



HIGH COURT BULLETIN

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[2022] HCAB 1 (18 February 2022)

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	6
4: Original Jurisdiction	17
5: Section 40 Removal	18
6: Special Leave Granted	21
7: Cases Not Proceeding or Vacated	29
8: Special Leave Refused	30

1: SUMMARY OF NEW ENTRIES

2: Cases Handed Down

Case	Title
<i>Walton & Anor v ACN 004 410 833 Ltd (formerly Arrium Ltd) (in liquidation) & Ors</i>	Companies
<i>Construction, Forestry, Maritime, Mining and Energy Union v Personnel Contracting Pty Ltd</i>	Industrial Law
<i>ZG Operations Australia Pty Ltd v Jamsek</i>	Industrial Law

3: Cases Reserved

Case	Title
<i>Citta Hobart Pty Ltd & Anor v Cawthorn</i>	Constitutional Law

<i>Delil Alexander (by his litigation guardian Berivan Alexander) v Minister for Home Affairs & Anor</i>	Constitutional Law
<i>Farm Transparency International Ltd & Anor v State of New South Wales</i>	Constitutional Law
<i>Ruddick v Commonwealth of Australia</i>	Constitutional Law

4: Original Jurisdiction

5: Section 40 Removal

6: Special Leave Granted

Case	Title
<i>SDCV v Director-General of Security & Anor</i>	Administrative Law
<i>Dansie v The Queen</i>	Criminal Law
<i>Hore v The Queen; Wichen v The Queen</i>	Criminal Law
<i>BHP Group Limited v Impiombato & Anor</i>	Representative Proceedings

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 February 2022 sittings.

Companies

Walton & Anor v ACN 004 410 833 Ltd (formerly Arrium Ltd) (in liquidation) & Ors

S20/2021: [\[2022\] HCA 3](#)

Judgment delivered: 16 February 2022

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

Catchwords:

Companies – Winding up – Mandatory examination of persons about examinable affairs of corporation – Application to set aside summons for examination – Purposes for which an officer or provisional liquidator may be summoned for examination about corporation's examinable affairs pursuant to s 596A of *Corporations Act 2001* (Cth) – Where appellants were shareholders of corporation in liquidation – Where appellants authorised by Australian Securities and Investments Commission to make application pursuant to s 596A of *Corporations Act 2001* (Cth) – Where appellants applied for summons for purpose of investigating potential personal claims in capacity as shareholders against former directors and auditors of corporation – Where Registrar issued summons to former director to attend court for examination – Whether appellants' purpose foreign to purpose of s 596A of *Corporations Act 2001* (Cth) – Whether examination an abuse of process.

Words and phrases – "abuse of process", "benefit of the company, its creditors, or its contributories", "corporation in external administration", "eligible applicant", "enforcement of the law", "examinable affairs", "predominant purpose", "public administration and compliance", "public interest", "purpose of the examination", "scope and purpose of a statutory process", "summons for examination", "winding up".

Corporations Act 2001 (Cth), s 596A.

Appealed from NSW (CA): [\[2020\] NSWCA 157](#); (2020) 383 ALR 298; (2020) 17 ABC(NS) 320

Held: Appeal allowed.

[Return to Top](#)

Industrial Law

Construction, Forestry, Maritime, Mining and Energy Union v Personnel Contracting Pty Ltd

P5/2021: [\[2022\] HCA 1](#)

Judgment delivered: 9 February 2022

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

Catchwords:

Industrial law (Cth) – Nature of employment relationship – Employee or independent contractor – Where second appellant backpacker with limited work experience sought construction work from respondent – Where respondent in business of labour hire – Where respondent and second appellant entered written contract describing second appellant as "self employed contractor" – Where respondent assigned second appellant to work on construction site run by respondent's client – Where second appellant agreed with respondent to co operate with respondent and client in all respects in supply of his labour to client – Where no contract between second appellant and client – Where respondent paid second appellant for work performed for client – Whether second appellant employee of respondent.

Words and phrases – "business of supplying labour", "contract of service", "contractor", "control", "employee", "independent contractor", "label", "labour hire", "legal rights and obligations", "multifactorial approach", "own business", "own business/employer's business dichotomy", "performance of work", "serving in the business of the employer", "subsequent conduct", "totality of the relationship", "triangular labour-hire arrangement", "written contract".

Fair Work Act 2009 (Cth) – ss 13, 14.

Appealed from FCA (FC): [\[2020\] FCAFC 122](#); (2020) 279 FCR 631; (2020) 381 ALR 457; (2020) 297 IR 269

Held: Appeal allowed with costs.

[Return to Top](#)

ZG Operations Australia Pty Ltd v Jamsek

S27/2021: [\[2022\] HCA 2](#)

Judgment delivered: 9 February 2022

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

Catchwords:

Industrial law (Cth) – Nature of employment relationship – Employee or independent contractor – Where respondents previously employed by company as truck drivers – Where respondents agreed to "become contractors" and purchase own trucks – Where each respondent set up partnership with spouse – Where partnerships executed contract with company for provision of delivery services – Where contract provided partnerships to purchase trucks – Where contract provided partnerships be paid by company for delivery services – Whether respondents employees of company.

Words and phrases – "contractual rights and obligations", "control", "disparity in bargaining power", "employee", "goodwill", "independent contractor", "partnership", "provision of services", "sham", "substance and reality", "totality of the relationship", "worker", "written contract".

Fair Work Act 2009 (Cth) – ss 13, 14.

Appealed from FCA (FC): [\[2020\] FCAFC 119](#); (2020) 279 FCR 114; (2020) 297 IR 210

Held: Appeal allowed.

[Return to Top](#)

3: CASES RESERVED

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

Aviation

Wells Fargo Trust Company, National Association (As Owner Trustee) & Anor v VB Leaseco Pty Ltd (Administrators Appointed) & Ors

S60/2021: [\[2021\] HCATrans 182](#)

Date heard: 4 November 2021

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

Catchwords:

Aviation – Construction of art XI *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment* (Protocol) – Where *International Interest in Mobile Equipment (Cape Town Convention) Act 2013* (Cth) gives domestic effect to *Convention on International Interests in Mobile Equipment (Cape Town Convention)* – Where art XI(2) of Protocol provided upon occurrence of insolvency-related event, insolvency administrator or debtor shall "give possession of the aircraft object" to creditor – Where appellants owners of aircraft engines leased to first respondent and subleased to second and fourth respondents – Where third respondent appointed administrator of other respondents following insolvency-related event – Where lease imposes on lessees return obligations in respect of aircraft – Where appellants sought compliance with respondents' Art XI(2) obligations to "give possession" – Where third respondent, instead of physically redelivering engines, issued a notice under s 443B(3) of *Corporations Act 2001* (Cth) disclaiming leased engines and leaving engines still attached to aircraft operated by lessees and owned by third parties – Where primary judge held respondents failed to "give possession" of engines – Where respondents successfully appealed to Full Court Federal Court – Whether "give possession" means physical delivery of aircraft objects or merely enables creditor to exercise self-help remedy – Whether respondents failed to "give possession".

