



OVERSEAS DECISIONS BULLETIN

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Decisions from the Supreme Court of the United Kingdom, the Supreme Court of Canada, the Supreme Court of the United States, the Constitutional Court of South Africa and the Supreme Court of New Zealand.

Administrative Law

MEC for Health, Eastern Cape and Anor v Kirland Investments (Pty) Ltd

Constitutional Court of South Africa: [\[2014\] ZACC 6](#).

Judgment delivered: 25 March 2014.

Coram: Moseneke ACJ, Skweyiya ADCJ, Cameron J, Dambuzza AJ, Froneman J, Jafta J, Madlanga J, Mhlantla AJ, Nkabinde J and Zondo J.

Catchwords:

Administrative law — Validity of administrative decisions — Respondent applied for approvals to establish two hospitals and two unattached operating theatres — Provincial Advisory Committee considered applications and recommended that they be refused — Superintendent-General declined to approve the applications and these decisions were reduced to writing — Superintendent-General went on sick leave and did not sign decisions — Acting Superintendent-General was appointed and approved the applications — Respondent was informed of this decision in writing — Respondent submitted building plans for approval and later sought to increase the capacity of the proposed hospitals — Superintendent-General resumed his duties, declined to approve respondent's new applications and informed respondent that the approval by the Acting Superintendent-General was withdrawn —

Whether validity of Acting Superintendent-General's decision was before courts.

Held (7-3): Appeal dismissed.

Mission Institution v Khela

Supreme Court of Canada: [2014 SCC 24](#).

Judgment delivered: 27 March 2014.

Coram: McLachlin CJ, LeBel, Abella, Rothstein, Cromwell, Moldaver, Karakatsanis and Wagner JJ.

Catchwords:

Administrative law — Prisons — Corrections and Conditional Release Act, SC 1992, c 20, ss 27 to 29 — Corrections and Conditional Release Regulations, SOR/92-620, ss 5 and 13 — Procedural fairness — Duty to disclose — Scope of duty to disclose — Transfer of federal inmate from medium security institution to maximum security institution on emergency and involuntary basis — Whether transfer decision met statutory requirements related to duty of procedural fairness.

Jurisdiction — Habeas corpus — Scope of provincial superior court's review power on application for habeas corpus with certiorari in aid in respect of detention in federal penitentiary — Whether on application for habeas corpus provincial superior court was entitled to examine reasonableness of administrative decision to transfer offender to higher security institution or whether reasonableness of decision should have been determined in Federal Court on judicial review.

Held (8-0): Appeal dismissed.

Canadian National Railway Co v Canada (Attorney General)

Supreme Court of Canada: [2014 SCC 40](#).

Judgment delivered: 23 May 2014.

Coram: McLachlin CJ, LeBel, Abella, Rothstein, Cromwell, Karakatsanis and Wagner JJ.

Catchwords:

Administrative law — Canadian Transportation Act, SC 1996, c 10, ss 40, 41, 120.1 — Transportation law — Boards and tribunals — Judicial review — Standard of review — Governor in Council

rescinded decision of Canadian Transportation Agency — Whether Governor in Council empowered to vary or rescind decision of Agency — Whether applicable standard of review is correctness or reasonableness.

Held (7-0): Appeal dismissed.

Conflict of Laws

Cox v Ergo Versicherung AG

Supreme Court of the United Kingdom: [\[2014\] UKSC 22](#).

Judgment delivered: 2 April 2014.

Coram: Lord Neuberger (President), Lord Mance, Lord Sumption, Lord Toulson, Lord Hodge.

Catchwords:

Conflict of laws — Tort — Assessment of damages — Fatal Accidents Act 1976, ss 1, 3, 4 — English army officer killed in Germany when car left road and hit him — Car driven by German national insured by German insurers — Widow claimed damages against insurance company — Whether English law or German law applicable to assessment of damages — Whether widow required to give credit for maintenance from new partner following birth of their child.

Held (5-0): Appeal dismissed.

Competition Law

Morgan Advanced Materials Plc (formerly Morgan Crucible Co Plc) v Deutsche Bahn AG and Ors

Supreme Court of the United Kingdom: [\[2014\] UKSC 24](#).

Judgment delivered: 9 April 2014.

Coram: Lord Neuberger (President), Lord Mance, Lord Sumption, Lord Toulson and Lord Hodge.

Catchwords:

Competition law — Limitation of action — Breach of European Union law — Claim for damages — Competition Act 1998, s 47A (6)(8) — Competition Appeal Tribunal Rules 2003, r 31 — European

Commission found defendants in breach of competition law — First defendant applied successfully for immunity from fine and did not appeal decision — Other defendants appealed — Claimants brought follow-on claims against defendants in Competition Appeal Tribunal — Two year limitation period for bringing claims running from end of period for bringing appeal against commission's decision or from time when such appeal determined — Whether Commission's "decision" constituted by general finding of infringement or by specific finding against individual addressee — Whether time running as against first defendant deferred until after completion of other defendants' appeals — Whether follow-on claims against first defendant statute-barred.

Held (5-0): Appeal allowed.

Constitutional Law

Canada (Attorney General) v Whaling
Supreme Court of Canada: [2014 SCC 20](#).

Judgment delivered: 20 March 2014.

Coram: McLachlin CJ, LeBel, Abella, Rothstein, Cromwell, Moldaver, Karakatsanis and Wagner JJ.

Catchwords:

Constitutional law — Charter of Rights — Abolition of Early Parole Act, SC 2011, c 11, s 10(1) — Double jeopardy — Repeal of early parole provisions that applied retrospectively to offenders already sentenced — Whether retrospective application constituted "punish[ment]... again" thereby infringing s 11(h) of Canadian Charter of Rights and Freedoms — If so, whether infringement reasonable limit prescribed by law as can be demonstrably justified in free and democratic society under s 1 of Charter.

Held (8-0): Appeal dismissed.

Savoi and Ors v National Director of Public Prosecutions and Anor

Constitutional Court of South Africa: [\[2014\] ZACC 5](#).

Judgment delivered: 20 March 2014.

Coram: Moseneke ACJ, Skweyiya ADCJ, Cameron J, Dambuza AJ, Froneman J, Jafta J, Madlanga J, Mhlantla AJ, Nkabinde J and Zondo J.

Catchwords:

Constitutional law — Validity of legislation — Prevention of Organised Crime Act (POCA) — Whether definition of “pattern of racketeering activity” was quite clear and thus is not void for vagueness — Whether s 2(2) of POCA limits right to fair trial — Whether POCA acts retrospectively.

Held (10-0): Appeal dismissed.

Reference re Supreme Court Act ss 5 and 6

Supreme Court of Canada: [2014 SCC 21](#).

Judgment delivered: 21 March 2014.

Coram: McLachlin CJ, LeBel, Abella, Cromwell, Moldaver, Karakatsanis and Wagner JJ.

