Minister for Home Affairs applied to Supreme Court of Victoria for continuing detention order against respondent pursuant to s 105A.7 of *Criminal Code*, and for interim detention order pursuant to s 105A.9 – Where on respondent's application, question of constitutional validity of Div 105A referred to Court of Appeal – Where Commonwealth Attorney-General intervened and applied to have proceeding pending in Court of Appeal removed into High Court under s 40 *Judiciary Act 1903* (Cth) – Whether s 105A.7 purports to confer non-judicial power on courts exercising federal jurisdiction contrary to Ch III of Constitution – Whether s 105A.7 severable from balance of Div 105A.

Removed from Supreme Court of Victoria; *question reserved.*

Return to Top

6: SPECIAL LEAVE GRANTED

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

Administrative Law

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v AAM17 & Anor
P23/2020: [2020] HCATrans 66

Date heard: 29 May 2020 – *Special leave granted*.

Catchwords:

> Administrative law – Procedural fairness – Where first respondent unsuccessfully applied for protection visa and where Administrative Appeals Tribunal affirmed refusal decision – Where first respondent sought judicial review of Tribunal's decision in Federal Circuit Court ("FCC") – Where first respondent appeared in person before FCC with assistance of translator – Where at conclusion of hearing FCC made orders dismissing application and gave ex tempore reasons – Where reasons for judgment published two months later after first respondent had instituted appeal to Federal Court – Where Federal Court allowed appeal on basis that first respondent denied procedural fairness by FCC and that there had therefore been no real exercise of judicial power in the circumstances – Where Federal Court considered that FCC's review of Tribunal's decision otherwise unaffected by error warranting appellate attention – Whether requirement of procedural fairness, either generally or in relation to courts, includes duty to provide reasons – If yes, whether such requirement extends to requiring reasons to be provided in particular manner and/or time – What is appropriate form of order for court conducting appeal by way of rehearing to make in circumstances where appellate court finds court below denied appellant procedural fairness and also considers decision under appeal correct.

Appealed from FCA: [2019] FCA 1951

Return to Top

Sunland Group Limited & Anor v Gold Coast City Council
B64/2020: [2020] HCATrans 160

Date heard: 13 October 2020 – *Special leave granted*.

Catchwords:

Administrative law – Planning and environment – Development approvals – Where in 2015 second applicant bought parcel of undeveloped land which carried with it benefit of preliminary development approval granted in 2007 – Where preliminary approval approved multi-stage residential development subject to 56 conditions – Where some conditions provided for payment of infrastructure contributions to respondent – Where preliminary approval made under *Integrated Planning Act 1997* (Qld) – Where *Integrated Planning Act* replaced by other legislation – Whether conditions concerning infrastructure contributions, properly construed, should be read as binding on applicant or landowner, or merely as statements as to scope of future possible conditions – Whether, in construction of conditions, *contra proferentem* rule applies so that ambiguities are to be resolved against approving authority.

Appealed from QSC (CA): [2020] QCA 89

Return to Top

Civil Procedure

Victoria International Container Terminal Limited v Lunt & Ors
M96/2020: [2020] HCATrans 143

Date heard: 11 September 2020 – *Special leave granted on limited ground*.

Catchwords:

Civil procedure – Dismissal of proceedings – Abuse of process – Where Fair Work Commission approved enterprise agreement – Where first respondent sought order in nature of certiorari to quash Commission's approval – Where applicant applied for dismissal of that proceeding on basis it was abuse of process – Where applicant contended that Construction, Forestry, Maritime, Mining and Energy Union ("CFMMEU") was true moving party and proceeding had been brought in first respondent's name to sidestep fact that CFMMEU's predecessor union had acquiesced in enterprise agreement – Where primary judge acceded to applicant's application and dismissed proceeding, finding CFMMEU was true moving party and first respondent was "front man" – Where appeal to Full Court of Federal Court allowed, and applicant's application to have proceeding dismissed as abuse of process dismissed – Whether it would bring administration of justice into disrepute to allow CFMMEU, using "front man", to challenge Commission's approval of enterprise

agreement while avoiding scrutiny of predecessor union's acquiescence in that agreement.

