



HIGH COURT BULLETIN

Produced by the Legal Research Officer,
High Court of Australia Library
[2017] HCAB 4 (17 May 2017)

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

1: Summary of New Entries	1
2: Cases Handed Down	3
3: Cases Reserved	7
4: Original Jurisdiction	16
5: Special Leave Granted.....	18
6: Cases Not Proceeding or Vacated.....	29
7: Special Leave Refused.....	30

1: SUMMARY OF NEW ENTRIES

2: Cases Handed Down

Case	Title
<i>Aubrey (MA) v The Queen</i>	Criminal Law
<i>Smith v The Queen; The Queen v Afford</i>	Criminal Law
<i>Pickering v The Queen</i>	Criminal Law
<i>Plaintiff M96A/2016 & Anor v Commonwealth of Australia & Anor</i>	Migration
<i>Talacko v Bennett & Ors</i>	Procedure

3: Cases Reserved

Case	Title
<i>Ramsay Health Care Australia Pty Ltd v Compton</i>	Bankruptcy
<i>Transport Accident Commission v Katanas</i>	Compensation

<i>Brown & Anor v The State of Tasmania</i>	Constitutional Law
<i>GAX v The Queen</i>	Criminal Law
<i>Plaintiff S195/2016 v Minister for Immigration and Border Protection & Ors</i>	Migration
<i>State of New South Wales v DC & Anor</i>	Negligence

4: Original Jurisdiction

5: Special Leave Granted

Case	Title
<i>Woollahra Municipal Council v Minister for Local Government & Ors</i>	Administrative Law
<i>Kalbasi v The State of Western Australia</i>	Criminal Law
<i>Regional Express Holdings Limited v Australian Federation of Air Pilots</i>	Industrial Law
<i>Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union & Anor</i>	Industrial Law
<i>Probuild Constructions (Aust) Pty Ltd v Shade Systems Pty Ltd & Anor</i>	Judicial Review
<i>Maxcon Constructions Pty Ltd v Vadasz & Ors</i>	Judicial Review
<i>Briggs v State of New South Wales</i>	Negligence

6: Cases Not Proceeding or Vacated

2: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the May 2017 sittings.

Criminal Law

Aubrey (MA) v The Queen

S274/2016: [\[2017\] HCA 18](#)

Judgment delivered: 10 May 2017

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

Catchwords:

Criminal law – Infliction of grievous bodily harm – Meaning of "inflicts" – Where appellant caused complainant to contract human immunodeficiency virus – Whether infliction requires force and immediate physical injury – Whether communication of infection or disease amounts to infliction – Consideration of *R v Clarence* (1888) 22 QBD 23 and *R v Dica* [2004] QB 1257.

Criminal law – Fault element – Recklessness – Foresight of risk – Where appellant diagnosed with human immunodeficiency virus – Where appellant knew of possibility of transmitting virus through unprotected sexual intercourse – Whether foresight of possibility of risk sufficient to establish recklessness.

Words and phrases – "always speaking", "contemporary ideas and understanding", "grievous bodily harm", "inflicts", "maliciously", "recklessly".

Crimes Act 1900 (NSW) – ss 5, 35(1)(b), 36.

Appealed from NSWSC (CCA): [\[2015\] NSWCCA 323](#)

[Return to Top](#)

Smith v The Queen; The Queen v Afford

S249/2016, M144/2016: [\[2017\] HCA 19](#)

Judgment delivered: 10 May 2017

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

Catchwords:

Criminal law – Fault element – Intent – Inferential reasoning – Importation of commercial quantity of border controlled drug – Where accused persons brought substance into Australia – Where substance concealed in items – Where accused persons denied intent to import substance – Where accused persons perceived real or significant chance of presence of substance when entering Australia – Whether permissible to infer intent for purposes of *Criminal Code* (Cth) from awareness of real or significant chance of presence of substance – Whether process of inferential reasoning identified in *Bahri Kural v The Queen* (1987) 162 CLR 502; [1987] HCA 16 applicable – Whether jury directions conflated intent with recklessness.

Words and phrases – "inferential reasoning", "intent to import", "intention", "jury directions", "real or significant chance", "reckless", "unsafe verdict".

Criminal Code (Cth) – ss 5. 2, 5. 4, 5. 6, 307. 1.