Catchwords:

Constitutional law — Supreme Court Act, RSC 1985, c S-26, ss 5, 6 — Eligibility requirements for appointment to Supreme Court of Canada — Requirement that three judges be appointed to Court from among judges of Court of Appeal or of Superior Court of Quebec or from among advocates of at least 10 years standing at Barreau du Québec — Whether Federal Court of Appeal judge formerly member of Barreau du Québec for more than 10 years eligible for appointment to Supreme Court of Canada.

Constitutional law — Constitutional amendment — Constitution Act, 1982, s 41(d) — Supreme Court Act, RSC 1985, c S-26, ss 5.1, 6.1 — Composition of Supreme Court of Canada — Whether Parliament acting alone can enact legislation permitting appointment of former member of Quebec bar to Quebec position on Court.

Held (6-1): Questions answered.

Mdodana v Premier of the Eastern Cape and Ors

Constitutional Court of South Africa: [\[2014\] ZACC 7](#).

Judgment delivered: 25 March 2014.

Coram: Moseneke ACJ, Skweyiya ADCJ, Cameron J, Dambuzza AJ, Froneman J, Jafta J, Madlanga J, Mhlantla AJ, Nkabinde J and Zondo J

Catchwords:

Constitutional law — Separation of powers — Status of Pound Ordinance 18 of 1938 (Ordinance) — High Court found provisions of Ordinance unconstitutional and declared them invalid for contravening right to access courts and unfairly discriminating against landless livestock owners — Whether High Court order needed to be confirmed by Constitutional Court to be effective — Whether Ordinance was “provincial Act” for purposes of confirmation prescribed by terms of Constitution.

Held (10-0): Application for confirmation of order of Eastern Cape High Court dismissed.

McCutcheon v Federal Election Commission

Supreme Court of the United States: [Docket 12-536](#).

Judgment delivered: 2 April 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Constitutional law — First Amendment — Right to participate in democracy through political contributions — Federal Election Campaign Act of 1971 (FECA), as amended by Bipartisan Campaign Reform Act of 2002 (BCRA), imposes two types of limits on campaign contributions — Base limits restrict how much money donor may contribute to candidate while aggregate limits restrict how much money donor may contribute in total — Appellant contributed to 16 federal candidates, complying with base limits applicable to each — Appellant argued that aggregate limits prevented his contribution to 12 additional candidates — Whether aggregate limits were unconstitutional under the First Amendment.

Held (5-4): Judgment reversed and case remanded.

Minister of Local Government, Environmental Affairs and Development Planning, Western Cape v The Habitat Council and Others; Minister of Local Government, Environmental Affairs and Development Planning, Western Cape v City of Cape Town and Others

Constitutional Court of South Africa: [\[2014\] ZACC 9](#).

Judgment delivered: 4 April 2014.

Coram: Moseneke ACJ, Skweyiya ADCJ, Cameron J, Dambuza AJ, Froneman J, Jafta J, Khampepe J, Madlanga J, Majiedt AJ, Van der Westhuizen J and Zondo J.

Catchwords:

Constitutional law — Validity of legislation — Land Use Planning Ordinance, s 44 — Provision gave Western Cape provincial government (Province) power to hear appeals against municipalities' planning decisions and to replace those decisions with its own — Whether s 44 manifestly inconsistent with Constitution.

Held (11-0): Confirmed order of constitutional invalidity.

Schuette, Attorney General of Michigan v BAMN
Supreme Court of the United States: [Docket 12-682](#).

Judgment delivered: 22 April 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito and Sotomayor JJ.

Catchwords:

Constitutional law — Fourteenth Amendment — Equal Protection Clause — Michigan voters adopted Proposal 2, now Art I, s 26 of State Constitution, which prohibits use of race-based preferences as part of university admissions process — Whether there is authority in the Federal Constitution or Supreme Court precedent for Judiciary to set aside Michigan laws that commit to voters determination whether racial preferences may be considered in governmental decisions, in particular with respect to school admissions.

Held (6-2): Judgment reversed.

Prado Navarette et al. v California
Supreme Court of the United States: [Docket 12-9490](#).

Judgment delivered: 22 April 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Constitutional law — Fourth Amendment — Bill of Rights — Highway Patrol officer stopped pickup truck occupied by petitioners because it matched description of vehicle recently reported in 911 call — As officer approached vehicle, he smelled marijuana — Search revealed 30 pounds of marijuana and petitioners arrested — Petitioners sought to suppress evidence — Whether traffic stop complied with Fourth Amendment because, under totality of circumstances, police officer had reasonable suspicion that truck's driver was intoxicated.

Held (5-4): Judgment affirmed.

White, Warden v Woodall

Supreme Court of the United States: [Docket 12-794](#).

Judgment delivered: 23 April 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Constitutional law — Fifth Amendment — Bill of Rights — Respondent pleaded guilty to capital murder, capital kidnapping and first-degree rape — Respondent sentenced to death after trial court denied defence's request to instruct jury not to draw any adverse inference from respondent's decision not to testify at penalty phase — Supreme Court of Kentucky affirmed trial court decision — Whether Kentucky Supreme Court's rejection of respondent's Fifth Amendment claim was objectively unreasonable.

Held (6-3): Judgment reversed and remanded.

Reference re Senate Reform

Supreme Court of Canada: [2014 SCC 32](#).

Judgment delivered: 25 April 2014.

Coram: McLachlin CJ, LeBel, Abella, Rothstein, Cromwell, Moldaver, Karakatsanis and Wagner JJ.

Catchwords:

Constitutional law — Canadian institutions — Senate — Constitutional amendment Constitution Act, 1982, ss 38(1)(2), 41(e), 42(1)(b)(c), 43, 44 — Whether Parliament can unilaterally

set fixed terms for Senators — Whether Parliament can unilaterally implement framework for consultative elections for appointments to Senate — Whether Parliament can unilaterally repeal ss 23(3) and 23(4) of Constitution Act, 1867 requiring that Senators must own land worth \$4000 in province for which they are appointed and have net worth of at least \$4000 — Whether constitutional amendment abolishing Senate may be accomplished by general amending procedure or whether unanimous consent procedure applies.

Held (8-0): Questions answered.

Town of Greece, New York v Galloway et al.

Supreme Court of the United States: [Docket 12-696](#).

Judgment delivered: 5 May 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Constitutional law — First Amendment — Establishment Clause — Bill of Rights — Petitioner town opened monthly board meetings with prayer program — Due to town's demographics, nearly all participating prayer givers are Christian — Respondents argued town violated Establishment Clause by preferring Christians over other prayer givers — Second Circuit held that some aspects of prayer program, viewed in their totality by reasonable observer, conveyed message that town endorsed Christianity — Whether petitioner town imposes an impermissible establishment of religion by opening its monthly board meetings with prayer.

Held (5-4): Judgment reversed.