Appealed from FCA (FC): [2020] FCAFC 40

Return to Top

Contracts

Matthew Ward Price as Executor of the Estate of Alan Leslie Price (Deceased) & Ors v Christine Claire Spoor as Trustee & Ors
B55/2020: [2020] HCATrans 142

Date heard: 11 September 2020 – *Special leave granted*.

Catchwords:

Contracts – Statutory limitation periods – Exclusion by agreement – Where in 1998, two mortgages executed by deceased Mr A Price and second applicant, and deceased Mr J Price and third applicant in favour of Law Partners Mortgages Pty Ltd ("LPM"), securing $320,000 loan advanced by LPM to mortgagors – Where respondents are trustees of pension fund successor in title as mortgagee to LPM – Where by 30 April 2001, only $50,000 of principal repaid and where no repayments made after that date – Where respondents commenced proceedings in 2017, claiming $4,014,969.22 and recovery of possession of mortgaged land – Where proceedings commenced outside of statutory bars in *Limitation of Actions Act 1974* (Qld) – Where cl 24 of mortgages provided that "[t]he Mortgagor covenants with the Mortgage[e] that the provisions of all statutes now or hereafter in force whereby or in consequence whereof any o[r] all of the powers rights and remedies of the Mortgagee and the obligations of the Mortgagor hereunder may be curtailed, suspended, postponed, defeated or extinguished shall not apply hereto and are expressly excluded insofar as this can lawfully done" – Whether agreement not to plead or to rely on provisions of *Limitation of Actions Act* made at time of entry into loan contract and before accrual of cause of action unenforceable on public policy grounds – Whether, on proper construction of cl 24, applicants entitled to plead defence under *Limitation of Actions Act* – Whether operation of s 24 of *Limitation of Actions Act* can be excluded by agreement – Whether, on proper construction, terms of cl 24 are ambiguous – If cl 24 enforceable, whether breach of cl 24 could sound in any remedy other than claim for damages for breach of warranty.

Appealed from QSC (CA): [2019] QCA 297; (2019) 3 QR 176

Return to Top

Criminal Law

Bell v The Queen
H2/2020: [2020] HCATrans 77

Date heard: 5 June 2020 – *Special leave granted*.

Catchwords:

Criminal law – Defences – Honest and reasonable mistake – Where applicant charged with one count of rape and one count of supply of controlled drug to child – Where trial judge left defence of honest and reasonable mistake as to age in relation to rape charge – Where counsel for applicant requested similar direction in respect of supply charge – Where trial judge refused to make such direction on basis that defence of honest and reasonable mistake as to age would not relieve applicant of criminal responsibility with respect to supply charge – Where jury convicted applicant of supply charge but could not reach verdict on rape or alternative charge of sexual intercourse with person under age of 17 – Where at retrial of sexual offence jury found applicant not guilty of rape but convicted on alternative charge – Where Court of Criminal Appeal upheld trial judge's decision that defence of honest and reasonable mistake as to age not available in relation to supply charge – Whether defence of honest and reasonable mistake of fact only available where its successful use would lead to defendant not being guilty of any crime.

Appealed from TASSC (CCA): [2019] TASCCA 19; (2019) 279 A Crim R 553

Return to Top

Miller v The Queen
A19/2020: [2020] HCATrans 111

Date heard: 14 August 2020 – *Special leave granted*.

Catchwords:

Criminal law – Provocation – Where appellant charged with murder and tried before judge and jury – Where self-defence left to jury, but not provocation – Where appellant convicted of murder – Where on appeal to Court of Criminal Appeal ("CCA"), appellant contended provocation should have been left to jury – Where CCA dismissed appeal – Whether CCA erred by conflating question of whether there was evidence raising provocation with question of whether

applicant should have been acquitted of murder on account of provocation – Whether there was evidence before jury which might reasonably have led jury to consider provocation established.

Appealed from SASCFC (CCA): [2019] SASCFC 91; (2019) 134 SASR 155

Return to Top

Namoa v The Queen
S188/2020: [2020] HCATrans 163

Date heard: 13 October 2020 – *Special leave granted*.