Appealed from NSWSC (CCA): [\[2016\] NSWCCA 93](#); (2016) 309 FLR 258; **Appealed from VSC (CA):** [\[2016\] VSCA 56](#); (2016) 308 FLR 1

[Return to Top](#)

Pickering v The Queen

B68/2016: [\[2017\] HCA 17](#)

Judgment delivered: 3 May 2017

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

Catchwords:

Criminal law – Justification and excuse – Resisting actual and unlawful violence threatened to person – Where appellant stabbed deceased – Where appellant acquitted of murder but convicted of manslaughter – Where s 31(1) of *Criminal Code* (Q) not left to jury – Whether appellant able to rely on s 31(1) to deny criminal responsibility in relation to offence of manslaughter – Whether s 31(2) renders s 31(1) unavailable wherever evidence discloses that act of accused constitutes offence described in s 31(2) regardless of charge.

Words and phrases – "act", "criminally responsible", "liable to punishment", "offence".

Criminal Code (Q) – s 31.

Appealed from QSC (CA): [\[2016\] QCA 124](#)

[Return to Top](#)

Migration

Plaintiff M96A/2016 & Anor v Commonwealth of Australia & Anor
M96/2016: [\[2017\] HCA 16](#)

Date heard: 3 May 2017

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

Catchwords:

Migration – Unlawful non-citizens – Power to detain – Where plaintiffs unauthorised maritime arrivals – Where plaintiffs brought to Australia from regional processing country for temporary purpose of medical treatment – Where plaintiffs detained under ss 189 and 196 of *Migration Act* 1958 (Cth) until removal from Australia – Whether ss 189 and 196 validly authorise detention while in Australia for temporary purpose – Whether plaintiffs detained for lawful purpose – Whether duration of detention capable of objective determination.

Words and phrases – "detention of non-citizen", "duration of detention", "opinion, satisfaction or belief of officer", "purpose of detention", "temporary purpose", "transitory person", "unauthorised maritime arrival", "unlawful non-citizen".

Constitution – s 51(xix).

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

[Return to Top](#)

Procedure

Talacko v Bennett & Ors
M154/2016: [\[2017\] HCA 15](#)

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

Judgment delivered: 3 May 2017

Catchwords:

Procedure – Enforcement of Australian judgment debt in foreign jurisdiction – Where respondents obtained certificate under s 15(1) of *Foreign Judgments Act* 1991 (Cth) certifying finality of Australian

judgment – Where application for such certificate may not be made until expiration of any stay of enforcement of judgment in question – Where judgment debtor bankrupt – Whether certificate valid – Whether s 58(3) of *Bankruptcy Act 1966* (Cth) operated to impose a stay of enforcement for purposes of *Foreign Judgments Act 1991* (Cth).

Words and phrases – "enforcement by execution", "stay of enforcement of the judgment".

Bankruptcy Act 1966 (Cth) – ss 58(3), 60(1)(b), 60(2).

Foreign Judgments Act 1991 (Cth) – ss 3(1), 15.

Appealed from VSC (CA): [\[2016\] VSCA 179](#); (2016) 312 FLR 159

[Return to Top](#)

3: CASES RESERVED

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

Bankruptcy

Ramsay Health Care Australia Pty Ltd v Compton

S53/2017: [\[2017\] HCATrans 95](#)

Date heard: 4 May 2017

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

Catchwords:

Bankruptcy – *Bankruptcy Act* 1966 (Cth) s 52 – Application to “go behind” judgment debt – Principle of finality – Whether Full Federal Court applied wrong test for “going behind” judgment – Whether court may go behind judgment in any circumstance where debtor adduces evidence which shows “substantial reason to believe” debt not owed.

*Orders made on 4 May 2017 dismissing the appeal with costs.
Written reasons of the Court to be published at a future date.*

Appealed from FCA (FC): [\[2016\] FCAFC 106](#)

[Return to Top](#)

Compensation

Transport Accident Commission v Katanas

M160/2016: [\[2017\] HCATrans 102](#)

Date heard: 11 May 2017

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

Catchwords:

Compensation – Transport accident – *Transport Accident Act* 1986 (Vic) – Meaning of “serious injury” – Test for establishing whether an injury is a “serious injury” within meaning of s 93 of the *Transport Accident Act* 1986 (Vic) – Application of *Humphries v*

Poljak [1992] 2 VR 129 – Whether Court of Appeal applied correct test.