J v National Director of Public Prosecutions and Anor

Constitutional Court of South Africa: [\[2014\] ZACC 13](#).

Judgment delivered: 6 May 2014.

Coram: Moseneke ACJ, Skweyiya ADCJ, Cameron J, Dambuza AJ, Froneman J, Jafta J, Khampepe J, Madlanga J, Majiedt AJ, Van der Westhuizen J and Zondo J

Catchwords

Constitutional law — Validity of legislation — Criminal Law (Sexual Offences and Related Matters) Amendment Act, s 50(2)(a) —

section provides that when a person is convicted of a sexual offence against a child or person who is mentally disabled, a court must make an order to include the offender's particulars on the National Register for Sex Offenders — Having one's particulars entered on the Register entails certain limitations in employment, in licensing certain facilities and ventures, and in the care of children and persons with mental disabilities — Whether limitation on child offender's rights is unjustified.

Held (11-0): Section declared constitutionally invalid.

Canada (Citizenship and Immigration) v Harkat
Supreme Court of Canada: [2014 SCC 37](#).

Judgment delivered: 14 May 2014.

Coram: McLachlin CJ, LeBel, Abella, Rothstein, Cromwell, Moldaver, Karakatsanis and Wagner JJ.

Catchwords:

Constitutional law — Canadian Charter of Rights and Freedoms, s 7 — Immigration and Refugee Protection Act, SC 2001, c 27, ss 77(2), 83(1)(c), 83(1)(d), 83(1)(e), 83(1)(h), 83(1)(i), 85.4(2), 85.5(b) — Right to life, liberty and security of person — Certificate issued against foreign national stating that he is inadmissible to Canada on national security grounds for allegedly engaging in terrorism — Named person challenged constitutionality of security certificate scheme on grounds that it prevented full disclosure and personal participation in hearings — Whether scheme under which security certificate issued deprived named person of right to life, liberty and security of person in accordance with principles of fundamental justice.

Constitutional law — Canadian Charter of Rights and Freedoms, ss 7, 24(1) — Procedural fairness — Duty to disclose — Remedy — Summaries of intercepted conversations tendered as evidence against named person — Source materials for summaries destroyed in accordance with internal policy of CSIS — Whether destruction of source materials breached named person's right to procedural fairness — Whether designated judge erred in refusing to exclude summaries of intercepted conversations.

Immigration — Inadmissibility and removal — National security — Certificate issued against foreign national stating that he is inadmissible to Canada on national security grounds for allegedly engaging in terrorism — Judge reviewed reasonableness of certificate finding sufficient evidence to demonstrate that certificate

was reasonable and upheld certificate — Whether designated judge erred in concluding that certificate was reasonable.

Evidence — Privilege — Informer privilege — Information used against named person obtained by CSIS from human sources — Whether CSIS human sources are covered by class privilege — Whether CSIS human sources can be cross-examined.

Stay of proceedings — Duties of candour and utmost good faith — Fairness of process — *Ex parte* proceedings — Review of reasonableness of security certificate — Whether ministers made reasonable efforts to obtain information sought by special advocates — Whether ministers breached duties of candour and utmost good faith — Whether proceedings against named person were fair — Whether named person entitled to stay of proceedings.

Held (6-2, dissenting in part): Appeal allowed in part. Cross-appeal dismissed.

Hall v Florida

Supreme Court of the United States: [Docket 12-10882](#).

Judgment delivered: 27 May 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Constitutional law — Eighth Amendment — Fourteenth Amendment — Prohibition on execution of persons with intellectual disability — Petitioner asked Florida state court to vacate sentence, presenting evidence that included IQ test score of 71 — Court denied motion because Florida statute mandated that petitioner show IQ score of 70 or below before being permitted to present any additional intellectual disability evidence — Whether State's threshold requirement is unconstitutional.

Held (5-4): Judgment reversed and remanded.

Wood et al. v Moss et al.

Supreme Court of the United States: [Docket 13-115](#).

Judgment delivered: 27 May 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Constitutional law — First Amendment — Bill of Rights — Viewpoint based discrimination — Petitioners were Secret Service agents who directed local police to move protestors to area outside of weapons reach of where President George W Bush was dining — Petitioners allowed group of President's supporters to remain in original location, which was not within weapons reach — Protestors sued petitioners for damages, alleging viewpoint discrimination in violation of First Amendment — On remand, District Court denied petitioners' renewed motion to dismiss claim — Ninth Circuit affirmed, concluding that viewpoint-driven conduct on petitioners' part could be inferred from absence of legitimate security rationale for different treatment accorded to two groups of demonstrators — Further held that petitioners were not entitled to qualified immunity — Whether protesters have alleged violation of a clearly established First Amendment right based on petitioners' decision to order protestors moved from their original location — Whether First Amendment gives rise to implied right of action for damages against federal officers who violate Amendment's guarantees — Whether petitioners entitled to qualified immunity.

Held (9-0): Judgment reversed.

Plumhoff v Rickard

Supreme Court of the United States: [Docket 12-1117](#).

Judgment delivered: 27 May 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Constitutional law — Fourth Amendment — Fourteenth Amendment — Respondent, Rickard's minor daughter, alleged that officers used excessive force which resulted in Rickard's death — District Court denied petitioners' motion for summary judgment based on qualified immunity, holding that conduct violated Fourth Amendment — Sixth Circuit affirmed on appeal — Whether officers' conduct violated Fourth Amendment — Whether, in alternative, petitioners would still be entitled to summary judgment based on qualified immunity.

Jurisdiction — Appellate jurisdiction — Whether Sixth Circuit properly exercised jurisdiction.

Held (9-0): Judgment reversed and remanded.

Consumer Law

Surkin v DSG Retail Ltd & Anor

Supreme Court of the United Kingdom: [\[2014\] UKSC 21](#).

Judgment delivered: 26 March 2014.

Coram: Lady Hale (Deputy President), Lord Wilson, Lord Sumption, Lord Reed and Lord Hodge.

Catchwords:

Consumer law — Fair trading — Consumer credit — Agreement — Consumer Credit Act 1974, ss 12, 75 — Purchaser of goods signed debtor-creditor-supplier agreement with bank — Goods rejected and returned to shop next day on grounds of breach of contract — Shop refused to accept rejection of goods and did not cancel credit agreement — Bank treated purchaser as in default of credit agreement — Whether purchaser entitled to rescind credit agreement.

Held (5-0): Appeal allowed.

Contempt

O'Brien v R

Supreme Court of the United Kingdom: [\[2014\] UKSC 23](#).

Judgment delivered: 2 April 2014.

Coram: Lord Mance, Lord Wilson, Lord Carnwath, Lord Hughes, Lord Toulson.

