



# HIGH COURT BULLETIN

Produced by the Legal Research Officer,  
High Court of Australia Library  
[2019] HCAB 6 (21 August 2019)

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

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## 1: SUMMARY OF NEW ENTRIES

### 2: Cases Handed Down

Case	Title
<a href="#"><i>Comcare v Banerji</i></a>	Constitutional Law
<a href="#"><i>Palmer &amp; Ors v Australian Electoral Commission &amp; Ors</i></a>	Constitutional Law
<a href="#"><i>Northern Territory of Australia v Sangare</i></a>	Practice and Procedure
<a href="#"><i>Glencore International AG &amp; Ors v Commissioner of Taxation of the Commonwealth of Australia &amp; Ors</i></a>	Privilege
<a href="#"><i>Victorian Building Authority v Andriotis</i></a>	Statutes

### 3: Cases Reserved

Case	Title
<a href="#"><i>BMW Australia Ltd v Brewster &amp; Anor</i></a>	Constitutional Law

<a href="#"><u><i>Vella &amp; Ors v Commissioner of Police (NSW) &amp; Anor</i></u></a>	Constitutional Law
<a href="#"><u><i>Westpac Banking Corporation &amp; Anor v Lenthall &amp; Ors</i></u></a>	Constitutional Law
<a href="#"><u><i>Lordianto &amp; Anor v Commissioner of the Australian Federal Police; Kalimuthu &amp; Anor v Commissioner of the Australian Federal Police</i></u></a>	Criminal Law
<a href="#"><u><i>Commissioner of Taxation of the Commonwealth of Australia v Sharpcan Pty Ltd</i></u></a>	Taxation

#### 4: Original Jurisdiction

#### 5: Section 40 Removal

#### 6: Special Leave Granted

<b>Case</b>	<b>Title</b>
<a href="#"><u><i>Hocking v Director-General of the National Archives of Australia</i></u></a>	Administrative Law
<a href="#"><u><i>Singh v The Queen; Nguyen v The Queen</i></u></a>	Criminal Law
<a href="#"><u><i>Binsaris v Northern Territory of Australia; Webster v Northern Territory of Australia; O'Shea v Northern Territory of Australia; Austral v Northern Territory of Australia</i></u></a>	Statutory Interpretation

#### 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 August 2019 sittings.

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### Constitutional Law

*Comcare v Banerji*

**C12/2018:** [\[2019\] HCA 23](#)

**Judgment delivered:** 7 August 2019

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

**Catchwords:**

Constitutional law (Cth) – Implied freedom of communication on governmental and political matters – Where Australian Public Service ("APS") Code of Conduct ("Code") included requirement in s 13(11) of *Public Service Act 1999* (Cth) that employees behave in way that upholds APS Values and integrity and good reputation of APS – Where APS Values in s 10(1) of that Act included that APS is apolitical, performing functions in impartial and professional manner – Where Agency Head empowered by s 15(1) of that Act to impose sanctions on employee found to have breached Code, including termination of employment – Where employee of government Department published tweets critical of Department, its employees, policies and administration, Government and Opposition immigration policies, and members of Parliament – Where employment with Commonwealth terminated for breach of Code – Where employee claimed compensation under *Safety, Rehabilitation and Compensation Act 1988* (Cth) for "injury", defined to exclude injury suffered as result of reasonable administrative action taken in reasonable manner in respect of employee's employment – Whether ss 10(1), 13(11) and 15(1) of *Public Service Act* impose effective burden on implied freedom – Whether burden on implied freedom justified – Whether impugned provisions for legitimate purpose – Whether provisions suitable, necessary and adequate in balance.

Words and phrases – "adequate in its balance", "anonymous", "apolitical", "APS Code of Conduct", "effective burden", "impartial", "implied freedom of political communication", "integrity", "legitimate purpose", "necessary", "public servants", "public service", "reasonably appropriate and adapted", "suitable", "system of representative and responsible government", "tweets", "unjustified burden".

*Fair Work Act 2009* (Cth) – Pt 3. 2.