Appealed from VSC (CA): [\[2016\] VSCA 140](#); (2016) 76 MVR 161

[Return to Top](#)

Competition Law

Air New Zealand Ltd v Australian Competition and Consumer Commission; PT Garuda Indonesia Ltd v Australian Competition and Consumer Commission

S245/2016, S248/2016: [\[2017\] HCATrans 44](#), [\[2017\] HCATrans 46](#)

Date heard: 2 and 3 March 2017

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

Catchwords:

Competition – *Trade Practices Act* 1974 (Cth) – Whether “market” defined by questions of substitutability or other considerations – Whether markets for air cargo services from airports in Hong Kong, Singapore and Indonesia to Australia were markets “in Australia” within meaning of s 4E – Whether ss 12 and 13 *Air Navigation Act* 1920 (Cth) inconsistent with ss 45 and 45A *Trade Practices Act* 1974 (Cth) such that latter did not apply to contravening conduct – Whether conduct compelled by law/administrative practice of foreign state – Whether person acting in accordance with such law/practice makes “contract or arrangement” or arrives at “understanding” for purpose of s 45(2).

Appealed from FCA (FC): [\[2016\] FCAFC 42](#); (2016) 330 ALR 230

[Return to Top](#)

Constitutional Law

Brown & Anor v The State of Tasmania

H3/2016: [\[2017\] HCATrans 93](#); [\[2017\] HCATrans 94](#)

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

Date heard: 2 and 3 May 2017

Catchwords:

Constitutional Law – Implied freedom of political communication – *Workplaces (Protection from Protesters) Act 2014 (Tas)* – Where Forestry Tasmania was authorised to undertake forestry operations in the Lapoinya Forest – Where plaintiffs protested against forestry operations in vicinity of the operations – Where plaintiffs were charged on separate occasions for breaching s 8 of the Act – Where charges were dismissed against both plaintiffs – Whether Act impermissibly burdens the implied freedom of political communication.

[Return to Top](#)

Knight v State of Victoria & Anor

M251/2015: [\[2017\] HCATrans 61](#)

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

Date heard: 28 March 2017

Catchwords:

Constitutional law – Chapter III of the Constitution – Where plaintiff pleaded guilty to seven counts of murder and 46 counts of attempted murder in Supreme Court of Victoria – Where plaintiff was sentenced to life imprisonment with minimum term of 27 years – Where minimum term has expired – Where prior to expiry Victorian Parliament passed *Corrections Amendment (Parole) Act 2014 (Vic)* which inserted s 74AA into *Corrections Act 1986 (Vic)* – Where s 74AA requires Adult Parole Board to not release plaintiff unless in imminent danger of dying or seriously incapacitated and as result no longer has physical ability to harm any person – Where judicial officers, including Judges of Supreme Court of Victoria, may be appointed as members of Adult Parole Board – Whether s 74AA impermissibly interferes with exercise of judicial power by Supreme Court of Victoria – Whether s 74AA authorises State judicial officers to participate in decision-making process that undermines judicial independence and renders courts on which they sit unsuitable to be repositories of federal judicial power.

[Return to Top](#)

Rizeq v The State of Western Australia

P55/2016: [\[2017\] HCATrans 11](#); [\[2017\] HCATrans12](#)

Date heard: 1 and 2 February 2017

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

Catchwords:

Constitutional law – s 80 of the Constitution – Where appellant was a resident of New South Wales – Where appellant was found guilty of possession of drugs with intent to sell or supply under *Misuse of Drugs Act 1981 (WA) s 6(1)(a)* – Where appellant was convicted by majority pursuant to *Criminal Procedure Act 2004 (WA) s 114(2)* – Whether *Misuse of Drugs Act 1981 (WA) s 6(1)(a)* applied directly or was “picked up” by *Judiciary Act 1903 (Cth) s 79(1)* – Whether *Misuse of Drugs Act 1981 (WA) s 6(1)(a)* was an offence against a “law of the Commonwealth” where the District Court was exercising federal diversity jurisdiction – Whether *Criminal Procedure Act 2004 (WA) s 114(2)* did not apply to the appellant’s trial because s 80 of the Constitution required the appellant to be convicted by unanimous verdict.

Appealed from WASC (CA): [\[2015\] WASCA 165](#)

[Return to Top](#)

Criminal Law

GAX v The Queen

B72/2016: [\[2017\] HCATrans 96](#)

Date heard: 5 May 2017

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

Catchwords:

Criminal law – Unreasonable verdict – Where appellant was convicted of one count of aggravated indecent dealing with child under age of 16 years who was his lineal descendant – Where complainant gave evidence that the appellant, her father, lay in bed with her and that his fingers were down near where her underwear was supposed to be – Where complainant’s mother and sister gave evidence of finding appellant in bed with complainant – Where there were inconsistencies between accounts of complainant, mother and sister – Where majority of the Court of Appeal dismissed appeal – Whether majority failed to make independent assessment of the sufficiency and quality of the evidence in determining reasonableness of verdict.