Catchwords:

Criminal law – Conspiracy between married persons – Relationship between common law and Schedule ("*Criminal Code*") to *Criminal Code Act 1995* (Cth) – Where applicant tried jointly with another on one count of conspiring to do acts in preparation for terrorist act or acts, contrary to ss 11.5 and 101.6 of *Criminal Code* – Where prior to trial, trial judge rejected application for permanent stay on basis that applicant and co-accused were married – Where applicant and co-accused convicted – Where NSW Court of Criminal Appeal ("CCA") dismissed appeal against conviction – Whether immediately prior to enactment of *Criminal Code*, it was part of common law of Australia that married persons could not commit criminal conspiracy – If so, whether that principle remains part of common law – Whether CCA entitled to depart from Privy Council decisions on principles of common law which preceded passage of *Australia Acts* in 1986 – Whether *Criminal Code* expressly or impliedly ousts common law rule as to conspiracy between married persons.

Appealed from NSWSC (CCA): [2020] NSWCCA 62; (2020) 351 FLR 266

Return to Top

Evidence

Davidson v The Queen
B6/2020: [2020] HCATrans 141

Date heard: 11 September 2020 – *Application for special leave and for extension of time referred to Full Court*.

Catchwords:

Evidence – Similar fact evidence – Common law approach – Where applicant was massage therapist – Where applicant charged with counts of sexual assault and rape committed against ten complainant clients – Where prosecution sought to lead similar fact evidence – Where applicant unsuccessfully sought to have separate trials ordered on rape counts on basis that evidence relied upon as similar fact evidence not cross-admissible on other counts – Where following jury trial, applicant convicted of 18 counts of sexual assault and one count of rape – Whether joint trial of sexual assault and rape counts occasioned miscarriage of justice – Whether majority of Court of Appeal effectively lowered threshold for admission of similar fact evidence at common law.

Appealed from QSC (CA): [2019] QCA 120

Return to Top

Deputy Commissioner of Taxation v Shi
S113/2020: [2020] HCATrans 188

Date heard: 11 November 2020 – *Special leave granted*.

Catchwords:

Evidence – Exceptions to privilege against self-incrimination – *Evidence Act 1995* (Cth) s 128A – Where applicant commenced proceedings against respondent and two others seeking satisfaction of tax liabilities – Where applicant sought freezing orders with respect to respondent's assets – Where Federal Court made ex parte freezing orders in relation to respondent's worldwide assets – Where respondent also ordered to file and serve affidavit disclosing his worldwide assets – Where respondent filed two affidavits, one which was served on applicant, and one which was delivered to Federal Court in sealed envelope – Where respondent claimed privilege against self-incrimination in respect of second affidavit, invoking s 128A – Where prior to hearing of privilege claim, judgment entered for applicant in sum of $42,297,437.65 – Where primary judge accepted there were reasonable grounds for respondent's claim for privilege against self-incrimination, but considered not in interests of justice that certificate be granted pursuant to s 128A(7), with consequence that applicant did not get access to second affidavit – Where majority of Full Court of Federal Court held that primary judge had erred in certain respects, but dismissed appeal – Whether availability of mechanism to compulsorily examine respondent as judgment debtor relevant to determining whether it was in interests of justice to grant s 128A certificate – Whether risk of derivative use of privileged information in event that s 128A certificate was granted should have been taken into account when determining whether it was in interests of justice to grant certificate.

Appealed from FCA (FC): [2020] FCAFC 100; (2020) 380 ALR 226

Return to Top

Migration Law

BNB17 v Minister for Immigration and Border Protection & Anor
M109/2020: [2020] HCATrans 156

Date determined: 8 October 2020 – *Special leave granted.*

Catchwords:

Migration law – Fast track review process – *Migration Act 1958* (Cth) Pt 7AA – Where applicant applied for Safe Haven Enterprise Visa on basis that he feared serious or significant harm due to imputed support for Liberation Tigers of Tamil Eelam – Where Minister's delegate refused application – Where applicant contended interview conducted by delegate affected by material translation errors – Where, on review, Immigration Assessment Authority ("IAA") affirmed delegate's decision – Where Federal Circuit Court dismissed application for judicial review – Where appeal to Federal Court dismissed – Whether alleged translation errors in initial interview had consequence that IAA could not perform its function of considering "review material" – Whether, when on notice of alleged translation errors, it was legally unreasonable for IAA to fail to mould its procedures to cure effect of alleged errors by using power in s 473DC to get new information or taking any other step – Whether, when on notice of alleged translation errors, it was legally unreasonable for IAA to make adverse credibility findings relying on aspects of applicant's evidence allegedly affected by errors.