*Public Service Act 1999* (Cth) – ss 10(1), 13(11), 15(1), 33(1).

*Safety, Rehabilitation and Compensation Act 1988* (Cth), ss 5A(1), 14.

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

**Held:** Appeal allowed; reviewable decision of 1 August 2014 affirmed; respondent to pay appellant's costs of appeal.

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*Palmer & Ors v Australian Electoral Commission & Ors*

**B19/2019:** [\[2019\] HCA 24](#)

**Judgment delivered:** 14 August 2019

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

**Catchwords:**

Parliamentary elections (Cth) – House of Representatives – Counting of votes – Where s 274(2A)-(2C) of *Commonwealth Electoral Act 1918* (Cth) provides for indicative two-candidate preferred count in each Division – Where s 7(3) of *Commonwealth Electoral Act* confers power on Australian Electoral Commission to do all things necessary or convenient for or in connection with performance of its functions – Where practice of Australian Electoral Commission to publish information about indicative two-candidate preferred count for a Division after close of polls in that Division – Whether publication of information for a Division before polls closed in all parts of nation has any demonstrated effect on electoral choices – Whether information inaccurate or misleading – Whether publication constitutes imprimatur to any particular candidate or outcome – Whether publication authorised by s 7(3).

Constitutional law (Cth) – Parliament – Elections – Whether publication of information about indicative two-candidate preferred count prior to close of polls nationally contrary to ss 7 and 24 of Constitution – Whether factual foundation of challenge established.

Words and phrases – "direct and popular choice", "effect on electoral choices", "factual foundation", "imprimatur", "indicative two-candidate preferred count", "necessary or convenient", "partiality", "scrutiny of votes".

*Constitution* – ss 7, 24.

*Commonwealth Electoral Act 1918* (Cth) – ss 7, 274.

*Referred to Full Court on 5 April 2019*

**Held:** Application dismissed by order made on 7 May 2019; plaintiffs to pay defendants' costs by order made on 14 August 2019.

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## Practice and Procedure

*Northern Territory of Australia v Sangare*

**D11/2018:** [\[2019\] HCA 25](#)

**Judgment delivered:** 14 August 2019

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

### **Catchwords:**

Practice and procedure – Costs – Where respondent commenced defamation proceedings against appellant – Where appellant wholly successful on appeal and at first instance – Where appellant sought order that respondent pay its costs – Where Court of Appeal made no order as to costs because respondent's impecuniosity would likely render order futile – Whether appellant entitled to order for costs – Whether impecuniosity of unsuccessful party can alone justify decision to deny successful party its costs.

Words and phrases – "award", "costs", "discretion as to costs", "futility", "impecuniosity", "indemnity", "litigant-in-person", "litigation", "matters relating to costs", "successful party", "unmeritorious litigation", "unsuccessful party".

Northern Territory Supreme Court Act 1961 (Cth) – s 18.

*Supreme Court Act 1979* (NT) – ss 14(1), 55(1), 71.

*Supreme Court Rules 1987* (NT) – r 63. 03.

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

**Held:** Appeal allowed; respondent to pay appellant's costs.

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## Privilege

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

**S256/2018:** [\[2019\] HCA 26](#)

**Judgment delivered:** 14 August 2019

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

**Catchwords:**

Privilege – Legal professional privilege – Where documents identified by plaintiffs as having been created by law practice for sole or dominant purpose of provision of legal advice to plaintiffs – Where privileged documents stolen from electronic file management system of law practice and disseminated – Where documents obtained by defendants – Where defendants refused to return documents to plaintiffs and provide undertaking not to refer to or rely upon documents – Where plaintiffs sought injunctive relief in equity's auxiliary jurisdiction solely on basis of legal professional privilege – Where plaintiffs did not seek injunctive relief on basis of confidentiality or other area of law – Where defendants demurred on basis that no cause of action disclosed – Whether legal professional privilege operates only as immunity or is also actionable legal right – Whether policy considerations justify creation of new actionable right in respect of documents subject to legal professional privilege.