Appealed from QSC (CA): [\[2016\] QCA 189](#)

[Return to Top](#)

The Queen v Dickman

[M162/2016](#): [\[2017\] HCATrans 71](#)

Date heard: 6 April 2017

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

Catchwords:

Criminal law – Evidence – Identification evidence – *Evidence Act* 2008 (Vic) s 137 – Where complainant made identification based on photoboard containing no photograph of accused – Where complainant later identified accused based on different photoboard – Whether majority of Court of Appeal erred in holding trial judge erred in failing to exclude identification evidence – Whether majority of Court of Appeal erred in considering issues of reliability in assessing whether probative value of identification evidence outweighed by risk of unfair prejudice for purposes of s 137.

Appealed from VSC (CA): [\[2015\] VSCA 311](#)

[Return to Top](#)

IL v The Queen

[S270/2016](#): [\[2017\] HCATrans 65](#)

Date heard: 4 April 2017

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

Catchwords:

Criminal law – Constructive murder – Joint criminal enterprise – *Crimes Act* 1900 (NSW) s 18 – Where deceased's death caused by ignition of ring burner in inadequately ventilated room – Where evidence insufficient to establish that appellant ignited burner – Whether ignition of ring burner within scope of joint criminal enterprise to manufacture methylamphetamine – Whether subjective foresight of risk of death required for charge of constructive murder – Whether element of "malice" in s 18(2)(a) satisfied by proof of intention to commit foundational offence – Whether "malice" established by recklessness.

Appealed from NSWSC (CCA): [\[2016\] NSWCCA 51](#)

[Return to Top](#)

Hughes v The Queen

[S226/2016](#): [\[2017\] HCATrans 16](#)

Date heard: 8 February 2017

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

Catchwords:

Criminal law – Tendency evidence – Where appellant found guilty on 10 of 11 charges of having sexual intercourse with, and committing acts of indecency on, girls under the age of sixteen – Where tendency evidence admitted to prove that the appellant had a tendency to have a sexual interest in, and engage in sexual conduct with, female children under sixteen – *Evidence Act 1995 (NSW)* s 97 – Whether tendency evidence had “significant probative value” – Whether an “underlying unity” or “pattern of conduct” required to establish significant probative value – Whether evidence of tendency was sufficiently specific to reach threshold of significant probative value – Whether Court of Criminal Appeal erred in rejecting approach taken to tendency evidence in *Velkoski v R* [2014] VSCA 121.

Appealed from NSWSC (CCA): [\[2015\] NSWCCA 330](#)

[Return to Top](#)

Migration

Plaintiff S195/2016 v Minister for Immigration and Border Protection & Ors

S195/2016: [\[2017\] HCATrans 99](#)

Date heard: 9 May 2017

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

Catchwords:

Constitutional law – Migration – Where plaintiff is citizen of Iran – Where plaintiff was “unauthorised maritime arrival” – Where plaintiff unwilling to return to Iran – Where plaintiff sent to Papua New Guinea under regional processing arrangements – Where Papua New Guinea Supreme Court handed down *Belden Norman Namah, MP Leader of the Opposition v Hon Rimbank Pato, Minister for Foreign Affairs & Immigrations SCA NO 84 of 2013* (“*Namah Decision*”) – Whether designation of Papua New Guinea as regional processing country beyond power under s 198AB(1) of *Migration Act 1958 (Cth)* by reason of *Namah Decision* – Whether taking plaintiff to Papua New Guinea beyond power under s 198AD by reason of *Namah Decision* – Whether entry into re-settlement

arrangements beyond power conferred by Constitution s 61 – Whether authority of Commonwealth to undertake conduct in respect of regional processing arrangements in Papua New Guinea conferred by s 198AHA dependent on those arrangements being lawful under law of Papua New Guinea.