Appealed from FCA: [2020] FCA 304

Return to Top

DQU16 & Ors v Minister for Home Affairs & Anor
S169/2020: [2020] HCATrans 136

Date determined: 9 September 2020 – *Special leave granted*.

Catchwords:

Migration law – Complementary protection – Where first applicant had worked as alcohol distributor in Iraq and claimed he would be targeted for doing so if he returned to Iraq – Where applications for

temporary protection visas refused by Minister's delegate – Where Immigration Assessment Authority ("IAA") affirmed delegate's decision finding first applicant could take reasonable step of not selling alcohol to avoid real chance of persecution in Iraq – Whether principles in *Appellant S395/2002 v Minister for Immigration and Multicultural Affairs* (2003) 216 CLR 473 applicable in considering complementary protection criterion in s 36(2)(aa) of *Migration Act 1958* (Cth) – Whether, in determining complementary protection claims, IAA may rely on finding made in relation to claim for refugee status as to future changes in applicant's behaviour without addressing reason for intended changed conduct.

Appealed from FCA: [2020] FCA 518

Return to Top

DVO16 v Minister for Immigration and Border Protection & Anor
S66/2020: [2020] HCATrans 51

Date heard: 17 April 2020 – *Special leave granted*.

Catchwords:

Migration law – Fast track review process – *Migration Act 1958* (Cth) Pt 7AA – Where appellant applied for temporary protection visa – Where Minister's delegate conducted interview with appellant – Where translation errors and omissions occurred in interview – Where Minister's delegate refused application – Where, relying on material obtained in interview, Immigration Assessment Authority ("IAA") reviewed delegate's decision – Where IAA affirmed delegate's decision – Whether, in circumstances where material translation error occurred in delegate's interview and IAA relies on material obtained in interview in reviewing delegate's decision under Pt 7AA, IAA needs to have actual or constructive knowledge of translation error for jurisdictional error to arise.

Appealed from FCA (FC): [2019] FCAFC 157; (2019) 271 FCR 342

Return to Top

Minister for Immigration and Border Protection v EFX17
B43/2020: [2020] HCATrans 93

Date heard: 3 July 2020 – *Special leave granted on limited grounds*.

Catchwords:

Migration law – Visa cancellation – Character test – *Migration Act 1958* (Cth) ss 496, 501, 501CA – Notice of cancellation – Where

Minister's delegate made decision under s 501(3A) to cancel respondent's protection visa while respondent serving sentence of imprisonment – Where pursuant to duties in s 501CA(3) Minister caused to be given to respondent written notice containing notification of cancellation decision, relevant information as to reason for decision, and invitation to make representations about revocation of cancellation decision – Where notice given to respondent by officer of Queensland Corrective Services – Where respondent commenced proceedings in Federal Circuit Court challenging validity of notice – Where Circuit Court dismissed challenge – Where appeal to Full Court of Federal Court allowed by majority – Whether Minister, in performing duties under s 501CA(3), must have regard to matters relating to former visa holder's capacity, including literacy, capacity to understand English, mental capacity and health, and facilities available to them in custody – Whether fulfilment of duties in s 501CA(3) dependent on former visa holder's ability to comprehend notice, particulars, and invitation to make representations – Whether valid performance of duties in s 501CA(3) conditional on person performing them holding delegated authority under s 496(1) or whether s 497 applicable.

Appealed from FCA (FC): [2019] FCAFC 230; (2019) 273 FCR 508; (2019) 374 ALR 272; (2019) 167 ALD 225

Return to Top

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v Moorcroft

B66/2020: [2020] HCATrans 166

Date heard: 16 October 2020 – *Special leave granted*.