Words and phrases – "actionable legal right", "basis for relief", "breach of confidence", "cause of action", "common law right", "confidentiality", "development of the law", "immunity", "injunction", "legal professional privilege", "policy of the law", "public interest", "remedy".

*Referred to Full Court on 5 November 2018*

**Held:** Demurrer upheld; proceeding dismissed with costs.

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## Statutes

*Victorian Building Authority v Andriotis*

**M134/2018:** [\[2019\] HCA 22](#)

**Judgment delivered:** 7 August 2019

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

**Catchwords:**

Statutes – Construction – Statutory powers – Mutual recognition – Where s 17(1) of *Mutual Recognition Act 1992* (Cth) provides that person registered in one State for occupation entitled to be registered in equivalent occupation in second State where person lodges written notice with local registration authority of second State – Where s 20(1) of *Mutual Recognition Act* provides that registration in first State sufficient ground of entitlement to registration in second State – Where s 20(2) of *Mutual Recognition Act* provides that local registration authority of second State "may" grant registration on that ground – Where s 17(2) of *Mutual Recognition Act* provides that mutual recognition principle subject to exception that it does not affect operation of laws that regulate manner of carrying on occupation in second State, provided laws not based on attainment or possession of some qualification or experience relating to fitness to carry on occupation – Where respondent registered as waterproofer in first State – Where respondent refused registration in second State for non-compliance with "good character" requirement in local Act – Whether local registration authority has discretion to refuse registration – Whether "good character" requirement is law based on "qualification" relating to fitness to carry on occupation.

Words and phrases – "character requirement", "disciplinary action", "discretionary power", "entitlement to registration", "fitness to carry on an occupation", "good character", "local registration authority", "may", "mutual recognition principle", "mutual recognition scheme", "qualification or experience", "registration for an occupation", "residual discretion", "sufficient ground of entitlement to registration".

*Acts Interpretation Act 1901* (Cth) – ss 2, 13, 15AA, 33.

*Building Act 1993* (Vic) – ss 170, 179, 180.

*Mutual Recognition Act 1992* (Cth) – ss 3, 6, 16, 17, 19, 20, 21, 22, 23, 33, 36, 37.

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

**Held:** Appeal dismissed with costs.

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## 3: CASES RESERVED

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

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### Administrative Law

*Taylor v Attorney-General of the Commonwealth*

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

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

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

**Catchwords:**

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

*Referred to Full Court on 8 March 2019*

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### Constitutional Law

*BMW Australia Ltd v Brewster & Anor*

**S152/2019:** [\[2019\] HCATrans 153](#); [\[2019\] HCATrans 158](#)

**Date heard:** 13, 14 August 2019

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

**Catchwords:**

Constitutional law – Separation of powers – Acquisition of property on just terms – “Common fund order” in class action proceeding – Where Brewster is representative plaintiff in class action against



BMW Australia Ltd – Whether Court of Appeal erred in concluding s 183 of *Civil Procedure Act 2005* (NSW) (“CPA”) empowered the Supreme Court of New South Wales to make common fund order – Whether Court of Appeal erred in failing to conclude that insofar as s 183 of CPA empowered making of common fund order it was not picked up by s 79 of *Judiciary Act 1903* (Cth) because that would infringe Chapter III and/or s 51(xxxi) of *Constitution*.

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

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*Minogue v State of Victoria*

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

**Date heard:** 18 June 2019

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

**Catchwords:**

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

*Referred to Full Court on 5 April 2019*

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*Vella & Ors v Commissioner of Police (NSW) & Anor*

**S30/2019:** [\[2019\] HCATrans 148](#); [\[2019\] HCATrans 149](#)

**Date heard:** 6, 7 August 2019

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

**Catchwords:**

Constitutional law – Judicial power – Incompatibility – Where proceeding commenced by first defendant in Supreme Court of New South Wales under *Crimes (Serious Crime Prevention Orders) Act*

2016 (NSW) seeking orders against plaintiffs prohibiting contact with members and former members of any Outlaw Motor Cycle Gang and limiting travel and possession of encrypted communications devices – Where proceeding asserts involvement of plaintiffs in serious crime-related activity for which plaintiffs have not been convicted in addition to conduct for which plaintiffs convicted – Whether s 5(1) of the Act is invalid (in whole or in part) because it is inconsistent with and prohibited by Chapter III of the Constitution.