Appealed from FCA (FC): [\[2020\] FCAFC 168](#); (2020) 279 FCR 518; (2020) 384 ALR 378

[Return to Top](#)

Constitutional Law

Citta Hobart Pty Ltd & Anor v Cawthorn

H7/2021: [\[2022\] HCATrans 1](#); [\[2022\] HCATrans 4](#)

Date heard: 8 and 9 February 2022

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

Catchwords:

Constitutional law – Federal jurisdiction – Jurisdiction of State Tribunal – Inconsistency between Commonwealth and State laws – Discrimination – Disability Discrimination – Where respondent complained to Tasmania Anti-Discrimination Tribunal on basis appellants' building development constituted disability discrimination under *Anti-Discrimination Act 1998* (Tas) – Where appellants pleaded in defence inconsistency with *Disability Discrimination Act 1992* (Cth) pursuant to s 109 of *Constitution* – Where Tribunal dismissed complaint for lack of jurisdiction because determination of s 109 defence exercise of federal jurisdiction – Where Full Court allowed appeal on basis s 109 defence would not succeed – Whether Full Court applied correct test as to jurisdiction of State Tribunal – Whether *Anti-Discrimination Act 1998* (Tas) inconsistent with *Disability Discrimination Act 1992* (Cth).

Appealed from TASSC (FC): [\[2020\] TASFC 15](#); (2020) 387 ALR 356

[Return to Top](#)

Delil Alexander (by his litigation guardian Berivan Alexander) v Minister for Home Affairs & Anor

S103/2021: [\[2022\] HCATrans 8](#); [\[2022\] HCATrans 11](#)

Date heard: 16 and 17 February 2022

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

Catchwords:

Constitutional law – Legislative power – Citizenship – Cessation of Australian citizenship – Where s 36B of *Australian Citizenship Act 2007* (Cth) provided Minister may make determination person ceases to be Australian citizen if Minister satisfied person dual citizen and person engaged in terrorist activities – Where plaintiff Australian citizen by birth and also Turkish citizen – Where, in 2013, plaintiff entered Al Raqqa Province of Syria – Where Al Raqqa province

declared area for purposes of terrorism offences – Where, in 2018, plaintiff arrested and incarcerated by Syrian Government – Where plaintiff found guilty of terrorism offences against Syrian Penal Code on basis of evidence allegedly procured by torture – Where Australian Security and Intelligence Organisation advised Minister plaintiff likely engaged in foreign incursions and recruitment by remaining in declared area – Where, on 2 July 2021, Minister determined plaintiff ceased to be Australian citizen under s 36B – Where plaintiff pardoned under Syrian law, but remains in indefinite detention because no lawful right to be in Syria, cannot be removed to Turkey because citizenship under different name, and cannot be removed to Australia because of citizenship cessation – Whether s 36B within scope of aliens power in s 51(xix) of *Constitution*, defence power in s 51(vi) of *Constitution*, external affairs power in s 51(xxix) of *Constitution* or implied nationhood power – Whether implied constitutional limitation on legislative power preventing "people of Commonwealth" from being deprived of their status as such – Whether constitutionally prescribed system of representative government incompatible with s 36B, which operates to permanently disenfranchise Australian citizens – Whether s 36B impermissibly disqualifies plaintiff from eligibility to sit as member of Parliament, contrary to ss 34 and 44 of *Constitution* – Whether s 36B punitive and unlawful exercise of judicial power by Parliament – Whether s 36B within legislative competence of Commonwealth Parliament.

Special case referred to the Full Court on 26 October 2021.

[Return to Top](#)

Farm Transparency International Ltd & Anor v State of New South Wales

S83/2021: [\[2022\] HCATrans 5](#); [\[2022\] HCATrans 6](#)

Date heard: 10 and 11 February 2022

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

Catchwords:

Constitutional law – Implied freedom of political communication – Where s 7 of *Surveillance Devices Act 2007* (NSW) prohibited installation, use and maintenance of listening devices to record private conversations – Where s 8 prohibited installation, use and maintenance of optical surveillance devices on premises without owner or occupier's consent – Where s 11 created offence to communicate or publish material recorded in contravention of ss 7 or 8 – Where s 12 created offence to possess material knowing it had been recorded in contravention of ss 7 or 8 – Where plaintiffs published photographs and recordings of animal agricultural

practices in New South Wales in contravention of ss 11 and 12 and intends to continue to engage in such activity – Whether ss 11 and 12 impermissibly burden implied freedom of communication – If so, whether ss 11 and 12 severable in respect of operation on political communication.

Special case referred to the Full Court on 27 September 2021.

[Return to Top](#)

Ruddick v Commonwealth of Australia

S151/2021: [\[2022\] HCATrans 7](#)

Date heard: 15 February 2022

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

Catchwords:

Constitutional law – Implied freedom of political communication – Where ss 7 and 24 of *Constitution* contain words "directly chosen by the people" – Where plaintiff was registered member of registered political party – Where sections were inserted into or amended Part XI the *Commonwealth Electoral Act 1918* (Cth) by ss 7, 9, 11 and 14 of *Electoral Legislation Amendment (Party Registration Integrity) Act 2021* (Cth) (provisions) – Where Part XI of *Commonwealth Electoral Act* provided for registration of political parties – Where provisions required new political party to accompany application for registration with written consent of first-registered political party where names or logos of new and first-registered parties had word in common – Where provisions enabled first-registered party to object to continued use by subsequent party of name or logo – Whether provisions are contrary to ss 7 and 24 of *Constitution* – Whether provisions are contrary to implied freedom of political communication.

Special case referred to the Full Court on 1 December 2021.

[Return to Top](#)

Contracts

Hobart International Airport Pty Ltd v Clarence City Council & Anor; Australia Pacific Airports (Launceston) Pty Ltd v Northern Midlands Council & Anor

H2/2021; H3/2021: [\[2021\] HCATrans 160](#)

Date heard: 12 October 2021

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

Catchwords:

Contracts – Privity of contract – Declaratory relief – Where second respondent Commonwealth registered proprietor of land leased to appellants – Where first respondent Councils not party to lease – Where cl 26.2(a) of lease provided amount equivalent to council rates to be paid to first respondents in respect of leased land – Where lease contemplates that first respondents will participate in mechanism in determining amount payable – Where dispute arose between appellants and first respondents as to amounts payable – Where first respondents sought declaratory and consequential relief with respect to proper construction of cl 26.2(a) – Where primary judge held first respondents did not have standing to seek declaratory relief on basis of privity of contract – Where first respondents successfully appealed to Full Federal Court, which held doctrine of privity only prevents third parties from obtaining executory judgment to enforce terms of contract, not declaratory judgment – Whether doctrine of privity prevents third parties from seeking declaratory relief – Whether third parties have standing to seek declaratory relief in respect of contract.