Catchwords:

Migration law – Removal and deportation – Where s 5(1) of *Migration Act 1958* (Cth) relevantly provided that person who had "been removed or deported from Australia or removed or deported from another country" was "behaviour concern non-citizen" – Where respondent held special category visa – Where that visa purportedly cancelled, and respondent detained and removed from Australia to New Zealand – Where, by consent, Federal Circuit Court quashed cancellation decision – Where respondent returned to Australia and was interviewed by Minister's delegate at airport on arrival – Where delegate asked whether she had ever been removed, deported, or excluded from any country, including Australia – Where respondent answered yes, and explained circumstances of earlier removal – Where delegate refused to grant respondent special category visa, not being satisfied that the respondent had not been "removed … from Australia" within meaning of definition of "behaviour concern non-citizen" – Where

Federal Circuit Court dismissed respondent's application for judicial review of delegate's decision – Where Federal Court allowed appeal from Circuit Court's decision – Whether "removed or deported from" means taken out of some country by or on behalf of government of that country in fact, or whether it means being taken out of some country validly or lawfully, or whether it bears different meanings in same section, namely, valid or lawful removal or deportation in case of ejection from Australia, and removal or deportation in fact in case of other countries.

Appealed from FCA: [2020] FCA 382

Return to Top

MZAPC v Minister for Immigration and Border Protection & Anor
M77/2020: [2020] HCATrans 113

Date heard: 14 August 2020 – *Special leave granted*.

Catchwords:

Migration law – Procedural fairness – Materiality – Where appellant applied for protection visa – Where appellant's criminal record and related material provided to Administrative Appeals Tribunal ("AAT") by first respondent without appellant's knowledge – Where certificate under s 438 of *Migration Act 1958* (Cth) issued in relation to criminal record and related material and appellant not notified of certificate – Where criminal record disclosed history of serious traffic offences – Where AAT affirmed delegate's decision to refuse visa application – Where appeal to Federal Circuit Court dismissed – Where appeal to Federal Court dismissed – Where common ground that failure to notify appellant of certificate constituted denial of procedural fairness – Whether, when considering materiality of denial of procedural fairness occasioned by failure to notify appellant of s 438 certificate, appellant bore onus of rebutting presumption that AAT did not rely on documents subject to certificate and had to prove that documents had been taken into account by AAT – Whether Federal Court erred in finding that denial of procedural fairness immaterial on basis that offences disclosed in criminal record not rationally capable of impacting appellant's credibility before AAT.

Appealed from FCA: [2019] FCA 2024

Return to Top

Private International Law

Mackellar Mining Equipment Pty Ltd and Dramatic Investments Pty Ltd t/as Partnership 818 & Anor v Thornton & Ors
B56/2019: [2019] HCATrans 188

Date heard: 13 September 2019 – *Special leave granted*.

Catchwords:

Private international law – Restraint of foreign proceedings – Where plane crash in Queensland killed two pilots and 13 passengers – Where respondents, relatives of deceased, commenced proceedings against appellants in Missouri in May 2008 – Where appellants brought application in March 2017 in Queensland Supreme Court for permanent anti-suit injunction in respect of Missouri proceedings – Whether complete relief was available in Queensland proceedings and nothing additional could be gained in Missouri proceedings – Whether continuation of Missouri proceeding, after all foreign parties removed, was vexatious or oppressive or otherwise unconscionable within *CSR Ltd v Cigna Insurance Australia Ltd* (1997) 189 CLR 345.

Appealed from QSC (CA): [2019] QCA 77; (2019) 367 ALR 171

Return to Top

Taxation

The Commissioner of Taxation for the Commonwealth of Australia v Travelex Limited
S116/2020: [2020] HCATrans 89

Date determined: 25 June 2020 – *Special leave granted*.

Catchwords:

Taxation – Overpayments – Interest – Where supplies which were GST-free wrongly included in Business Activity Statement – Where on 28 June 2012 Commissioner allocated credit of $149,020 to respondent's Running Balance Account ("RBA") and recorded "effective date" of allocation as 16 December 2009 – Whether Commissioner's actions on 28 June 2012, even if made in error and unreflective of any entitlement under a taxation law on part of respondent, created obligation on part of Commissioner to refund "RBA surplus" within meaning of Pt IIB of *Taxation Administration Act 1953* (Cth) and entitlement on part of respondent to interest under *Taxation (Interest on Overpayments and Early Payments) Act 1983* (Cth).

Appealed from FCA (FC): [2020] FCAFC 10

Return to Top

Torts

Talacko v Talacko & Ors
M111/2020: [2020] HCATrans 169; [2020] HCATrans 175

Dates determined: 16, 22 October 2020 – *Special leave granted*.