*Referred to Full Court on 3 June 2019*

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*Westpac Banking Corporation & Anor v Lenthall & Ors*

**S154/2019:** [\[2019\] HCATrans 153](#); [\[2019\] HCATrans 158](#)

**Date heard:** 13, 14 August 2019

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

**Catchwords:**

Constitutional law – Separation of powers – Principle of legality – Acquisition on just terms – Where representative proceeding under Part IVA of *Federal Court of Australia Act 1976* (Cth) (“the Act”) – Where primary judge determined making of common fund order appropriate to do justice in proceedings – Whether Full Court erred in holding that properly construed s 33ZF of the Act empowers court to make common fund order – Whether Full Court erred in holding that s 33ZF permitted creation of right in litigation funder to share of any settlement or judgment in favour of a group member – Whether Full Court erred in holding principle of legality does not apply because common fund order “supports and fructifies” rather than diminishes rights of group members – Whether Full Court erred in holding s 33ZF conferred judicial power or power incidental to exercise of judicial power on court – Whether Full Court erred in holding neither s 33ZF nor common fund order resulted in acquisition of property for purposes of s 51(xxxi) of *Constitution* (Cth) – Whether Full Court erred in holding, if s 33ZF is law with respect to acquisition of property, it is not invalid because appellants failed to demonstrate group members would not receive pecuniary equivalent of property acquired.

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

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## Contract Law

*Mann & Anor v Paterson Constructions Pty Ltd*

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

**Date heard:** 14 May 2019

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

**Catchwords:**

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

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

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## Corporations Law

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

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

**Date heard:** 15 May 2019

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

**Catchwords:**

Corporations – Financial assistance to acquire shares – *Corporations Act 2001* (Cth) s 260A – Where appellants’ constitutions require member who wishes to transfer shares of particular class to first offer shares to existing holders of that class (“pre-emptive rights provisions”) – Where appellants commenced proceeding alleging first and second respondents entered into agreement to avoid pre-emptive rights provisions – Where primary judge held proceeding

not instituted in breach of s 260A – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in holding appellants’ conduct capable of amounting to financial assistance to acquire shares within meaning of s 260A – Whether Court of Appeal erred in concluding open to primary judge to characterise appellants’ conduct as net transfer of value to appellants’ shareholders – Whether Court of Appeal erred in concluding open to primary judge to characterise conduct as capable of materially prejudicing interests of appellants and/or shareholders or creditors – Whether Court of Appeal erred in concluding financial assistance directed to enabling appellants’ shareholders to acquire shares.

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

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## Costs

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

**Date heard:** 9 May 2019

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

**Catchwords:**

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

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

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## Criminal Law

*Lordianto & Anor v Commissioner of the Australian Federal Police; Kalimuthu & Anor v Commissioner of the Australian Federal Police*  
**S110/2019; P17/2019:** [\[2019\] HCATrans 150](#); [\[2019\] HCATrans 151](#)

**Date heard:** 7, 8 August 2019

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

### Catchwords:

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

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

**P17/2019 appealed from WASC (CA):** [\[2018\] WASCA 192](#); (2018) 340 FLR 1

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*The Queen v A2; The Queen v Magennis; The Queen v Vaziri*  
**S43/2019; S44/2019; S45/2019:** [\[2019\] HCATrans 122](#)

**Date heard:** 12 June 2019

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

### Catchwords:

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

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

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

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## Insurance Law

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

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

**Date heard:** 10 April 2019

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

**Catchwords:**

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

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

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## Migration Law

*BVD17 v Minister for Immigration and Border Protection & Anor*

**S46/2019:** [\[2019\] HCATrans 123](#)

**Date heard:** 13 June 2019

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

**Catchwords:**

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

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

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*Love v Commonwealth of Australia; Thoms v Commonwealth of Australia*

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

**Date heard:** 8 May 2019

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

**Catchwords:**

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

Thoms an "alien" within the meaning of s 51(xix) of the *Constitution* (Cth).