Constitutional law – Judicial power of Commonwealth – Requirement for a "matter" – Jurisdiction of Federal Court – Where there is no dispute between contracting parties as to interpretation of contract – Whether first respondents have rights, duties or liabilities to be established by determination of a court – Whether there is a justiciable controversy or enforceable right, duty or liability to found a "matter".

Appealed from FCA (FC): [\[2020\] FCAFC 134](#); (2020) 280 FCR 265; (2020) 382 ALR 273

[Return to Top](#)

Equity

Stubbings v Jams 2 Pty Ltd & Ors
M13/2021: [\[2021\] HCATrans 163](#)

Date heard: 14 October 2021

Coram: Kiefel CJ, Keane, Gordon, Steward and Gleeson JJ

Catchwords:

Equity – Unconscionable conduct – Wilful blindness – Where appellant borrowed from respondent lenders secured only on appellant's assets – Where appellant without regular income and defaulted – Where respondents' system of asset-based lending included deliberate intention to avoid receipt of information about personal and financial circumstances of borrower or guarantor – Where certificate of independent financial advice given in respect of transaction – Where respondents brought proceedings for possession of appellant's assets – Where primary judge found respondents wilfully blind and had actual knowledge as to appellant's personal and financial circumstances – Where respondents successfully appealed to Court of Appeal, which overturned primary judge's findings as to knowledge – Whether lender's conduct unconscionable by engaging in system of asset-based lending without receipt of information about personal or financial situation of borrower, or alternatively, wilfully or recklessly failing to make such enquiries an honest and reasonable person would make – Whether Court of Appeal entitled to overturn findings of primary judge as to respondents' knowledge.

Appealed from VSC (CA): [\[2020\] VSCA 200](#)

[Return to Top](#)

Immigration

Plaintiff M1/2021 v Minister for Home Affairs

M1/2021: [\[2021\] HCATrans 203](#)

Date heard: 30 November 2021

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

Catchwords:

Immigration – Judicial review – Non-refoulement obligations – Where plaintiff granted Refugee and Humanitarian (Class XB) Subclass 202 (Global Special Humanitarian) visa in 2006 – Where, on 19 September 2017, plaintiff convicted of unlawful assault and sentenced to 12 months' imprisonment – Where, on 27 October 2017, delegate of Minister cancelled plaintiff's visa pursuant to s 501(3A) of *Migration Act 1958* (Cth) – Where plaintiff made representations to Minister regarding possibility of refoulement if plaintiff returned to home country – Where, on 9 August 2018, delegate of Minister decided not to revoke cancellation decision pursuant to s 501CA(4) of *Migration Act* – Where, in making decision, delegate did not consider whether non-refoulement obligations owed to plaintiff because plaintiff able to apply for protection visa under *Migration Act* – Whether delegate required to consider plaintiff's

representations concerning non-refoulement obligations in making non-revocation decision pursuant to s 501CA(4) where plaintiff can apply for protection visa – If so, whether delegate failed to consider representations – If so, whether delegate failed to exercise jurisdiction under *Migration Act* or denied plaintiff procedural fairness – Whether non-revocation decision affected by jurisdictional error.

Special case referred to the Full Court on 30 March 2021.

[Return to Top](#)

Industrial Law

Australian Building and Construction Commissioner v Pattinson & Anor

M34/2021: [\[2021\] HCATrans 211](#)

Date heard: 7 December 2021

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

Catchwords:

Industrial law – Civil penalties – Determination of appropriate penalty – Where s 349(1) of *Fair Work Act 2009* (Cth) provided unlawful for person to knowingly or recklessly make false or misleading representation about another person's obligation to engage in industrial activity – Where second respondent union had "no ticket no start" policy and respondents carried out policy by representing to two workers they could not work unless joined union – Where respondents admitted liability for two contraventions of s 349(1) – Where second respondent well-resourced and, since 2000, had breached pecuniary penalty provisions on more than 150 occasions, including at least 15 occasions involving "no ticket no start" policy and 7 previous contraventions of s 349(1) – Where primary judge considered statutory maximum penalty required to sufficiently deter respondents in light of previous contraventions and imposed maximum – Where respondents appealed to Full Federal Court, which held maximum penalty must only be imposed for most serious and grave contravening conduct and imposed lower penalty – Whether statutory maximum penalty must only be imposed for most serious and grave contravening conduct – Whether statutory maximum penalty can be imposed if necessary to deter contravening conduct.

Appealed from FCA (FC): [\[2020\] FCAFC 177](#); (2020) 384 ALR 75; (2020) 299 IR 404

[Return to Top](#)

NSW Commissioner of Police v Cottle & Anor

S56/2021; [\[2021\] HCATrans 181](#)

Date heard: 3 November 2021

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

Catchwords:

Industrial law – Jurisdiction of Industrial Relations Commission of New South Wales (IRC) – Police – Where appellant made decision under s 72A of *Police Act 1990* (NSW) to retire first respondent police officer on medical grounds – Where first respondent applied for unfair dismissal remedy in IRC under s 84 of *Industrial Relations Act 1996* (NSW) – Where *Police Act* does not expressly provide for review by IRC for medical retirement but does for other types of removal – Where appellant successfully challenged IRC's jurisdiction, following High Court's decision in *Commissioner for Police for NSW v Eaton* (2013) 252 CLR 1 – Where Full Bench overturned decision – Where appellant successfully sought judicial review of Full Bench decision by NSW Supreme Court – Where first respondent successfully appealed to Court of Appeal – Whether IRC has jurisdiction to hear and determine unfair dismissal application filed by police officer retired on medical grounds – Whether Court of Appeal applied correct statutory construction principles in interpreting two overlapping statutory schemes.