Catchwords:

Contempt of court — Crown Court — Breach of restraint order — Proceeds of Crime Act 2002, s 41(1) — Extradition Act 2003, ss 148, 151A — Extradition Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America (2003) (Cm 7146), art 18 — Defendant was under investigation for fraud — Crown Court made restraint order requiring defendant to disclose and repatriate assets — Defendant breached restraint order and left jurisdiction — Crown Court fined defendant in contempt and adjourned imposition of penalty — Defendant extradited from United States of America to United Kingdom for fraud — Committal proceedings resumed —

Whether contempt civil or criminal in nature — Whether committal for contempt breached defendant's right of specialty.

Held (5-0): Appeal dismissed.

Contract Law

Loureiro and Others v iMvula Quality Protection (Pty) Ltd
Constitutional Court of South Africa: [\[2014\] ZACC 4](#).

Judgment delivered: 21 March 2014.

Coram: Moseneke ACJ, Skweyiya ADCJ, Cameron J, Dambuzza AJ, Froneman J, Jafta J, Madlanga J, Nkabinde J, Van der Westhuizen J and Zondo J

Catchwords:

Contract law — Breach of contract — Appellants entered into oral agreement with respondent security company for 24 hour armed security guard service — Respondent instructed not to allow anyone onto premises without prior authorisation — Respondent allowed entry to armed robbers which resulted in loss to appellants — Whether respondent liable for breach of contract.

Delict — Liability — Whether iMvula was liable for appellants' loss.

Held (10-0): Appeal allowed.

Northwest, Inc v Ginsberg
Supreme Court of the United States: [Docket 12-462](#).

Judgment delivered: 2 April 2014.

Coram : Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Contract law — Breach of contract — Implied covenant of good faith and fair dealing — Petitioner terminated respondent's frequent flyer membership based on provision in agreement that gave petitioner sole discretion to determine whether participant had abused program — Whether Airline Deregulation Act of 1978 pre-empted breach of duty of good faith and fair dealing claim.

Held (9-0): Judgment reversed and case remanded.

Botha and Anor v Rich NO and Ors

Constitutional Court of South Africa: [\[2014\] ZACC 11](#).

Judgment delivered: 17 April 2014.

Coram: Moseneke ACJ, Skweyiya ADCJ, Cameron J, Dambuzza AJ, Froneman J, Jafta J, Madlanga J, Mhlantla AJ, Nkabinde J and Zondo J.

Catchwords:

Contract law — Breach of contract — Interaction with Alienation of Land Act 68 of 1981 (ALA) — Appellant entered instalment sale agreement with trustees of Trust for the purchase of immovable property — After having paid more than half of the purchase price, appellant began to default in her outstanding payments — Appellant demanded transfer of property from Trust in terms of s 27 of ALA — Trust sought to cancel agreement and evict appellant — Whether common law contractual remedy of specific performance is excluded by s 27 of ALA.

Held (10-0): Appeal allowed.

Copyright Law

Petrella v Metro-Goldwyn-Mayer, Inc

Supreme Court of the United States: [Docket 12-1315](#).

Judgment delivered: 19 May 2014.

Catchwords:

Copyright law — Renewal of copyrights — Inheritance of renewal rights — Copyright Act, s 507 — Petitioner inherited renewal rights from father — Petitioner filed infringement suit seeking monetary and injunctive relief — Respondent invoked equitable doctrine of laches and moved for summary judgment — Whether laches may bar relief on copyright infringement claim brought within s 507(b)'s three year limitation period.

Held (6-3): Judgment reversed and remanded.

Criminal Law

United States v Castleman

Supreme Court of the United States: [Docket 12-1371](#).

Judgment delivered: 26 March 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Criminal law — Possession of firearms — Restriction — Respondent indicted for possession of firearms which was prohibited for anyone convicted of “misdemeanour crime of domestic violence” — Respondent sought dismissal of indictment — Respondent argued that his previous conviction of “intentionally or knowingly caus[ing] bodily injury to” mother of his child did not qualify as “misdemeanour crime of domestic violence” because it did not involve “the use or attempted use of physical force” — Whether respondent’s conviction qualified as “misdemeanour crime of domestic violence”.

Held (9-0): Judgment reversed and case remanded.

Y (SC 40/2013) v R

Supreme Court of New Zealand: [\[2014\] NZSC 34](#).

Judgment delivered: 3 April 2014.

Coram: Elias CJ, McGrath, William Young, Glazebrook and Blanchard JJ.

Catchwords:

Criminal law — Indecent acts — Crimes Act 1961, ss 132(3) and 134(3) — Appellant induced adolescent boys to masturbate in his presence without engaging in any concurrent sexual activity — Whether the acts of masturbation were indecent acts within meaning of ss 132(3) and 134(3).

Held (5-0): Appeal dismissed.

R v Summers

Supreme Court of Canada: [2014 SCC 26](#).

Judgment delivered: 11 April 2014.

Coram: McLachlin CJ and LeBel, Abella, Rothstein, Cromwell, Karakatsanis and Wagner JJ.

Catchwords:

Criminal law — Sentencing — Considerations — Credit for pre-sentence detention — Criminal Code, RSC 1985, c C-46, ss 719(3) and 719(3.1) — Criminal Code permitted enhanced credit at rate of up to one-and-one-half days for every day of pre-sentence detention “if the circumstances justify it” — Sentencing judge applied enhanced credit on basis of lost eligibility for early release and parole — Whether lost opportunity for early release and parole during pre-sentence detention can be circumstance capable of justifying enhanced credit at rate of one-and-one-half to one.

Held (7-0): Appeal dismissed.

R v Carvery

Supreme Court of Canada: [2014 SCC 27](#).

Judgment delivered: 11 April 2014.

Coram: McLachlin CJ and LeBel, Abella, Rothstein, Cromwell, Karakatsanis and Wagner JJ.

Catchwords:

Criminal law — Sentencing — Considerations — Credit for pre-sentence detention — Criminal Code, RSC 1985, c C-46, ss 719(3) and 719(3.1) — Criminal Code permitted enhanced credit at rate of up to one-and-one-half days for every day of detention “if the circumstances justify it” — Sentencing judge applied enhanced credit on basis of lost eligibility for early release — Whether sentencing judge erred by granting credit for pre-sentence custody at rate of one-and-one-half to one to account for loss of early release.

Held (7-0): Appeal dismissed.

R v Clarke

Supreme Court of Canada: [2014 SCC 28](#).

Judgment delivered: 11 April 2014.

Coram: McLachlin CJ, LeBel, Abella, Rothstein, Cromwell, Karakatsanis and Wagner JJ.

Catchwords:

Criminal law — Sentencing — Legislation — Interpretation — Truth in Sentencing Act, SC 2009, c 29, s 5 — Truth in Sentencing Act provided that changes to how much credit given for pre-sentence custody “apply only to persons charged after” Act came into force — Accused committed offences before Truth in Sentencing Act came into force, but charged after Act came into force — Whether s 5 of Truth in Sentencing Act applies only to offenders charged after amendments have come into force regardless of when offences were committed.