Catchwords:

Torts – Unlawful means conspiracy – Loss of chance – Where, in context of long dispute over properties in Prague, Slovakia, and Dresden, some of the respondents commenced proceedings in Supreme Court of Victoria alleging that applicant and members of her immediate family engaged in unlawful means conspiracy by executing donation agreements which purported to put certain interests in properties beyond reach of respondents – Where Supreme Court held that three of four elements of unlawful means conspiracy made out, but that pecuniary loss not established – Where Court of Appeal allowed appeal against that decision – Whether reduction in chance to recover judgment debt, where that debt may yet be recovered, can constitute pecuniary loss sufficient to complete cause of action – Whether expenses incurred by one party in foreign proceedings can constitute pecuniary loss sufficient to complete cause of action in circumstances where foreign proceedings ongoing and where foreign court may order that party to bear its own expenses.

Appealed from VSC: [2018] VSC 807
Appealed from VSC (CA): [2017] VSCA 163; [2020] VSCA 99

Return to Top

7: Cases Not Proceeding or Vacated

Return to Top

8: SPECIAL LEAVE REFUSED

Publication of Reasons: 5 November 2020 (Melbourne)

No.	*Applicant*	*Respondent*	*Court appealed from*	*Result*
1.	Bulow	Bulow (A18/2020)	Full Court of the Family Court of Australia	Application dismissed [2020] HCASL 226
2.	Benrabah	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (M76/2020)	Full Court of the Federal Court of Australia [2020] FCFCA 4	Application dismissed [2020] HCASL 227
3.	Jafari	23 Developments Pty Ltd & Ors (M79/2020)	Supreme Court of Victoria (Court of Appeal) [2020] VSCA 187	Application dismissed [2020] HCASL 228
4.	CKL16	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (P36/2020)	Federal Court of Australia [2020] FCA 918	Application dismissed [2020] HCASL 229
5.	Kingston	Field (S136/2020)	Full Court of the Family Court of Australia	Application dismissed [2020] HCASL 230
6.	Chan & Ors	Macarthur Minerals Ltd & Ors (B45/2020)	Supreme Court of Queensland (Court of Appeal) [2020] QCA 143	Application dismissed with costs [2020] HCASL 231
7.	AAL19	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (M68/2020)	Full Court of the Federal Court of Australia [2020] FCFCA 114	Application dismissed with costs [2020] HCASL 232
8.	Lawton	The Queen (S102/2020)	Supreme Court of New South Wales (Court of Criminal Appeal) [2016] NSWCCA 89	Application dismissed [2020] HCASL 233
9.	Mylan Health Pty Ltd & Anor	Sun Pharma ANZ Pty Ltd (formerly Ranbaxy Australia Pty Ltd) & Anor (S130/2020)	Full Court of the Federal Court of Australia [2020] FCFCA 116	Application dismissed with costs [2020] HCASL 234

Return to Top

11 November 2020: Canberra and by video-link

No.	*Applicant*	*Respondent*	*Court appealed from*	*Result*
1.	Jadwan Pty Ltd	Rae & Partners (A Firm) & Ors (H1/2020)	Full Court of Federal Court of Australia [2020] FCAFC 62	Application dismissed with costs [2020] HCATrans 184
2.	FIR17	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (S77/2020)	Federal Court of Australia [2020] FCA 122	Application dismissed [2020] HCATrans 183
3.	Abernethy	The Queen (M45/2020)	Supreme Court of Victoria (Court of Appeal) [2020] VSCA 96	Application dismissed [2020] HCATrans 185
4.	Hawkins	The Queen (M46/2020)	Supreme Court of Victoria (Court of Appeal) [2020] VSCA 96	Application dismissed [2020] HCATrans 185
5.	Tu Phan (a pseudonym)	The Queen (M50/2020)	Supreme Court of Victoria (Court of Appeal) [2020] VSCA 94	Application dismissed [2020] HCATrans 186
6.	Jin Wu (a pseudonym)	The Queen (M51/2020)	Supreme Court of Victoria (Court of Appeal) [2020] VSCA 94	Application dismissed [2020] HCATrans 186
7.	HBZ	The Queen (B28/2020)	Supreme Court of Queensland (Court of Appeal) [2020] QCA 73	Application dismissed [2020] HCATrans 187

Return to Top

Publication of Reasons: 12 November 2020 (Canberra)