[Return to Top](#)

SZTAL v Minister for Immigration and Border Protection & Anor; SZTGM v Minister for Immigration and Border Protection & Anor
[S272/2016](#); [S273/2016](#): [\[2017\] HCATrans 68](#)

Date heard: 5 April 2017

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

Catchwords:

Migration – Statutory interpretation – *Migration Act* 1958 (Cth) – s 36(2)(aa), complementary protection criteria – Where appellants are nationals of Sri Lanka – Where appellants left Sri Lanka illegally – Where Tribunal accepted that it was likely that appellants would be jailed upon return to Sri Lanka – Whether Full Court of the Federal Court erred in holding that requirement of intentional infliction of “cruel and inhuman treatment or punishment” or “degrading treatment or punishment” requires proof of subjective intention.

Appealed from FCA (FC): [\[2016\] FCAFC 69](#); (2016) 243 FCR 556

[Return to Top](#)

Graham v Minister for Immigration and Border Protection; Te Puia v Minister for Immigration and Border Protection
[M97/2016](#); [P58/2016](#): [\[2017\] HCATrans 63](#)

Date heard: 30 March 2017

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

Catchwords:

Constitutional law – Migration – Where plaintiffs are citizens of New Zealand – Where plaintiffs were granted a class TY subclass 444 Special Category (Temporary) visa when they each respectively last entered Australia – Where defendant cancelled plaintiffs’ visas under s 501(3) of the *Migration Act* 1958 (Cth) – Where defendant received information in accordance with s 503A(1) of the *Migration Act* 1958 (Cth) – Where s 503A(2) prevents defendant from

disclosing confidential information to the Court – Whether ss 501(3) and 503A(2) invalid as requiring a Federal court to exercise judicial power in a manner inconsistent with the essential character of a court – Whether invalid as limiting ability of affected person to seek relief under s 75(v) of Constitution.

[Return to Top](#)

Mining

Forrest & Forrest Pty Ltd v Wilson & Ors

P59/2016: [\[2017\] HCATrans 64](#)

Date heard: 31 March 2017

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

Catchwords:

Mining – Statutory Construction – *Mining Act* 1978 (WA) – Where applications for mining leases lodged without mining operations statements or mineralisation reports specified in s 74(1)(ca)(ii) – Where mineralisation reports subsequently lodged – Where Warden recommended Minister grant applications subject to conditions – Whether lodgement of mineralisation report at time of application for mining lease was essential condition that must be satisfied in order to enliven jurisdiction of Director to prepare report under s 74A(1) – Whether lodgement of mineralisation report at time of application for mining lease was essential condition that must be satisfied in order to enliven Warden’s jurisdiction to hear application under s 75(4) and make recommendation under s 75(5).

Appealed from WASC (CA): [\[2016\] WASCA 116](#); (2016) 10 ARLR 81

[Return to Top](#)

Negligence

State of New South Wales v DC & Anor

S35/2017: [\[2017\] HCATrans 100](#)

Date heard: 10 May 2017

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

Catchwords:

Negligence – Duty of care – Where stepfather sexually abused respondents – Where Department removed respondents after receiving complaint from one of the respondents – Where stepfather continued to have contact with respondents – *Children Welfare Act 1939 (NSW) s 148B* – Whether appellant owed duty of care to respondents that extended to reporting allegations against stepfather to police.

Appealed from NSWSC (CA): [\[2016\] NSWCA 198](#); (2016) Aust Tort Reports 32-295

[Return to Top](#)

Taxation

Commissioner of Taxation v Jayasinghe
S275/2016: [\[2017\] HCATrans 62](#)

Date heard: 29 March 2017

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

Catchwords:

Taxation – *International Organisations (Privileges and Immunities) Act 1963 (Cth) s 6(1)(d)(i)* – Where respondent was civil engineer engaged by United Nations Office of Project Services under “Individual Contractor Agreement” – Whether respondent was a person who “holds an office in an international organisation” under the Act and Regulations made under the Act – Meaning of “holds an office in an international organisation” – Whether common law concept of “office” applies – Whether determined by establishment and designation of office by international organisation.

Appealed from FCA(FC): [\[2016\] FCAFC 79](#); (2016) ATC 20-571

[Return to Top](#)

4: ORIGINAL JURISDICTION

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

Constitutional Law

ResourceCo Material Solutions Pty Ltd & Anor v State of Victoria & Anor

M32/2016: *Demurrer*

Catchwords:

Constitutional law – Section 92 – *Environment Protection (Industrial Waste Resource) Regulations 2009 (Vic)* – Where reg 26(3) prohibits interstate transport of prescribed industrial waste for destruction/deposit unless interstate facility has better environmental performance standards – Contract to dispose of contaminated soil in Victoria by transporting to and disposing of in South Australia – Where second plaintiff obtained approval from South Australian Environment Protection Authority (“EPA”) for treatment of soil in South Australia – Where first plaintiff sought approval from EPA Victoria for transport of waste from Victoria to South Australia – Where approval refused because EPA Victoria not satisfied waste would be deposited at facility in South Australia with better environmental performance standards than in Victoria – Whether reg 26 or 26(3) *Environment Protection (Industrial Waste Resource) Regulations 2009 (Vic)* contrary to s 92 and therefore invalid – Whether protectionist effect of reg 26(3) can be inferred from discriminatory burden imposed on interstate trade – Whether objects of reg 26(3) must be actual motivating objects of the regulation.