Held (7-0): Appeal dismissed.

Custody

In the matter of K (a child) (Northern Ireland)

Supreme Court of the United Kingdom: [\[2014\] UKSC 29](#).

Judgment delivered: 15 May 2014.

Coram: Lady Hale (Deputy President), Lord Kerr, Lord Clarke, Lord Wilson, Lord Hughes.

Catchwords:

Children — Custody rights — Breach — Child Abduction and Custody Act 1985, Sch 1, arts 3, 5(a) — Council Regulation (EC) No 2201/2003, art 2 — Grandparents in Lithuania exercised primary care of child from birth by mother’s agreement and pursuant to temporary care order — Mother settled in Northern Ireland but returned to Lithuania — Temporary care order automatically terminated by return — Mother removed child to Northern Ireland — Whether grandparents retained rights of custody — Whether child to be returned to grandparents in Lithuania.

Held (4-1): Appeal allowed.

Discrimination

McCormick v Fasken Martineau DuMoulin LLP

Supreme Court of Canada: [2014 SCC 39](#).

Judgment delivered: 1 May 2014.

Coram: McLachlin CJ, LeBel, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

Catchwords:

Discrimination — Human Rights Code, RSBC 1996, c 210, ss 1, 13 and 27 — Employment — Age — Law firm partnership agreement contained provision relating to retirement at age 65 — Equity partner filed complaint with Human Rights Tribunal arguing provision constituted age discrimination in employment — Whether equity partner engaged in “employment relationship” for purposes of Human Rights Code — Whether complaint comes within jurisdiction of Human Rights Tribunal.

Held (7-0): Appeal dismissed.

Employment

National Union of Public Service and Allied Workers obo Mani and Others v National Lotteries Board

Constitutional Court of South Africa: [\[2014\] ZACC 10](#).

Judgment delivered: 10 April 2014.

Coram: Moseneke ACJ, Skweyiya ADCJ, Cameron J, Dambuza AJ, Froneman J, Jafta J, Madlanga J, Mhlantla AJ, Nkabinde J, and Zondo J.

Catchwords:

Employment law — Dismissal — Unions — Labour Relations Act (LRA) — Employees of National Lotteries Board (Board) wrote letter to Board during conciliation process that raised grievances about Board’s CEO — Letter was leaked to national newspaper — Subsequently employees addressed petition to Board and passed a vote of “no confidence” — Employer warned that unless petition was withdrawn, disciplinary proceedings would be instituted — Employees who chose not to withdraw their names were dismissed — Whether petition exercise of employees’ rights to participate in collective bargaining — Whether dismissals automatically unfair under LRA.

Held (7-3): Appeal allowed.

Dionne v Commission scolaire des Patriotes
Supreme Court of Canada: [2014 SCC 28](#).

Judgment delivered: 1 May 2014.

Coram: McLachlin CJ, Abella, Cromwell, Moldaver and Karakatsanis JJ.

Catchwords:

Employment law — Occupational health and safety — Unsafe workplace — Contract of employment — Act Respecting Occupational Health and Safety, CQLR, c S-2.1, ss 1 “worker”, 2, 4, 11, 12, 14, 30, 40, 41 — Civil Code of Québec, art 2085 — Whether pregnant supply teacher qualifies as eligible “worker” for Preventive Withdrawal and earnings-replacement indemnity under applicable provincial legislation — Whether refusal to perform work in unsafe workplace precludes formation of contract of employment.

Held (5-0): Appeal allowed.

Bates van Winklehof v Clyde & Co LLP and Anor
Supreme Court of the United Kingdom: [\[2014\] UKSC 32](#).

Judgment delivered: 21 May 2014.

Coram: Lord Neuberger (President), Lady Hale (Deputy President), Lord Clarke, Lord Wilson, Lord Carnwath.

Catchwords:

Employment — Protected disclosure — Limited liability partnership — Employment Rights Act 1996, ss 47B, 230(3)(b) — Limited Liability Partnerships Act 2000, s 4(4) — Equity member of limited liability partnership alleged expulsion from partnership due to having made protected disclosure — Whether “worker” — Whether jurisdiction to hear claim.

Held (5-0): Appeal allowed.

Environment

Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited & Ors
Supreme Court of the United Kingdom: [\[2014\] NZSC 38](#).

Judgment delivered: 17 April 2014.

Coram: Elias CJ, McGrath, William Young, Glazebrook and Arnold JJ.

Catchwords:

Natural resource management — Fisheries — Resource Management Act 1991 — First respondent applied for changes to the Marlborough Sounds Resource Management Plan so that salmon farming would change from prohibited to discretionary activity in multiple locations and applied for resource consents to undertake farming — Applications referred to Board of Inquiry — Board of Inquiry granted plan changes and resource consents at four locations — Appellant challenged plan change at one location — Whether Board's grant was made contrary to ss 66 and 67 of Act for failing to give effect to policies 13 and 15 of New Zealand Coastal Policy Statement — Whether Board was obliged to consider alternative sites or methods when considering plan change resulting in significant adverse effects on an area of outstanding natural character and an outstanding natural landscape.

Held (4-1): Appeal allowed.

Sustain Our Sounds Incorporated v The New Zealand King Salmon Company Limited & Ors

Supreme Court of New Zealand: [\[2014\] NZSC 40](#).

Judgment delivered: 17 April 2014.

Coram: Elias CJ, McGrath, William Young, Glazebrook and Arnold JJ.

Catchwords:

Natural resource management — Fisheries — *Resource Management Act 1991* — First respondent applied for changes to the Marlborough Sounds Resource Management Plan so that salmon farming would change from prohibited to discretionary activity in multiple locations and applied for resource consents to undertake farming — Applications referred to Board of Inquiry — Board of Inquiry granted plan changes and resource consents at four locations — Appellant challenged changes at all four sites — Whether Board, in making decision, possessed inadequate information or was wrongly influenced by adaptive management measures contained in the resource consents.

Held (5-0): Appeal dismissed.

Environmental Protection Agency et al. v EME Homer City Generation LP et al.

Supreme Court of the United States: [Docket 12-1182](#).

Judgment delivered: 29 April 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Sotomayor and Kagan JJ.

Catchwords:

Environmental law — Environmental protection — Clean Air Act (CAA) — CAA directs Environmental Protection Agency (EPA) to set air quality standards and each State to submit State Implementation Plan (SIP) — CAA mandates SIP compliance with Good Neighbour Provision which requires SIPs to prohibit emission of pollutants into any other States — Respondents challenged EPA rule which curbs emissions in 27 upwind States to achieve downwind attainment of three air quality standards — Whether CAA commands that States be given second opportunity to file SIP after EPA had quantified State's interstate pollution obligations — Whether EPA's cost-effective allocation of emission reductions among upwind States is permissible, workable and equitable interpretation of Good Neighbour Provision.