Appealed from NSW (CA): [\[2020\] NSWCA 159](#); (2020) 298 IR 202

[Return to Top](#)

Patents

H. Lundbeck A/S & Anor v Sandoz Pty Ltd; CNS Pharma Pty Ltd v Sandoz Pty Ltd

S22/2021; **S23/2021**: [\[2021\] HCATrans 156](#)

Date heard: 8 October 2021

Coram: Kiefel CJ, Gageler, Edelman, Steward and Gleeson JJ

Catchwords:

Patents – Patent extension – Contract construction – Where s 79 of *Patents Act 1990* (Cth) provided if patentee applies for extension of term of patent and patent expires before application determined and extension is granted, patentee has same rights to commence

infringement proceedings during extension period as if extension had been granted when alleged infringement was done – Where appellants patentee and exclusive licensees of pharmaceutical compound – Where patent expired in 13 June 2009 – Where, on 25 June 2014, patent extension granted to 9 December 2012 – Where, from 15 June 2009 onwards, respondent supplied generic version of compound – Where, in 2007, patentee and respondent entered into Settlement Agreement, giving respondent licence to exploit patent prior to expiry – Where Agreement specified possible commencement dates of licence conditioned on whether extension granted, but did not specify end date – Where appellants commenced infringement proceedings in Federal Court on 26 June 2014 in respect of acts done during extension period – Where Federal Court held Agreement gave licence only for two weeks prior to original expiry date (31 May 2009) until original expiry (13 June 2009) but not extension period – Where respondent successfully appealed to Full Court, which held Agreement gave licence from 31 May 2009 to extended expiry date (9 December 2012) – Whether licence applied in relation to acts occurring after patent original expiry date and before term extended – Whether, on respondent's construction, Agreement produced commercially nonsensical result – Whether exclusive licensee may commence infringement proceeding for acts done between original date of expiry and date on which term subsequently extended.

Appealed from FCA (FC): [\[2020\] FCAFC 133](#); (2020) 384 ALR 35; (2020) 153 IPR 380

[Return to Top](#)

Taxation

Commissioner of Taxation v Carter & Ors
S62/2021: [\[2021\] HCATrans 189](#)

Date heard: 9 November 2021

Coram: Gageler, Gordon, Edelman, Steward and Gleeson JJ

Catchwords:

Taxation – Trust distribution – Effect of disclaimer – Where respondents default beneficiaries of trust – Where trust deed provided respondents entitled to income of trust for given tax year (ending 30 June) if trustee did not make effective determination departing from default position – Where trustee had not made effective determination as at 30 June 2014 – Where s 97(1) of *Income Tax Assessment Act 1936* (Cth) provided if beneficiary of trust is "presently entitled" to share of trust income, that share included in assessable income of beneficiary – Where, following audit,

on 27 September 2015, appellant issued income tax assessments to respondents for income year ended 30 June 2014 including their share of 2014 trust income – On 30 September 2016, respondents purported to disclaim entitlement to income from trust for 2014 income year – Where Full Court of Federal Court considered themselves bound to hold general law extinguishes entitlement to trust income ab initio and held disclaimers displaced application of s 97(1) – Whether disclaimer of gift render gift void ab initio for all purposes – Whether, if beneficiary disclaims trust distribution after end of income year, beneficiary "presently entitled" to distribution for purposes of s 97(1).

Appealed from FCA (FC): [\[2020\] FCAFC 150](#); (2020) 279 FCR 83; (2020) 112 ATR 493

[Return to Top](#)

Torts

Kozarov v State of Victoria

M36/2021: [\[2021\] HCATrans 204](#)

Date heard: 2 December 2021

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

Catchwords:

Torts – Negligence – Causation – Where appellant worked in Serious Sex Offenders Unit (SSOU) of Office of Public Prosecutions (OPP) – Where work in SSOU required appellant to deal with confronting material of graphic sexual nature – Where, on 11 August 2011, appellant took sick leave for symptoms consistent with post-traumatic stress disorder (PTSD) but was not diagnosed and returned to work on 29 August 2011 – Where, on return, appellant was involved in dispute with manager and stated she did not wish to be rotated to different unit within OPP – Where, on 9 February 2012, appellant emailed manager requesting she be rotated out of SSOU due to effect of SSOU work on her health, but request was not actioned – Where primary judge held respondent was put on notice as to risks to appellant's health in August 2011 – Where primary judge made inference that timely welfare enquiry by respondent would have revealed appellant's PTSD and, if appellant had been made aware of her condition, she would have consented to be rotated out of SSOU – Where primary judge held respondent failed to discharge duty of care in August 2011 by not making welfare enquiry and not rotating appellant out of SSOU – Where Court of Appeal overturned primary judge's inference that appellant would have

consented to be rotated out and held that appellant's own actions in not consenting to be rotated out caused injury rather than respondent's actions – Where Court of Appeal did not address primary judge's finding that return to work after February 2012 caused appellant injury – Where Court of Appeal allowed respondent's appeal – Whether open to Court of Appeal to overturn primary judge's finding that if duty of care had been discharged in August 2011, appellant would have consented to be rotated out of SSOU – Whether Court of Appeal erred in failing to consider injury caused by return to work after February 2012.

Appealed from VSC (CA): [\[2020\] VSCA 301](#); (2020) 301 IR 446

Appealed from VSC (CA): [\[2020\] VSCA 316](#)

[Return to Top](#)

Tapp v Australian Bushmen's Campdraft & Rodeo Association Limited

S63/2021: [\[2021\] HCATrans 190](#)

Date heard: 10 November 2021

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

Catchwords:

Torts – Negligence – Breach of duty – Obvious risk – Where appellant injured in competition conducted by respondent when horse she was riding slipped and fell – Where appellant contended cause of fall was deterioration in ground surface and respondent negligent in failing to plough ground at site of event, failing to stop competition, or failing to warn competitors when ground became unsafe – Where prior to appellant's participation, there had already been 7 falls – Where trial judge held no breach of duty of care established – Where majority of Court of Appeal held appellant failed to establish cause of fall was ground surface deterioration and therefore failed to establish respondent breached duty – Where majority of Court of Appeal held even if breach established, s 5L of *Civil Liability Act 2002* (NSW) applied to exclude respondent's liability as injury suffered was manifestation of "obvious risk" – Whether Court of Appeal's approach to evidence of ground surface deterioration did not afford appellant rehearing – Proper approach to identification of "obvious risk".

Appealed from NSWSC (CA): [\[2020\] NSWCA 263](#)

[Return to Top](#)

4: ORIGINAL JURISDICTION

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

Administrative Law

Tu'uta Katoa v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor

[S135/2021](#): [2021] HCATrans 214

Catchwords:

Administrative law – Judicial review – Writ of certiorari – Writ of mandamus – Where plaintiff holder of visa cancelled by Minister pursuant to s 501(3)(b) of *Migration Act 1958* (Cth) – Where plaintiff applied for extension of time, pursuant to s 477A(2) of *Migration Act*, seeking review of Minister's decision – Where application for extension of time was refused by judge of Federal Court of Australia – Whether judge erred in assessing, in respect of plaintiff's proposed second ground of review of Minister's decision, whether plaintiff's claim had reasonable prospects of success so as to justify extension of time pursuant to s 477A(2) of the *Migration Act* – Proper test for extension of time.