*Referred to Full Court on 5 March 2019*

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## Procedure

*Brisbane City Council v Amos*

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

**Date heard:** 9 April 2019

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

**Catchwords:**

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

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

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## Taxation

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

**[M52/2019](#)**: [\[2019\] HCATrans 152](#)

**Date heard:** 9 August 2019

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

**Catchwords:**

Taxation – Deductions – Where Administrative Appeals Tribunal held that outgoing of \$600,300 incurred by the trustee of the Daylesford Royal Hotel Trust in the year ended 30 June 2010 for acquisition of 18 gaming machine entitlements under *Gambling*



*Regulation Act 2003* (Vic) was on revenue account and therefore deductible under s 8-1 of the *Income Tax Assessment Act 1997* (Cth) – Whether Full Court (by majority) erred in upholding decision of Tribunal instead of finding that outgoing was “of capital, or of a capital nature” – Whether Full Court erred in holding that if it was outgoing of capital or of a capital nature, it was expenditure to which s 40-880(6) of *Income Tax Assessment Act* applied and accordingly a deduction was allowable to trustee in respect of expenditure under s 40-880(2).

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

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## 4: ORIGINAL JURISDICTION

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

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## 5: SECTION 40 REMOVAL

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

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## 6: SPECIAL LEAVE GRANTED

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

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### Administrative Law

*Hocking v Director-General of the National Archives of Australia*  
**S63/2019:** [\[2019\] HCATrans 160](#)

**Date heard:** 16 August 2019 – *Special leave granted.*

**Catchwords:**

Administrative law – Where access sought under *Archives Act 1983* (Cth) to records, being correspondence (original or copies) received and sent by former Governor-General or Official Secretary to and from Queen – Whether correspondence is “Commonwealth record” within meaning of Act, or is excluded as personal or private – Whether records created or received in corresponding with Monarch in performance of office of Governor-General are property of Commonwealth or personal property of Governor-General.

**Appealed from FCA (FC):** [\[2019\] FCAFC 12](#); (2019) 366 ALR 247

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### Corporations Law

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

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

**Catchwords:**

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

**Appealed from QSC (CA):** [\[2018\] QCA 352](#); (2018) 134 ACSR 105

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## Criminal Law

*De Silva v The Queen*

**B24/2019:** [\[2019\] HCATrans 70](#)

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

### Catchwords:

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

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

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*Fennell v The Queen*

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

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

### Catchwords:

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

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

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*HT v The Queen & Anor*

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

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

**Catchwords:**

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

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

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*Singh v The Queen; Nguyen v The Queen*

**D7/2019; D8/2019:** [\[2019\] HCATrans 159](#)

**Date heard:** 16 August 2019 – *Special leave granted.*

**Catchwords:**

Criminal law – Prosecutor’s duties regarding “mixed statement” records of interview containing both inculpatory and exculpatory material – Where Crown chose not to adduce applicant’s record of interview of 8 June 2017 – Whether Crown’s decision not to adduce record of interview deprived applicant of reasonable chance of acquittal – Whether prosecution ordinarily required by duty of fairness to tender “mixed statement” record of interview at trial of accused when it is admissible – Whether prosecution permitted to decline to tender “mixed statement” records of interview for purely tactical reasons.

**D7/2019 appealed from NTSC (CCA):** [\[2019\] NTCCA 8](#)

**D8/2019 appealed from NTSC (FC):** [\[2019\] NTSC 37](#)

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*The Queen v Guode*

**M75/2019:** [\[2019\] HCATrans 100](#)

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

**Catchwords:**

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

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

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## Evidence

*Commonwealth of Australia v Helicopter Resources Pty Ltd & Ors*

**S217/2019:** [\[2019\] HCATrans 131](#)

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

**Catchwords:**

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

accused company to be protected by precluding employees from being subject to such compulsory power or preventing prosecution or co-accused from learning how accused company may defend charge – Whether compulsory attendance of employee for questioning is inconsistent with accusatorial process.