Held (6-2): Judgment reversed and remanded.

Equity

Immeubles Jacques Robitaille Inc v Quebec (City)

Supreme Court of Canada: [2014 SCC 34](#).

Judgment delivered: 2 May 2014.

Coram: McLachlin CJ, LeBel, Abella, Rothstein, Moldaver, Karakatsanis and Wagner JJ.

Catchwords:

Estoppel — Cities and Towns Act, CQLR, c C-19, s 576 — Act respecting land use planning and development, CQLR, c A-19.1, s 227 — Operation of commercial parking lot by company in zone where such use prohibited — Statement of offence issued against company for non-conforming use under zoning by-law — Company admitted to non-conforming use but raised doctrine of estoppel — Circumstances in which defendant can rely on doctrine of estoppel to avoid penal liability.

Held (7-0): Appeal dismissed.

Evidence

Secretary of State for Home Department v MN and KY
Supreme Court of the United Kingdom: [\[2014\] UKSC 30](#).

Judgment delivered: 21 May 2014.

Coram: Lord Neuberger (President), Lord Clarke, Lord Carnwath, Lord Hughes and Lord Hodge.

Catchwords

Evidence — Expert evidence — Admissibility — Immigration and asylum appeals — Analysis undertaken of asylum seeker’s speech to determine nationality or cultural origin — Report by commercial organisation based on collaborative work of anonymised authors — Whether report in principle admissible before First-tier Tribunal and Upper Tribunal — Whether report with anonymised authorship considered generally acceptable in such cases — Whether report determinative on issues which it addressed.

Held (5-0): Appeal dismissed.

Extradition

Dotcom, Batato, Ortmann and Wan der Kolk v The United States of America
Supreme Court of New Zealand: [\[2014\] NZSC 24](#).

Judgment delivered: 21 March 2014.

Coram: Elias CJ, McGrath, William Young, Glazebrook and Blanchard JJ.

Catchwords:

Extradition — Disclosure of document relating to criminal charges — Extradition Act 1999, s 25 — Respondent requested extradition of appellants to face criminal charges of copyright infringement, money laundering, racketeering and wire fraud — In support of request and to determine appellants’ eligibility for extradition, respondent made use of “record of the case” — Appellants sought disclosure by respondent of information in its possession relating to criminal charges — District Court order disclosure — Whether disclosure orders wrongly made.

Held (4-1): Appeal dismissed.

Freedom of Information

Kennedy v The Charity Commission

Supreme Court of the United Kingdom: [\[2014\] UKSC 20](#).

Judgment delivered: 26 March 2014.

Coram: Lord Neuberger (President), Lord Mance, Lord Clarke, Lord Wilson, Lord Sumption, Lord Carnwath and Lord Toulson

Catchwords:

Freedom of information — Disclosure — Exempt information in relation to inquiries — Charities Act 1993, ss 1B-1E — Human Rights Act 1998 s 3, Sch 1, Pt I, art 10 — Freedom of Information Act 2000, ss 32(2), 63(1), 78 — Inquiries Act 2005, s 18(3) — Charity Commission instituted series of inquiries into affairs of charity — Journalist requested information concerning inquiries — Whether exemption from disclosure extended beyond conclusion of inquiries or merely persisted for duration of inquiry — Whether Convention right to freedom of expression engaged.

Held (5-2): Appeal dismissed.

Ontario (Community Safety and Correctional Services v Ontario (Information and Privacy Commissioner)

Supreme Court of Canada: [2014 SCC 31](#).

Judgment delivered: 24 April 2014.

Coram: LeBel, Abella, Rothstein, Cromwell, Moldaver, Karakatsanis and Wagner JJ.

Catchwords:

Freedom of information — Exemptions — Confidentiality provisions — Freedom of Information and Protection of Privacy Act, RSO 1990, c F-31, ss 14, 67 — Christopher's Law (Sex Offender Registry), 2000, SO 2000, c 1, ss 10, 13 — Requester sought disclosure of number of offenders registered under sex offender registry residing in areas designated by first three digits of Ontario's postal codes — Government institution denied request on grounds of exemptions contained in Freedom of Information and Protection of Privacy Act — Information and Privacy Commission

ordered disclosure — Standard of review of Commission’s decision — Whether Commission made reviewable error in interpreting applicable legislation — Whether Commission applied appropriate evidentiary standard with regards to harms-based exemptions.

Held (7-0): Appeal dismissed.

John Doe v Ontario (Finance)

Supreme Court of Canada: [2014 SCC 36](#).

Judgment delivered: 9 May 2014.

Coram: McLachlin CJ, LeBel, Abella, Rothstein, Cromwell, Karakatsanis and Wagner JJ.

Catchwords:

Freedom of information — Exemptions — Advice or recommendations of public servant — Freedom of Information and Protection of Privacy Act, RSO 1990, c F.31, s 13(1) (FIPPA) — Government institution applied exemption for advice or recommendations under s 13(1) of FIPPA and denied access to information request — Information and Privacy Commissioner ordered disclosure — Whether Commissioner’s disclosure order reasonable — Whether s 13 (1) exemption for advice or recommendations applied to policy options that do not suggest course of action — Whether s 13(1) exemption applied to information that is not communicated.

Held (7-0): Appeal dismissed.

Human Rights

P (by his litigation friend the Official Solicitor) (FC) v Cheshire West and Chester Council & Anor; P and Q (by their litigation friend the Official Solicitor) v Surrey County Council

Supreme Court of the United Kingdom: [\[2014\] UKSC 19](#).

Judgement delivered: 19 March 2014.

Coram: Lord Neuberger, President Lady Hale, Deputy President, Lord Kerr, Lord Clarke Lord Sumption Lord Carnwath Lord Hodge

Catchwords:

Human rights — Incapacity due to mental disorder — Deprivation of liberty — Local authority placement — Human Rights Act 1998, Sch

1, Pt I, art 5 — Mental Capacity Act 2005, s 64(5) — Person lacked mental capacity to make decisions as to care — Placement in house with live-in carers or with foster parents — Placement was to be as much like ordinary living arrangements as possible — Person escorted on outside activities or to attend college but liable to be prevented from leaving without supervision — Person did not evince dissatisfaction with placement and showed no desire to leave — Whether arrangement amounted to deprivation of liberty — Whether it should be subject to periodic independent review.

Held, in P (7-0): Appeal allowed

Held, in P and Q (4-3): Appeal allowed.

British Broadcasting Corporation (Scotland) v A
Supreme Court of the United Kingdom: [\[2014\] UKSC 25](#).

Judgment delivered: 8 May 2014.

Coram: Lady Hale (Deputy President), Lord Wilson, Lord Reed, Lord Hughes and Lord Hodge.