Application for constitutional writs referred to the Full Court on 9 December 2021.

[Return to Top](#)

5: SECTION 40 REMOVAL

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

Constitutional Law

Garlett v The State of Western Australia & Anor

P56/2021: [\[2021\] HCATrans 221](#)

Part of the cause removed into the High Court under s 40 of the Judiciary Act 1903 (Cth) on 21 December 2021.

Catchwords:

Constitutional law – Chapter III – Where appellant was sentenced to imprisonment after pleading guilty to two charges – Where appellant's previous offending included robbery – Where appellant referred to State Solicitor's Office to consider whether application should be made under s 35 of *High Risk Serious Offenders Act 2020* (WA) (HRSO Act), which provided for State to apply for restriction order in relation to "serious offender under custodial sentence who is not a serious offender under restriction" – Where application was made for restriction order under s 48 of HRSO Act – Where appellant argued parts of HRSO Act were incompatible with Chapter III of *Constitution* – Whether provisions of HRSO Act contravene any requirement of Chapter III as they apply to serious offender under custodial sentence who has been convicted of robbery, referred to in item 34 of Schedule 1 Division 1 of HRSO Act.

Removed from the Court of Appeal of the Supreme Court of Western Australia.

[Return to Top](#)

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor v Montgomery

S192/2021: [\[2021\] HCATrans 201](#)

Removed into the High Court under s 40 of the Judiciary Act 1903 (Cth) on 29 November 2021.

Catchwords:

Constitutional law – Aliens power – Immigration detention – Indigenous Australians – Where applicant born in and citizen of New Zealand and not Australian citizen – Where applicant's parents and

ancestors not Aboriginal Australian or Torres Strait Islanders – Where applicant granted visa to live in Australia in 1997 – Where Mununjali people Indigenous society existing in Australia since prior to 1788 – Where applicant identifies as member of Mununjali people, recognised by Mununjali elders and by Mununjali traditional law and customs as such – Where, in 2018, applicant's visa cancelled – Where in 2019, applicant taken into immigration detention – Where, in *Love v Commonwealth; Thoms v Commonwealth* [2020] HCA 3, majority of High Court held Aboriginal Australian who satisfies tripartite test identified in *Mabo v Queensland (No 2)* (1992) 175 CLR 1 beyond reach of aliens power in s 51(xix) of *Constitution* – Where applicant commenced proceedings in Federal Court of Australia, relevantly seeking declaration not alien within meaning of s 51(xix) following *Love/Thoms* – Whether decision in *Love/Thoms* should be overturned – Whether applicant satisfies tripartite test despite not being biologically descended from Indigenous people – Whether applicant alien.

Courts – Jurisdiction – Appeal from single judge of Federal Court of Australia – Habeas corpus – Competent court – Where appellate jurisdiction of Federal Court defined by s 24(1)(a) of *Federal Court of Australia Act 1976* (Cth) – Where cause removed was appeal to Full Court of Federal Court from orders of single judge – Where single judge exercised original jurisdiction, relevantly issuing writ of habeas corpus – Whether appeal lies from order for issue of writ of habeas corpus.

Removed from the Federal Court of Australia.

[Return to Top](#)

Thoms v Commonwealth of Australia

[B56/2021](#): [\[2021\] HCATrans 157](#)

Removed into the High Court under s 40 of the Judiciary Act 1903 (Cth) on 11 October 2021.

Catchwords:

Constitutional law – Aliens power – Immigration detention – Wrongful imprisonment – Where applicant held in immigration detention pursuant to s 189 of *Migration Act 1958* (Cth) – Where officers who detained applicant suspected he was unlawful non-citizen because not Australian citizen and did not have visa – Where, in *Love v Commonwealth; Thoms v Commonwealth* [2020] HCA 3, majority of High Court declared applicant not alien for purposes of s 51(xix) of *Constitution*, and applicant was released from immigration detention – Where applicant's claim remitted to Federal Court of Australia, where applicant sought declaration detention unlawful and not supported by s 189 of *Migration Act*, and damages for wrongful

imprisonment – Where Federal Court ordered question of whether detention unlawful be determined separately – Whether within scope of aliens power for s 189 of *Migration Act* to validly authorise immigration detention of persons who are subjectively suspected to be unlawful non-citizen, even if person later found not alien – Whether applicant's detention unlawful.

Removed from the Federal 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.

Administrative Law

Nathanson v Minister for Home Affairs & Anor

M73/2021: [\[2021\] HCATrans 170](#)

Date heard: 15 October 2021 – *Special leave granted.*

Catchwords:

Administrative law – Jurisdictional error – Procedural fairness – Materiality – Where appellant's visa cancelled by delegate on character grounds – Where, after delegate's decision but before Tribunal review, Minister issued new direction, which relevantly included as additional factor violent crimes against women or children viewed "very seriously, regardless of sentence imposed" – Where appellant not put on notice prior to Tribunal hearing that past incidents of alleged domestic violence would be taken into account, despite not having been charged or convicted of any crimes – Where appellant not given opportunity to call further evidence nor make further submissions on domestic violence issue – Where appellant applied for judicial review of Tribunal decision – Where Minister conceded Tribunal denied procedural fairness and majority of Full Federal Court dismissed application on basis appellant failed to show realistic possibility of different outcome – Whether Full Federal Court applied correct test of materiality – Whether appellant's denial of procedural fairness material and constituted jurisdictional error.

Appealed from FCA (FC): [\[2020\] FCAFC 172](#); (2020) 281 FCR 23; (2020) 171 ALD 497

[Return to Top](#)

Constitutional Law

SDCV v Director-General of Security & Anor

S70/2021: [\[2022\] HCATrans 20](#)

Date heard: 21 February 2022 – *Special leave granted*

Catchwords:

Constitutional law – Judicial power of Commonwealth – Ch III of *Constitution* – Validity of s 46(2) of *Administrative Appeals Tribunal Act 1975* (Cth) (AAT Act) – Where appellant subject to adverse security assessment (ASA) by Australian Security Intelligence Office (ASIO) – Where appellant sought review of ASA by Administrative Appeal Tribunal (AAT) – Where s 39A(8) of AAT Act provided ASIO Minister may certify evidence proposed to be adduced or submissions proposed to be made by Director-General of Security are of such nature that disclosure be contrary to public interest – Where s 39B(2)(a) of AAT Act provided ASIO Minister may certify disclosure of information in certificate, or disclosure of contents of document, would be contrary to public interest – Where ASIO Minister issued certificates under ss 39A(8) and 39B(2)(a) of AAT Act – Where AAT affirmed ASA decision – Where, when appealed to Federal Court, AAT obliged under s 46(1) of AAT Act to send documents before AAT to Court – Where, because certificates in force in respect of certain documents, Federal Court required by s 46(2) of AAT Act to do all things necessary to ensure matter not disclosed to person other than a member of Court – Where Federal Court determined s 46(2) of AAT Act valid and proceeded to determine appeal grounds adversely to appellant while having regard to submissions and evidence to which appellant did not have access by reason of s 46(2) – Whether s 46(2) of AAT Act denies appellant procedural fairness – Whether s 46(2) is invalid by reason of Ch III of Constitution in that it requires Federal Court to act in procedurally unfair manner – Whether decisions in *Gypsy Jokers Motorcycle Club Inc v Commissioner of Police* (2008) 234 CLR 532; *Assistant Commissioner Pompano v Condon Pty Ltd* (2013) 252 CLR 38; or *Graham v Minister for Immigration and Border Protection* (2017) 263 CLR 1 should be qualified or overruled.

Appealed from FCA (FC): [\[2021\] FCAFC 51](#); (2021) 284 FCR 357; (2021) 389 ALR 372

[Return to Top](#)

Criminal Law

Bell v The Queen

A30/2021: [\[2021\] HCATrans 132](#)

Date heard: 13 August 2021 – *Special leave granted*

Catchwords:

Criminal law – Procedure – Stay of proceedings – Powers of Independent Commissioner Against Corruption (ICAC) – Where, in 2014, ICAC commenced investigation into appellant – Where, in 2017, ICAC forwarded matter to Director of Public Prosecutions (DPP) and provided evidentiary material gathered in course of investigation

- Where DPP decided to prosecute appellant
- Where ICAC officers assisted DPP to prepare for trial
- Where appellant applied for permanent stay
- Where District Court dismissed application and Full Court dismissed appeal
- Whether *Independent Commissioner Against Corruption Act 2012* (SA) authorised ICAC to refer matter, provide evidentiary material and otherwise assist DPP in prosecution
- Whether ICAC conduct abuse of process justifying permanent stay.

Appealed from SASC (FC): [\[2020\] SASCF 116](#); (2020) 286 A Crim R 501

[Return to Top](#)

Dansie v The Queen

A16/2021: [\[2022\] HCATrans 14](#)

Date heard: 18 February 2022 – *Special leave granted*

Catchwords:

Criminal law – Murder – Unreasonable verdict – Verdict unsupported by evidence – Where appellant's wife drowned after her wheelchair entered pond – Where prosecution alleged intentional drowning – Where, on defence case, drowning accidental – Where s 158(1)(a) of *Criminal Procedure Act 1921* (SA) provided for appeal to be allowed where Court considers verdict should be set aside on ground that conviction unreasonable or cannot be supporting having regard to evidence – Whether Court of Criminal Appeal failed to conduct independent assessment of whole of evidence – Whether open to trial judge to exclude hypothesis of accidental drowning – Proper approach by intermediate appellate court to "unreasonable verdict" limb of common form appeal provision following judge-alone trial.

Appealed from SASC (CCA): [\[2020\] SASCF 103](#)

[Return to Top](#)

Hoang v The Queen

S146 to S149/2021: [\[2021\] HCATrans 148](#)

Date heard: 10 September 2021 – *Special leave granted*

Catchwords:

Criminal law – Juror misconduct – Juror conducting own inquiries – Mandatory discharge – Where s 53A of *Jury Act 1977* (NSW) required mandatory discharge of juror if juror engaged in misconduct – Where s 68C provided juror must not make own inquiries "for purpose of obtaining information" about matters relevant to trial – Where

appellant charged with 12 offences – Where jury commenced deliberations and, on 5 November 2015, jury sent note to trial judge stating agreement reached on 8 counts – Where, on evening of 5 November, juror conducted internet search for personal reasons only on matter related to trial – Where jury continued deliberating on 6 November until jury foreperson notified trial judge of juror's actions – Where trial judge took verdicts on 10 counts before discharging juror pursuant to s 53A – Where remaining jurors continued deliberating and gave verdict on remaining 2 counts – Where appellant appealed on basis trial judge failed to discharge juror prior to taking of first 10 counts – Where Court of Criminal Appeal held no juror misconduct and dismissed appeal – Whether inquiries made "for purpose of obtaining information" in s 68C includes juror making inquiries for solely personal reasons – If so, whether juror should have been discharged prior to taking of first 10 counts – If so, whether verdicts on any counts valid.

Appealed from NSWSC (CCA): [\[2018\] NSWCCA 166](#); (2018) 98 NSWLR 406; (2020) 273 A Crim R 501

[Return to Top](#)

Hore v The Queen; Wichen v The Queen
A22/2021; A23/2021: [\[2022\] HCATrans 18](#)

Date heard: 21 February 2022 – *Special leave granted*

Catchwords:

Criminal law – Sentence – Sentencing Orders – Offenders incapable of controlling, or unwilling to control, sexual instincts – Meaning of "willing" – Where appellants detained by Court order, following application by Crown, on grounds they were incapable or unwilling to control sexual instincts – Where s 59(1a)(a) of *Sentencing Act 2017* (SA) provided person detained cannot be released unless Court satisfied person "capable of controlling and willing to control" person's sexual instincts – Where s 57, providing authority for Court to make order for indefinite detention, contained definition of "unwilling" – Where Court of Appeal held "willing" in s 59(1a)(a) had converse meaning to defined term "unwilling" in s 57(1) such that appellants could only be regarded as willing to control sexual instincts if established no significant risk they would, given opportunity to commit relevant offence, fail to exercise appropriate control of sexual instincts – Whether meaning of "willing" in s 59(1a)(a) is converse of word "unwilling" as defined in s 57 – Proper meaning of term "willing" in s 59(1a)(a).

Appealed from SASC (CCA): [\[2021\] SASCA 29](#)

Appealed from SASC (CCA): [\[2021\] SASCA 30](#); (2021) 138 SASR 134

[Return to Top](#)

O'Dea v The State of Western Australia

P53/2021: [\[2021\] HCATrans 210](#)

Date heard: 3 December 2021 – *Special leave granted on limited grounds*

Catchwords:

Criminal law – Joint liability – Acting in concert – Where appellant and co-accused stood trial on one count of doing grievous bodily harm with intent to do grievous bodily harm contrary to s 294(1) of the *Criminal Code* (WA) – Where appellant and co-accused alleged jointly criminally responsible – Where trial judge gave jury handout, relevantly describing circumstances in which two accused may be criminally responsible as "joint principals" under s 7(a) of Code – Where appellant was convicted but co-accused discharged with jury unable to reach verdict – Where Court of Appeal held criminal responsibility under s 7(a) of Code extended to cases where several persons are "acting in concert" – Whether appellant and co-accused can be criminally liable as joint principals in circumstances where the acts of co-accused were not proved unlawful – Whether trial judge was required to direct jury that "acting in concert" requires two accused to have reached an understanding or arrangement amounting to agreement to commit crime.