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

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*Grech v The Queen; Kadir v The Queen*  
**S163/2019; S160/2019:** [\[2019\] HCATrans 106](#)

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

**Catchwords:**

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

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

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## Migration Law

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

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

**Catchwords:**

Migration law – Fast track review process – Apprehended bias – Where Secretary of Department of Immigration and Border Protection provided documents to the Immigration Assessment Authority (“IAA”) – Where the documents contained information about criminal conviction, charges, and appellant’s conduct while in



immigration detention – Whether in considering apprehended bias the Full Court erred in finding that materials were not prejudicial – Whether Full Court erred in failing to find decision of IAA vitiated by apprehended bias – Whether Full Court erred in failing to find IAA obliged to afford opportunity to appellant to comment on materials before it in circumstances where their existence not known to appellant – Whether Full Court erred in finding it was open to delegate to lawfully form view documents relevant to task of IAA – Whether Full Court erred in failing to find review conducted by IAA led to a decision made in excess of jurisdiction.

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

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## Native Title

*State of Western Australia v Manado & Ors; State of Western Australia v Augustine & Ors; Commonwealth of Australia v Augustine & Ors; Commonwealth of Australia v Manado & Ors*  
[P34/2019](#); [P35/2019](#); [P36/2019](#); [P37/2019](#): [\[2019\] HCATrans 132](#)

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

### Catchwords:

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

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

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## Statutory Interpretation

*Binsaris v Northern Territory of Australia; Webster v Northern Territory of Australia; O'Shea v Northern Territory of Australia; Austral v Northern Territory of Australia*

**D1/2019; D2/2019; D3/2019; D4/2019:** [\[2019\] HCATrans 163](#)

**Date heard:** 16 August 2019 – *Special leave granted.*

### Catchwords:

Statutory interpretation – Power of superintendent of youth detention centre – Use of CS gas (form of tear gas) in youth detention centre – Where prison officers called upon to assist at youth detention centre – Where CS gas was deployed – Whether exemption in s 12(2) of *Weapons Control Act* (NT) applied to deployment of CS gas by prison officer at youth detention centre – Whether superintendent's general power under s 152(1) of *Youth Justice Act* (NT) limited by s 153(3).

**Appealed from NTSC (CA):** [\[2019\] NTCA 1](#)

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## Taxation

*BHP Billiton Limited (now named BHP Group Limited) v Commissioner of Taxation*

**B28/2019:** [\[2019\] HCATrans 93](#)

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

### Catchwords:

Taxation – Where appellant is part of a dual-listed company arrangement with non-resident company – Where third company (BMAG) indirectly owned by appellant and non-resident company – Where BMAG derived income from sale of commodities purchased from non-resident company's Australian subsidiaries – Whether non-resident company's Australian subsidiaries were "associates" of BMAG within meaning of s 318 of *Income Tax Assessment Act 1936* (Cth) – Whether BMAG, appellant and/or the non-resident company were "sufficiently influenced" by appellant and/or the non-resident company within meaning of s 318(6) – Whether Full Court erred in concluding that a person or entity acts "in accordance with" directions, instructions or wishes of another entity for purposes of s 318(6)(b) if person or entity merely acts "in harmonious correspondence, agreement or conformity with" those directions,

instructions or wishes – Whether Full Court should have found that, in order to act "in accordance with" directions, instructions or wishes of another entity for purposes of s 318(6)(b) a person or entity must treat that other entity's directions, instructions or wishes as themselves being a sufficient reason so to act – Whether Full Court erred in finding that at a minimum appellant and BHP Billiton Plc each acted "in accordance with" the "directions, instructions or wishes" of the other for the purposes of s 318(6)(b) – Whether Full Court should have concluded that such actions were not done "in accordance with" the "directions, instructions or wishes" of the other for the purposes of s 318(6)(b).