Hearing vacated (1 February 2017).

[Return to Top](#)

Migration

Falzon v Minister for Immigration and Border Protection

S31/2017: *Application to Show Cause*

Catchwords:

Constitutional law – Migration – Where plaintiff’s visa cancelled pursuant to *Migration Act 1958 (Cth)* s 501(3A) – Where Minister

decided not to revoke cancellation under s 501CA – Whether s 501(3A) is invalid because it purports to confer judicial power of Commonwealth on Minister.

[Return to Top](#)

5: SPECIAL LEAVE GRANTED

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

Administrative Law

Woollahra Municipal Council v Minister for Local Government & Ors

S7/2017: [\[2017\] HCATrans 108](#)

Date heard: 12 May 2017 – *Special leave granted.*

Catchwords:

Administrative law – *Local Government Act* 1993 (NSW) – Where Minister made proposal under s 218E(1) for forced amalgamation of Woollahra, Waverley and Randwick local government areas – Where Government published document disclosing part of analysis by KPMG – Where Delegate heard evidence in secret from KPMG – Whether obligation to hold inquiry under s 263(2A) did not permit evidence to be heard in secret and not disclosed to public – Whether Court of Appeal erred in failing to find that no prescribed inquiry at which there was examination of required statutory factors had been held – Whether Court of Appeal erred in failing to find that requirement to inquire into financial advantages and disadvantages of proposed amalgamation not discharged without having regard to specific financial advantages and disadvantages to residents and ratepayers of each local government area.

Appealed from NSWSC (CA): [\[2016\] NSWCA 380](#); (2016) 219 LGERA 180

[Return to Top](#)

Criminal Law

Kalbasi v The State of Western Australia

P62/2016: [\[2017\] HCATrans 113](#)

Date heard: 12 May 2017 – *Special leave granted on limited grounds.*

Catchwords:

Criminal law – Appeal against conviction – *Criminal Appeals Act* 2004 (WA) s 30(4) – Where appellant convicted of attempt to

possess prohibited drug with intent to sell or supply contrary to *Misuse of Drugs Act* 1981 (WA) ss 6(1)(a), 33(1) – Where Court of Appeal concluded jury directions on intention erroneous as presumption of intent to sell or supply under s 11 of Act did not apply, but held no substantial miscarriage of justice – Whether Court of Appeal erred in finding no substantial miscarriage of justice and applying proviso – Whether *Weiss v The Queen* (2005) 224 CLR 300 should be revisited and/or qualified and/or overruled.

Appealed from WASC (CA): [\[2016\] WASCA 144](#)

[Return to Top](#)

Craig v The Queen

B24/2017: [\[2017\] HCATrans 73](#)

Date heard: 7 April 2017 – *Special leave granted.*

Catchwords:

Criminal law – Murder – *Criminal Code* 1899 (Qld) s 668E – Miscarriage of justice – Where appellant advised by trial counsel that if he gave evidence at trial, he would likely be cross-examined on prior convictions, including manslaughter conviction – Where appellant did not give evidence – Where proposed evidence would have been relevant to defence of provocation and would have raised self-defence – Where Court of Appeal held it was not likely that appellant would have been cross-examined on criminal history – Whether Court of Appeal erred in finding erroneous advice did not result in miscarriage of justice – Whether “alternative rational basis” for not giving evidence test appropriate where counsel gave erroneous advice – Whether denial of opportunity to make informed decision as to whether to give evidence amounts to “such a serious breach of the presuppositions of the trial” that the proviso cannot apply.