Appealed from WASC (CA): [\[2021\] WASCA 61](#); (2021) 288 A Crim R 451

[Return to Top](#)

Defamation

Google LLC v Defteros

M86/2021: [\[2021\] HCATrans 216](#)

Date heard: 10 December 2021 – *Special leave granted on conditions*

Catchwords:

Defamation – Publication – Qualified privilege defence – Common law qualified privilege – Statutory qualified privilege – Where respondent alleged that certain webpages were published by appellant and were defamatory – Where two webpages consisted of set of search results displayed on website www.google.com.au in response to search of respondent's name and hyperlinked article, included in search results, entitled "Underworld loses valued friend at court" (Web Matter) – Where appellant alleged it was for "common convenience

and welfare of society" for appellant to return search results that hyperlinked articles published by reputable sources – Where appellant claimed material was matter of considerable public interest such that recipients had necessary interest in material for purposes of s 30(1) of *Defamation Act 2005* (Vic) – Whether appellant published Web Matter – Whether common law qualified privilege defence applies – Whether the statutory qualified privilege defence in s 30(1) applies.

Appealed from VSC (CA): [\[2021\] VSCA 167](#)

[Return to Top](#)

Family Law

Fairbairn v Radecki

S179/2021: [\[2021\] HCATrans 166](#)

Date heard: 15 October 2021 – *Special leave granted on conditions*

Catchwords:

Family law – De-facto relationship – Breakdown – Proper test for determination of breakdown of de-facto relationship – Where s 90SM of *Family Law Act 1975* (Cth) provides, in property settlement proceedings after breakdown of de-facto relationship, court may make order altering interest of parties to de-facto relationship in property – Where, in 2005 or 2006, appellant and respondent entered into de-facto relationship – Where basis of relationship living together on domestic basis with clear understanding as to separation of each other's financial affairs and property interests – Where, in 2015, appellant began to suffer from rapid cognitive decline – Where appellant incapable of managing own affairs and, in 2018, New South Wales Trustee & Guardian appointed to act for appellant – Where Public Guardian placed appellant into aged care facility – Where respondent did not provide financial support for appellant, continued to reside in appellant's property and prevented Trustee from selling appellant's property – Where Trustee commenced proceedings against respondent in Federal Circuit Court seeking order for property settlement pursuant to s 90SM, claiming appellant and respondent's de-facto relationship had broken down – Where primary judge declared de-facto relationship had broken down no later than 25 May 2018 – Where respondent successfully appealed to Full Family Court – Whether basis of appellant and respondent's de-facto relationship no longer existed – Whether de-facto relationship had broken down.

Appealed from FamCA (FC): [\[2020\] FamCAFC 307](#); (2020) 62 Fam LR 62

[Return to Top](#)

Representative Proceedings

BHP Group Limited v Impiombato & Anor
M42/2021: [\[2022\] HCATrans 13](#)

Date heard: 18 February 2022 – *Special leave granted*

Catchwords:

Representative proceedings – Shareholder class action – Non-resident shareholders – Pt IVA of the *Federal Court of Australia Act 1976* (Cth) (FCA Act) – Presumption against extraterritoriality – Dual listed company structure – Where claims brought on behalf of non-resident shareholders of BHP Group Limited (Australian company) and BHP Group Plc (United Kingdom company) – Where claims brought in Federal Court of Australia under Pt IVA concerning representative proceedings – Whether Pt IVA of FCA Act applies to claims brought on behalf of non-resident group members – Whether presumption against extraterritorial operation of legislation applies to Pt IVA of FCA Act – Whether Part IVA of FCA Act confers on Federal Court jurisdiction or power to determine claims of group members outside territory.

Appealed from FCA (FC): [\[2021\] FCAFC 93](#); (2021) 151 ACSR 634

[Return to Top](#)

Superannuation

Hill v Zuda Pty Ltd as Trustee for The Holly Superannuation Fund & Ors
P48/2021: [\[2021\] HCATrans 199](#)

Date heard: 12 November 2021– *Special leave granted*

Catchwords:

Superannuation – Self-managed superannuation fund (SMSF) – Binding death benefit nomination – Where reg 6.17A(4), (6) and (7) of *Superannuation Industry (Supervision) Regulations 1994* (Cth), provided for requirements for validity of binding death benefit requirement in respect of superannuation funds – Where reg 6.17A authorised by multiple provisions, relevantly, ss 31, 55A and 59 of *Superannuation Industry (Supervision) Act 1993* (Cth) – Where applicant child and dependant of deceased person – Where deceased

person established SMSF with deceased person's partner as sole members – Where cl 5 and 6 of SMSF trust deed made binding death benefit nomination, requiring trustee to distribute whole of deceased member's balance to surviving member – Where applicant argued cl 5 and 6 of deed did not constitute valid binding death benefit notification due to non-compliance with reg 6.17A(6) and (7) of Regulations and claimed portion of deceased person's account – Where claim dismissed and appeal to WA Court of Appeal dismissed – Whether reg 6.17A(4), (6) and (7) of Regulations apply to SMSF.

Courts – Comity – Intermediate appellate courts – Where WA Court of Appeal held principle of comity required it to follow decision of SA Full Court in *Cantor Management Services Pty Ltd v Booth* [2017] SASCFC 122 – Where SA Full Court held reg 6.17A did not apply to SMSF because s 59 of Act did not apply to SMSF but did not consider ss 33 or 55A – Whether intermediate appellate court bound to follow decision of other intermediate appellate court where no consideration of relevant aspect of legislation.