Catchwords:

Human rights — Interference with freedom of expression — Human Rights Act 1998, Sch 1 Pt 1, arts 6(1), 10(1)(2) — Court order prohibited publication of petitioner's name or details likely to identify him — Whether breach of broadcaster's Convention right to receive and impart information.

Freedom of information — Confidential information — Disclosure — Public interest — Contempt of Court Act 1981, s 11 — Petitioner foreign national convicted of sex offences against child — Home Secretary ordered deportation of petitioner to country of origin — Petitioner claimed that as known sex offender he faced risk of death or violence in country of origin when publicity given to his return — Court order prohibited publication of petitioner's name or details likely to identify him — Whether court had statutory power to make order — Whether exception to principle of open justice.

Held (5-0): Appeal dismissed.

Immigration

The Secretary of State for the Home Department v R (on application of Fitzroy George)

Supreme Court of the United Kingdom: [\[2014\] UKSC 28](#).

Judgment delivered: 14 May 2014.

Coram: Lord Neuberger (President), Lord Clarke, Lord Carnwath, Lord Hughes, Lord Toulson.

Catchwords:

Immigration — Deportation order — Revocation — Immigration Act 1971, s 5(1)(2) — Secretary of State made deportation order against foreign national — Deportation order had effect of invalidating foreign national's indefinite leave to remain — Deportation order revoked following foreign national's appeal — Whether revocation of deportation order revived leave to remain.

Held (5-0): Appeal allowed.

Indigenous

Michigan v Bay Mills Indian Community et al.

Supreme Court of the United States: [Docket 12-515](#).

Judgment delivered: 27 May 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Indigenous — Indian lands — Tribal sovereign immunity — State petitioner entered into compact with respondent pursuant to Indian Gaming Regulatory Act — Compact authorised respondent to conduct class III gaming activities on Indian lands within State's borders, but prohibits it from doing so outside that territory — Respondent opened second casino on land purchased through congressionally established land trust — Petitioner sued respondent for violation of Tribal-State compact — District Court granted injunction but Sixth Circuit vacated — Whether petitioner's suit was barred by tribal sovereign immunity.

Held (5-4): Judgment affirmed and remanded.

Maritime Law

Peracomo Inc v TELUS Communications Co
Supreme Court of Canada: [2014 SCC 29](#).

Judgment delivered: 23 April 2014.

Coram: McLachlin CJ, Rothstein, Cromwell, Karakatsanis and Wagner JJ.

Catchwords:

Maritime law — Liability in tort — Limitation of liability — Conduct barring limitation — Convention on limitation of liability for maritime claims, 1976, 1456 UNTS 221, art 4 — Standard of fault — Fisherman intentionally cut submarine fibre-optic cable he believed to be abandoned, resulting in almost \$1 million in damage — Whether appellants' right to limit their liability pursuant to Convention is barred — Whether fisherman acted with intent to cause such loss or recklessly and with knowledge that such loss would probably result.

Maritime law — Marine insurance — Marine Insurance Act, SC 1993, c 22, s 53(2) — Exclusion of coverage — Standard of fault — Wilful misconduct — Whether standards of fault under Marine Insurance Act and Convention are same — Whether loss caused by fisherman's wilful misconduct such that it is excluded from coverage.

Held (4-1, dissenting in part): Appeal allowed in part.

Patents

Octane Fitness, LLC v ICON Health & Fitness, Inc
Supreme Court of the United States: [Docket 12-1184](#).

Judgment delivered: 29 April 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Patents — Costs — Attorney's fees — Fee-shifting — Patent Act, s 285 authorises district courts to award attorney's fees to prevailing parties in exceptional cases — Respondent sued petitioner for patent infringement — District Court granted summary judgment to

petitioner — Petitioner moved for attorney’s fees under s 285 — District Court denied motion under *Brooks Furniture* framework — Whether the *Brooks Furniture* framework is consistent with statutory text of s 285.

Held (9-0): Judgment reversed and remanded.

Highmark Inc v Allcare Health Management System, Inc

Supreme Court of the United States: [Docket 12-1163](#).

Judgment delivered: 29 April 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Patents — Costs — Attorney’s fees — Fee-shifting — Patent Act, s 285 authorises district courts to award attorney’s fees to prevailing parties in exceptional cases — District Court found case “exceptional” and granted petitioner’s motion — Federal Circuit Court, reviewing District Court’s determination *de novo*, reversed in part — Whether appellate court should review all aspects of District Court’s s 285 determination for abuse of discretion.

Held (9-0): Judgment vacated and remanded.

Planning

R (on the application of Barkas) v North Yorkshire County Council and Anor

Supreme Court of the United Kingdom: [\[2014\] UKSC 31](#).

Judgment delivered: 21 May 2014.

Coram: Lord Neuberger (President), Lady Hale (Deputy President), Lord Reed, Lord Carnwath and Lord Hughes.

Catchwords:

Planning — Commons — Town or village green — Registration — Housing Act 1936, s 80(1) — Housing Act 1985, s 12(1) — Commons Act 2006, s 15(2) — Local authority laid out and maintained land as recreation ground pursuant to statutory powers — Local inhabitants used land for recreational purposes for more than 20 years — Whether use of land “as of right” — Whether statutory condition for registration as town or village green met.

Held (5-0): Appeal dismissed.

Practice and Procedure

Union Carbide Canada Inc v Bombardier Inc
Supreme Court of Canada: [2014 SCC 35](#).

Judgment delivered: 8 May 2014.

Coram: McLachlin CJ, LeBel, Rothstein, Cromwell, Moldaver, Karakatsanis and Wagner JJ.

Catchwords:

Civil procedure — Offer to settle — Settlement privilege — Exception — Code of Civil Procedure, CQLR, c C-25, art 151.21 — Allegations in motion for homologation of settlement opposed on ground that mediation contract prevented parties from referring to events taking place during mediation process — Whether mediation contract with absolute confidentiality clause can displace common law settlement privilege, including exception to privilege where party seeks to prove existence or scope of settlement — Whether clause permitted parties to use confidential information to prove terms of settlement.

Held (7-0): Appeal dismissed.

Nicholas Paul Alfred Reekie v Attorney-General
Supreme Court of New Zealand: [\[2014\] NZSC 63](#).

Judgment delivered: 29 May 2014.

Coram: Elias CJ, McGrath, William Young, Glazebrook and Arnold JJ.

Catchwords:

Criminal procedure — Security for costs — Appellant held in custody from arrest until sentencing for number of serious offences — Appellant alleged that he was unlawfully detained and that his treatment was in breach of New Zealand Bill of Rights Act 1990 — Allegations formed basis of two sets of proceedings in High Court — Appellant appealed two decisions of Court of Appeal and sought waiver of security for costs — Applications for dispensation of security were declined by Registrar — Decision of Registrar reviewed and challenge dismissed — Whether discretion to

dispense with security on grounds of impecuniosity should be exercised.

Held (5-0): Appeal dismissed.