Appealed from QSC (CA): [\[2016\] QCA 166](#)

[Return to Top](#)

Hamra v The Queen

A14/2017: [\[2017\] HCATrans 77](#)

Date heard: 7 April 2017 – *Special leave granted on limited grounds.*

Catchwords:

Criminal law – Persistent sexual exploitation of child under *Criminal Law Consolidation Act* 1935 (SA) s 50 – Where trial judge held no

case to answer because allegations of generalised nature such that it was not possible to identify two or more proved sexual offences within meaning of s 50 – Where Court of Criminal Appeal quashed acquittal and remitted matter for retrial – Whether s 50 requires proof of commission of two or more prescribed sexual offences on particular occasions – Whether Court of Criminal Appeal failed to address appellant’s submission that respondent’s appeal should not be granted having regard to considerations relating to double jeopardy.

Appealed from SASC (CA): [\[2016\] SASCFC 130](#); (2016) 126 SASR 374

[Return to Top](#)

Commissioner of the Australian Federal Police v Hart & Ors; Commonwealth of Australia v Yak 3 Investments Pty Ltd as Trustee for Yak 3 Discretionary Trust & Ors; Commonwealth of Australia & Anor v Flying Fighters Pty Ltd & Ors

[B21/2017](#); [B22/2017](#); [B23/2017](#): [\[2017\] HCATrans 69](#)

Date determined: 6 April 2017 – *Special leave granted.*

Catchwords:

Criminal law – Proceeds of crime – *Proceeds of Crime Act 2002* (Cth) – Where Commonwealth obtained restraining order under s 17 of the Act over property under first respondent’s effective control – Where first respondent subsequently found guilty of nine offences of defrauding the Commonwealth – Where property forfeited to Commonwealth under s 92 – Where Commonwealth granted pecuniary penalty order (PPO) against first respondent under s 116 – Where Commonwealth Director of Public Prosecutions sought declaration under s 141 that forfeited property available to satisfy PPO – Where primary judge dismissed application under s 141 on discretionary grounds – Where majority of Court of Appeal dismissed appeal on basis that s 141 did not apply to property the subject of a restraining order under s 17 – Whether majority of Court of Appeal erred in holding that s 141 does not apply to property subject to restraining orders under s 17 – Whether majority of Court of Appeal erred in construing date of effective control under s 141(1)(c) as date on which application is determined notwithstanding that property was subject of restraining orders under s 17 – Whether primary judge erred in exercising discretion to refuse to make order under s 141.

Appealed from QSC (CA): [\[2016\] QCA 215](#); (2016) 336 ALR 492 and [\[2016\] QCA 284](#)

[Return to Top](#)

Koani v The Queen

[B20/2017](#): [\[2017\] HCATrans 70](#)

Date determined: 6 April 2017 – *Special leave granted.*

Catchwords:

Criminal law – Murder – Criminal negligence – *Criminal Code* 1899 (Qld) ss 289 and 23(1)(a) – Where appellant convicted of murder of de facto partner – Where there was evidence that would allow jury to conclude it was reasonably possible that appellant intended only to frighten deceased – Where trial judge directed jury that, if not satisfied discharge of gun resulted from willed act of appellant, jury could still convict for murder if discharge was consequence of omission to perform duty under s 289 to use reasonable care in his control of shotgun and at time of discharge appellant intended to kill victim or cause grievous bodily harm – Whether criminal negligence in breach of s 289 can found a conviction for murder.

Appealed from QSC (CA): [\[2016\] QCA 289](#)

[Return to Top](#)

The Queen v Dookheea

[M159/2016](#): [\[2016\] HCATrans 284](#)

Date heard: 18 November 2016 – *Special leave granted.*

Catchwords:

Criminal law – Jury directions – Where respondent was convicted of murder – Where trial judge explained to jury “beyond reasonable doubt” – Where Court of Appeal allowed appeal and ordered re-trial – Whether Court of Appeal erred in finding trial judge impermissibly explained meaning of “beyond reasonable doubt” – Whether direction which includes instruction that prosecution does not have to prove case beyond doubt but beyond reasonable doubt constitutes misdirection – Whether substantial miscarriage of justice.

Appealed from VSC (CA): [\[2016\] VSCA 67](#)

[Return to Top](#)

Director of Public Prosecutions v Dalgliesh (A Pseudonym)

[M1/2017](#): [\[2016\] HCATrans 312](#)

Date heard: 16 December 2016 – *Special leave granted.*

Catchwords:

Criminal law – Sentencing – Where respondent convicted on several counts of incest and sexual penetration of a child under 16 – Where offending against daughters of de facto partner – Where 13-year-old victim fell pregnant – Where pregnancy subsequently terminated – Where total effective sentence 5y 6m – Where sentence 3y 6m on charge involving pregnancy – Whether sentence manifestly inadequate on current sentencing principles – Whether s 5(2)(b) *Sentencing Act* 1991 (Vic) alters common law principle of “instinctive synthesis” in sentencing.