Appealed from WASC (CA): [\[2021\] WASCA 59](#)

[Return to Top](#)

7: CASES NOT PROCEEDING OR VACATED

[Return to Top](#)

8: SPECIAL LEAVE REFUSED

Publication of Reasons: 10 February 2022 (Canberra by video link)

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Knight	CPSM Pty Ltd (B58/2021)	Supreme Court of Queensland (Court of Appeal) [2021] QCA 199	Application dismissed [2022] HCASL 1
2.	Hastwell	Federal Court of Australia and the Judges Thereof & Anor (P46/2021)	High Court of Australia (unreported)	Application dismissed [2022] HCASL 2
3.	Tanius	NSW Land and Housing Corporation (S181/2021)	Supreme Court of New South Wales (Court of Appeal) [2021] NSWCA 254	Application dismissed [2022] HCASL 3
4.	In the matter of an Application by The Youth Advocate Inc. (NFP) for leave to appeal (S199/2021)		High Court of Australia (unreported)	Application dismissed [2022] HCASL 4
5.	Banham	Banham (M54/2021)	Family Court of Australia	Application dismissed [2022] HCASL 5
6.	Irmak	The Queen (S129/2021)	Supreme Court of New South Wales (Court of Criminal Appeal) [2021] NSWCCA 178	Application dismissed [2022] HCASL 6
7.	Dagdanasar	The Queen (S172/2021)	Supreme Court of New South Wales (Court of Criminal Appeal) [2021] NSWCCA 178	Application dismissed [2022] HCASL 6
8.	Ahern & Anor	Aon Risk Services Australia Ltd & Anor (S140/2021)	Supreme Court of New South Wales (Court of Appeal) [2021] NSWCA 166	Application dismissed with costs [2022] HCASL 7
9.	Kepeco Bylong Australia Pty Ltd	Bylong Valley Protection Alliance Incorporated & Anor (S168/2021)	Supreme Court of New South Wales (Court of Appeal) [2021] NSWCA 216	Application dismissed with costs [2022] HCASL 8
10.	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	EPL20 & Anor (S175/2021)	Full Court of the Federal Court of Australia [2021] FCAFC 173	Application dismissed with costs [2022] HCASL 9

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
11.	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	Sillars & Anor (S176/2021)	Full Court of the Federal Court of Australia [2021] FCAFC 174	Application dismissed with costs [2022] HCASL 9
12.	Flageul	WeDrive Pty Ltd T/A WeDrive & Ors (M48/2021)	Full Court of the Federal Court of Australia [2021] FCAFC 102	Application dismissed with costs [2022] HCASL 10

Publication of Reasons: 17 February 2022 (Canberra by video link)

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Ejueyitsi	Board of Examiners (A36/2021)	Supreme Court of South Australia (Court of Appeal) [2021] SASCA 118	Application dismissed [2022] HCASL 11
2.	MJJ	Director of Public Prosecutions (A37/2021)	Supreme Court of South Australia (Court of Criminal Appeal) [2021] SASFC 36	Application dismissed [2022] HCASL 12
3.	McGeough	Blatchford as Administrator of Estate of Margaret Mary McGeough & Ors (P45/2021)	Supreme Court of Western Australia (Court of Appeal) [2021] WASCA 169	Application dismissed [2022] HCASL 13
4.	CGS19	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (B57/2021)	Federal Court of Australia [2021] FCA 968	Application dismissed [2022] HCASL 14
5.	Meyer	Solomon (P44/2021)	Supreme Court of Western Australia (Court of Appeal) [2021] WASCA 168	Application dismissed [2022] HCASL 15
6.	Stanizzo	Fregnan & Ors (S163/2021)	Supreme Court of New South Wales (Court of Appeal) [2021] NSWCA 195	Application dismissed [2022] HCASL 16
7.	P J Nash Pty Limited	Food and Beverage Australia Limited (A33/2021)	Supreme Court of South Australia (Court of Appeal) [2021] SASCA 86	Application dismissed with costs [2022] HCASL 17
8.	Petersen (a pseudonym)	The Queen (B47/2021)	Supreme Court of Queensland (Court of Appeal) [2021] QCA 64	Application dismissed [2022] HCASL 18
9.	Milton	Milton & Anor (P41/2021)	Family Court of Australia	Application dismissed with costs [2022] HCASL 19
10.	Saklani	Valder & Anor (S125/2021)	Family Court of Australia	Application dismissed with costs [2022] HCASL 20
11.	Prouten	Chapman & Anor (S166/2021)	Supreme Court of New South Wales (Court of Criminal Appeal) [2021] NSWCA 207	Application dismissed with costs [2022] HCASL 21

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
12.	Schneider & Anor	Queensland Building and Construction Commission (B49/2021)	Supreme Court of Queensland (Court of Appeal) [2021] QCA 155	Application dismissed with costs [2022] HCASL 22
13.	Aitchison	The Queen (C18/2021)	Supreme Court of the Australian Capital Territory (Court of Appeal) [2021] ACTCA 21	Application dismissed [2022] HCASL 23
14.	Jess & Ors	Jess & Ors (M66/2021)	Family Court of Australia	Application dismissed with costs [2022] HCASL 24
15.	BOA18 & Ors	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (P40/2021)	Federal Court of Australia [2021] FCA 943	Application dismissed with costs [2022] HCASL 25
16.	MacDonald	Yakiti Pty Ltd & Ors (S93/2021)	Supreme Court of New South Wales (Court of Appeal) [2021] NSWCA 114	Application dismissed with costs [2022] HCASL 26
17.	Turnbull	Office of Environment and Heritage (S130/2021)	Supreme Court of New South Wales (Court of Criminal Appeal) [2021] NSWCCA 190	Application dismissed [2022] HCASL 27
18.	Williams	The Queen (S155/2021)	Supreme Court of New South Wales (Court of Criminal Appeal) [2021] NSWCCA 25	Application dismissed [2022] HCASL 28

18 February 2022: Canberra and by video link

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	DRY16	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (S48/2021)	Full Court of the Federal Court of Australia [2020] FCA 1465	Application refused with costs [2022] HCATrans 15
2.	FX	The Queen (S72/2021)	Supreme Court of New South Wales (Court of Criminal Appeal) [2020] NSWCCA 189	Application refused [2022] HCATrans 16
3.	Springs	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (S49/2021)	Full Court of the Federal Court of Australia [2021] FCA 197	Application refused with costs [2022] HCATrans 17
4.	KG	The Queen (S222/2020)	Supreme Court of New South Wales (Court of Criminal Appeal) [2020] NSWCCA 155	Application refused [2022] HCATrans 12
5.	WG	The Queen (S67/2021)	Supreme Court of New South Wales (Court of Criminal Appeal) [2020] NSWCCA 155	Application refused [2022] HCATrans 12

21 February 2022: Canberra and by video link

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	Peter Greensill Family Co Pty Ltd as Trustee for the Peter Greensill Family Trust	Commissioner of Taxation of the Commonwealth of Australia (S96/2021)	Full Court of the Federal Court of Australia [2021] FCAFC 99	Application refused with costs [2022] HCATrans 19
2.	Martin	Commissioner of Taxation (S97/2021)	Full Court of the Federal Court of Australia [2021] FCAFC 99	Application refused with costs [2022] HCATrans 19
3.	N & M Martin Holdings Pty Ltd ATF Martin Family Trust	Commissioner of Taxation (S98/2021)	Full Court of the Federal Court of Australia [2021] FCAFC 99	Application refused with costs [2022] HCATrans 19