**Appealed from FCA (FC):** [\[2019\] FCAFC 4](#); (2019) 263 FCR 334

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*Commissioner of State Revenue v Rojoda Pty Ltd*

**P26/2019:** [\[2019\] HCATrans 103](#)

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

**Catchwords:**

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

**Appealed from WASC (CA):** [\[2018\] WASCA 224](#); (2018) 368 ALR 734

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

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

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

**Catchwords:**

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

Whether Full Court erred in holding that the Tribunal had not erred in construing heading 2106 of the Act.

**Appealed from FCA (FC):** [\[2018\] FCAFC 237](#); (2018) 262 FCR 449

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## Tort Law

*State of New South Wales v Robinson*

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

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

### Catchwords:

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

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

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## Trusts

*Franz Boensch as trustee of the Boensch Trust v Pascoe*

**S216/2019:** [\[2019\] HCATrans 133](#)

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

### Catchwords:

Trusts – Bankruptcy – Where respondent trustee in bankruptcy found to hold caveatable interest in real property held by bankrupt on trust by operation of s 58(1) of *Bankruptcy Act 1966* (Cth) – Whether Full Court erred in concluding any caveatable interest vested in respondent – Where claim under s 74P of *Real Property Act 1900* (NSW) for compensation in relation to lodging and maintenance of caveat over piece of real property against trustee in bankruptcy – Whether it was permissible for trustee in bankruptcy to claim in his caveat under s 74P(1) of *Real Property Act*

inconsistent interests in Rydalmere property – Whether existence of caveatable interest rendered it unnecessary for Court to embark upon enquiry of whether trustee in bankruptcy lodged caveat, or failed or refused to remove it, “without reasonable cause”.

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

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# 7: CASES NOT PROCEEDING OR VACATED

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## 8: SPECIAL LEAVE REFUSED

### Publication of Reasons: 7 August 2019

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	AIC16	Minister for Immigration, Citizenship and Multicultural Affairs & Anor (M64/2019)	Federal Court of Australia [2019] FCA 531	Application Dismissed <a href="#">[2019] HCASL 216</a>
2.	BCD16	Minister for Immigration and Border Protection & Anor (S143/2019)	Federal Court of Australia [2019] FCA 592	Application Dismissed <a href="#">[2019] HCASL 217</a>
3.	Shahidi	Beiranvand (S146/2019)	Full Court of the Family Court of Australia	Application Dismissed <a href="#">[2019] HCASL 218</a>
4.	Carrall	The Queen (B14/2019)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 355	Application Dismissed <a href="#">[2019] HCASL 219</a>
5.	The Queen	Tyrrell (M55/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 52	Application Dismissed <a href="#">[2019] HCASL 220</a>
6.	Nichia Corporation	Arrow Electronics Australia Pty Ltd (S37/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 2	Application Dismissed with costs <a href="#">[2019] HCASL 221</a>
7.	SZTVU	Minister for Home Affairs & Anor (S88/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 30	Application Dismissed with costs <a href="#">[2019] HCASL 222</a>

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## Publication of Reasons: 14 August 2019

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Weldemichael	ID Sales and Repairs Pty Ltd (M61/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 68	Application Dismissed <a href="#">[2019] HCASL 223</a>
2.	Plaintiff S7/2019	Minister for Immigration, Citizenship and Multicultural Affairs & Ors (S131/2019)	High Court of Australia [2019] HCATrans 061	Application Dismissed <a href="#">[2019] HCASL 224</a>
3.	BTU18	Minister for Home Affairs & Anor (S142/2019)	Federal Court of Australia [2019] FCA 540	Application Dismissed <a href="#">[2019] HCASL 225</a>
4.	DVP16	Minister for Immigration and Border Protection & Anor (S148/2019)	Federal Court of Australia [2019] FCA 539	Application Dismissed <a href="#">[2019] HCASL 226</a>
5.	Hingst	Construction Engineering (Aust) Pty Ltd (M60/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 67	Application Dismissed <a href="#">[2019] HCASL 227</a>
6.	CQR17	Minister for Home Affairs & Anor (S144/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 61	Application Dismissed <a href="#">[2019] HCASL 228</a>
7.	BJI18	Minister for Home Affairs & Anor (S147/2019)	Federal Court of Australia [2019] FCA 266	Application Dismissed <a href="#">[2019] HCASL 229</a>
8.	CSF17	Minister for Home Affairs & Anor (S153/2019)	Federal Court of Australia [2019] FCA 569	Application Dismissed <a href="#">[2019] HCASL 230</a>
9.	CAQ18	Minister for Home Affairs & Anor (S159/2019)	Federal Court of Australia [2019] FCA 603	Application Dismissed <a href="#">[2019] HCASL 231</a>
10.	CL	The Queen (S57/2019)	Supreme Court of New South Wales (Court of Criminal Appeal) [2014] NSWCCA 112	Application Dismissed <a href="#">[2019] HCASL 232</a>
11.	XGL	The Queen (S104/2019)	Supreme Court of New South Wales (Court of Criminal Appeal) [2019] NSWCCA 43	Application Dismissed <a href="#">[2019] HCASL 233</a>
12.	SKL	The Queen (S108/2019)	Supreme Court of New South Wales (Court of Criminal Appeal) [2019] NSWCCA 43	Application Dismissed <a href="#">[2019] HCASL 234</a>