Proceeds of Crime

Barnes (as former Court Appointed Receiver) v The Eastenders Group and Anor

Supreme Court of the United Kingdom: [\[2014\] UKSC 26](#).

Judgment delivered: 8 May 2014.

Coram: Lady Hale (Deputy President), Lord Kerr, Lord Wilson, Lord Hughes, Lord Toulson

Catchwords:

Proceeds of crime — Restraint order — Receiver’s remuneration — Human Rights Act 1998, Sch 1, Pt II, art 1 — Proceeds of Crime Act 2002, s 48 — Receiver appointed for companies’ assets under statute concerned with crime — Restraint order later set aside — Whether receiver’s remuneration and expenses recoverable out of assets of companies to which restraint orders related — Whether recoverable from Crown Prosecution Service

Held (5-0): Appeal allowed.

Property Law

L Batley Pet Products Limited v North Lanarkshire Council

Supreme Court of the United Kingdom: [\[2014\] UKSC 27](#).

Judgment delivered: 8 Mat 2014.

Coram: Lady Hale (Deputy President), Lord Kerr, Lord Reed, Lord Carnwath, and Lord Hodge

Catchwords:

Property law — landlord and tenant — Repairs — Covenant — Commercial lease — Obligation to keep premises in tenable condition — Whether necessary for landlord to give notice of necessary repairs during currency of tenancy — Agreement to restore premises to original state “if so required” — Whether notice of requirement had to be in writing.

Held (5-0): Appeal allowed.

Remedies

AllPay Consolidated Investments Holdings (Pty) Ltd and Others v Chief Executive Officer of the South African Social Security Agency and Others (No 2)

Constitutional Court of South Africa: [\[2014\] ZACC 12](#).

Judgment delivered: 17 April 2014.

Coram: Moseneke ACJ, Cameron J, Dambuzza AJ, Froneman J, Jafta J, Khampepe J, Madlanga J, Majiedt AJ, Van der Westhuizen J and Zondo J.

Catchwords:

Remedies — Ramifications of potential remedy — Tender awarded for provision of social grants to approximately 15 million beneficiaries — Merits judgment held that tender awarded to Cash Paymaster Services (Pty) Ltd by the South African Social Security Agency was unlawful — What would be just and equitable remedy arising from earlier order declaring award of tender invalid.

Held (10-0): Ordered re-run of tender process.

Ngqukumba v Minister of Safety and Security and Ors

Constitutional Court of South Africa: [\[2014\] ZACC 14](#).

Judgment delivered: 15 May 2014.

Coram: Moseneke ACJ, Skweyiya ADCJ, Cameron J, Dambuzza AJ, Froneman J, Jafta J, Madlanga J, Mhlantla AJ, Nkabinde J, and Zondo J

Catchwords:

Remedies — *Mandament van spolie* or spoliation — Appellant's vehicle was searched and seized without either warrant or consent — Inspection revealed tampered engine and chassis numbers, indicating that the vehicle was likely to have been stolen — Police refused to restore possession of the vehicle to appellant on the grounds that the National Road Traffic Act (Act) prohibits and criminalises possession of tampered vehicle — Appellant sought return of vehicle — High Court declared the search and seizure of vehicle unlawful but that return of vehicle would conflict with the Act, which proscribes and criminalises possession of tampered vehicle — Whether spoliation remedy requires that possession must

first be restored to person unlawfully dispossessed, irrespective of whether or not possession is lawful at the time.

Held (10-0): Appeal allowed.

Securities Law

Douglas Arthur Montrose Graham, Michael Howard Reeves. William Patrick Jeffries, Lawrence Roland Valpy Bryant v The Queen

Supreme Court of New Zealand: [\[2014\] NZSC 55](#).

Judgment delivered: 7 May 2014.

Coram: Elias CJ, William Young, Glazebrook, Arnold and Blanchard JJ

Catchwords:

Securities law — Offences — Untrue statements — Securities Act 1978, s 58 — Appellants were directors of a company that raised money from public — Appellants found guilty of four counts under s 58 — Sentences of home imprisonment imposed on appellants — Whether offending warranted sentences of imprisonment.

Held (5-0): Appeal allowed.

Taxation

United States v Quality Stores, Inc

Supreme Court of the United States: [Docket 12-1408](#).

Judgment delivered: 25 March 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito and Sotomayor JJ.

Catchwords:

Taxation — Income — Severance payments — Federal Insurance Contributions Act, 26 USC (FICA) — Respondent made severance payments to employees who were involuntarily terminated due to respondent's bankruptcy — Respondent paid and withheld taxes required under FICA — Later, believing payments should not have been taxed as wages, respondent sought refund from Internal Revenue Service (IRS) — IRS did not allow or deny refund — Whether severance payments at issue were taxable wages for FICA purposes.

Held (8-0): Judgment reversed and case remanded.

Tort Law

Paroline v United States et al.

Supreme Court of the United States: [Docket 12-8561](#).

Judgment delivered: 23 April 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Torts law — Statutory action — Causation — Violence Against Women Act of 1994, s 2259 — Respondent victim was abused in order to produce child pornography — Petitioner guilty of possessing images of child pornography including images of respondent victim — Respondent victim sought restitution under s 2259 for lost income and future counselling — Whether s 2259 limits restitution to losses proximately caused by defendant — Whether each defendant who possessed victim’s images should be made liable for victim’s entire losses from trade in her images.

Held (5-4): Judgment vacated and remanded.

Trade Practices

Lexmark Int’l, Inc v Static Control Components, Inc

Supreme Court of the United States: [Docket 12-873](#).

Judgment delivered: 25 March 2014.

Coram: Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Trade practices — False or misleading advertising — Lanham Act, 15 USC — Petitioner sued respondent for copyright infringement — Respondent counterclaimed, alleging petitioner engaged in false or misleading advertising — Whether respondent lacked “prudential standing” to bring Lanham Act claim.

Held (9-0): Judgment affirmed.

Workers' Compensation

Martin v Alberta (Workers' Compensation Board)

Supreme Court of Canada: [2014 SCC 25](#).

Judgment delivered: 28 March 2014.

Coram: McLachlin CJ and LeBel, Abella, Rothstein, Cromwell, Karakatsanis and Wagner JJ.

Catchwords:

Workers' compensation — Entitlement to compensation — Government Employees Compensation Act (GECA), RSC 1985, c G-5, ss 2 and 4 — Workers' Compensation Act, RSA 2000, c W-15, s 1 — Workers' Compensation Board of Directors' Policy 03-01, Part II, Application 6 — Worker claimed compensation due to chronic onset stress — Provincial policy imposed criteria for eligibility for compensation on chronic onset stress claims — Whether provincial policy applied in determining eligibility under Government Employees Compensation Act — Whether provincial policy conflicted with GECA — Whether denial of claim was reasonable.

Held (7-0): Appeal dismissed.