No.	*Applicant*	*Respondent*	*Court appealed from*	*Result*
1.	BHM17	Minister for Immigration and Border Protection & Anor (M115/2019)	Federal Court of Australia [2019] FCA 1396	Application dismissed [2020] HCASL 235
2.	Kipling	Netis (B48/2020)	Full Court of the Family Court of Australia	Application dismissed [2020] HCASL 236
3.	Tutos	The Roman Catholic Trust Corporation for the Diocese of Cairns trading as Catholic Education Services Cairns (B53/2020)	Supreme Court of Queensland (Court of Appeal) [2020] QCA 171	Application dismissed [2020] HCASL 237
4.	Dickson	Commissioner of the Australian Federal Police (S144/2020)	Supreme Court of New South Wales (Court of Appeal) [2020] NSWCA 125	Application dismissed [2020] HCASL 238
5.	BEA15	Minister for Immigration and Border Protection & Anor (S148/2020)	Federal Court of Australia [2020] FCA 392	Application dismissed [2020] HCASL 239
6.	Mendonca	Tonna & Anor (S166/2020)	Supreme Court of New South Wales (Court of Appeal) [2020] NSWCA 196	Application dismissed [2020] HCASL 240
7.	Lei	Zhang (M54/2020)	Supreme Court of Victoria (Court of Appeal) [2020] VSCA 123	Application dismissed [2020] HCASL 241
8.	Donohue	The Queen (M64/2020)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 160	Application dismissed [2020] HCASL 242
9.	Spencer	Spencer (P26/2020)	Full Court of the Family Court of Australia	Application dismissed [2020] HCASL 243
10.	Spencer	Spencer (P27/2020)	Full Court of the Family Court of Australia	Application dismissed [2020] HCASL 243
11.	Simmonds	Strickland J & Ors (P28/2020)	Application for constitutional writs	Application dismissed [2020] HCASL 244
12.	Spencer	Spencer (P33/2020)	Full Court of the Family Court of Australia	Application dismissed [2020] HCASL 245
13.	Simmonds	Kent J & Ors (P39/2020)	Application for constitutional writs	Application dismissed [2020] HCASL 246

No.	*Applicant*	*Respondent*	*Court appealed from*	*Result*
14.	Featherstone	The Queen (C10/2020)	Supreme Court of the Australian Capital Territory [2020] ACTCA 33	Application dismissed [2020] HCASL 247
15.	Bloxsome	The Queen (C11/2020)	Supreme Court of the Australian Capital Territory [2020] ACTCA 33	Application dismissed [2020] HCASL 248
16.	Stoltenberg	Bolton (S55/2020)	Supreme Court of New South Wales (Court of Appeal) [2020] NSWCA 45	Application dismissed with costs [2020] HCASL 249
17.	Gaynor	Local Court of New South Wales & Ors (S79/2020)	Supreme Court of New South Wales (Court of Appeal) [2020] NSWCA 48	Application dismissed [2020] HCASL 250
18.	Gaynor	Local Court of New South Wales & Ors (S80/2020)	Supreme Court of New South Wales (Court of Appeal) [2020] NSWCA 48	Application dismissed [2020] HCASL 250
19.	Liprini	Hale & Ors (S131/2020)	Supreme Court of New South Wales (Court of Appeal) [2020] NSWCA 130	Application dismissed with costs [2020] HCASL 251

Return to Top

13 November 2020: Melbourne and by video-link

No.	*Applicant*	*Respondent*	*Court appealed from*	*Result*
1.	CWF16	Minister for Home Affairs & Anor (B25/2020)	Federal Court of Australia [2020] FCA 509	Application dismissed with costs [2020] HCATrans 191
2.	Goondiwindi Regional Council	Tait (B40/2020)	Supreme Court of Queensland (Court of Appeal) [2020] QCA 119	Application dismissed with costs [2020] HCATrans 192
3.	Kraft Foods Group Brands LLC & Anor	Bega Cheese Limited (M41/2020)	Full Court of the Federal Court of Australia [2020] FCAFC 65	Application dismissed with costs [2020] HCATrans 193
4.	IM	The Queen (S124/2020)	Supreme Court of New South Wales (Court of Criminal Appeal) [2019] NSWCCA 107	Application dismissed [2020] HCATrans 194

Return to Top