<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
13.	JY	The Queen (S109/2019)	Supreme Court of New South Wales (Court of Criminal Appeal) [2019] NSWCCA 43	Application Dismissed <a href="#">[2019] HCASL 235</a>
14.	Han	Minister for Home Affairs & Anor (S113/2019)	Federal Court of Australia [2019] FCA 331	Application Dismissed with costs <a href="#">[2019] HCASL 236</a>
15.	Olssen	The Queen (B21/2019)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 114	Application Dismissed <a href="#">[2019] HCASL 237</a>
16.	Nguyen	Director of Public Prosecutions & Anor (M37/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 20	Application Dismissed with costs <a href="#">[2019] HCASL 238</a>
17.	Charan	Nationwide News Pty Ltd (M49/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 36	Application Dismissed with costs <a href="#">[2019] HCASL 239</a>
18.	CRG16	Minister for Home Affairs & Anor (P20/2019)	Federal Court of Australia [2019] FCA 374	Application Dismissed with costs <a href="#">[2019] HCASL 240</a>
19.	Fattah	Minister for Home Affairs & Anor (S99/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 31	Application Dismissed with costs <a href="#">[2019] HCASL 241</a>
20.	Rinehart	Rinehart & Ors (S124/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 54	Application Dismissed with costs <a href="#">[2019] HCASL 242</a>
21.	Hancock Prospecting Pty Ltd & Anor	Rinehart & Ors (S125/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 54	Application Dismissed with costs <a href="#">[2019] HCASL 243</a>

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## 16 August 2019: Sydney

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	Gardiner	The Queen (A4/2019)	Supreme Court of South Australia (Court of Criminal Appeal) [2015] SASCFC 107	Application refused <a href="#">[2019] HCATrans 164</a>
2.	Minister for Immigration and Border Protection	BYA17 & Ors (A10/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 44	Application refused with costs <a href="#">[2019] HCATrans 165</a>
3.	Deep Investments Pty Ltd	Robinson & Ors (S16/2019)	Full Court of the Federal Court of Australia [2018] FCAFC 232	Application refused with costs <a href="#">[2019] HCATrans 162</a>
	Deep Investments Pty Ltd	Emanuel (S17/2019)	Full Court of the Federal Court of Australia [2018] FCAFC 232	Application refused with costs <a href="#">[2019] HCATrans 162</a>
	Deep Investments Pty Ltd	Casey & Ors (S18/2019)	Full Court of the Federal Court of Australia [2018] FCAFC 232	Application refused with costs <a href="#">[2019] HCATrans 162</a>
4.	Mobis Parts Australia Pty Ltd	XL Insurance Company SE (S78/2019)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 342	Application refused with costs <a href="#">[2019] HCATrans 161</a>

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**20 August 2019: Sydney**

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<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
8.	In the matter of an application by Jerrod James Conomy for leave to appeal (P40/2019)		High Court of Australia <a href="#">[2019] HCATrans 141</a>	Application Dismissed <a href="#">[2019] HCASL 244</a>

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