Appealed from VSC (CA): [\[2016\] VSCA 148](#)

[Return to Top](#)

Chiro v The Queen

A9/2017: [\[2017\] HCATrans 20](#)

Date heard: 10 February 2017 – *Special leave granted on limited grounds.*

Catchwords:

Criminal law – Sentencing – Where appellant convicted by jury of “persistent sexual exploitation of a child” pursuant to *Criminal Law Consolidation Act* 1935 (SA) s 50 – Where complainant gave evidence of sexual exploitation that ranged in seriousness – Where trial judge directed jury they may convict if unanimously satisfied that appellant kissed complainant in circumstances amounting to indecent assault on two occasions – Whether Court of Criminal Appeal erred in failing to hold trial judge erred in failing to ask jury which sexual offences subject of unanimous guilty verdict for purposes of sentencing – Whether in absence of such answer it was open to sentencing jury to sentence on basis that appellant guilty of all alleged sexual offending.

Appealed from SASC (CCA): [\[2015\] SASCFC 142](#); (2015) 123 SASR 583

[Return to Top](#)

Van Beelen v The Queen

A8/2017: [\[2017\] HCATrans 19](#)

Date heard: 10 February 2017 – *Special leave granted on limited grounds.*

Catchwords:

Criminal law – *Criminal Law Consolidation Act 1935 (SA)* s 353A – Second or subsequent appeal where Court satisfied fresh and compelling evidence that should in interests of justice be considered – Where appellant seeks to appeal against conviction of murder on basis that new evidence shows expert evidence as to time of victim’s death flawed – Whether “fresh” and “compelling” evidence – Whether majority erred in holding further attack on expert evidence precluded because expert evidence contested at trial – Whether evidence could have been adduced at original trial – Whether majority erred in finding principle of finality relevant to s 353A appeal – Whether evidence is “substantial” – Whether in the “interests of justice” to allow appeal.

Appealed from SASC (CCA): [\[2016\] SASCFC 71](#); (2016) 125 SASR 253

[Return to Top](#)

The Queen v Holliday

C3/2017: [\[2017\] HCATrans 21](#)

Date heard: 10 February 2017 – *Special leave granted.*

Catchwords:

Criminal law – Where respondent alleged to have incited the procurement of another person to commit the offence of kidnapping – Whether offence of incitement under *Criminal Code 2002 (ACT)* s 47 can be committed by inciting another person to procure a third person to commit an offence – Whether offence of incitement complete at the point of the urging – Whether *Criminal Code 2002 (ACT)* ss 45(2)(a) and 45(3) constitute a “limitation or qualifying provision” for purposes of s 47(5) such that offence of incitement not complete until offence of kidnapping committed.

Appealed from ACTSC (CA): [\[2016\] ACTCA 42](#); (2016) 312 FLR 77

[Return to Top](#)

Family Law

Thorne v Kennedy

B14/2017: [\[2017\] HCATrans 54](#)

Date heard: 10 March 2017 – *Special leave granted on limited grounds.*

Catchwords:

Family law – *Family Law Act 1975* (Cth) ss 90K, 90KA – Where parties signed financial agreements prior to and shortly after wedding – Where parties subsequently separated – Where trial judge found wife signed agreements under duress – Where Full Court declared second financial agreement binding – Whether financial agreements should be set aside on grounds of duress, undue influence or unconscionable conduct – Whether Full Court erred in finding trial judge failed to provide adequate reasons.

Appealed from FamFC (FC): [\[2016\] FamCAFC 189](#)

[Return to Top](#)

Industrial Law

Regional Express Holdings Limited v Australian Federation of Air Pilots

M155/2016: [\[2017\] HCATrans 105](#)

Date heard: 12 May 2017 – *Special leave granted.*

Catchwords:

Industrial law – *Fair Work Act 2009* (Cth) – *Fair Work (Registered Organisations) Act 2009* (Cth) – Standing – Where appellant sent letter to unidentified persons who applied for cadet employment program – Where respondent, a registered organisation, commenced proceedings in Federal Circuit Court seeking pecuniary penalty orders against appellant on basis letter contravened various provisions of *Fair Work Act* – Where appellant sought orders dismissing or striking out application on basis respondent lacked standing – Whether respondent “entitled to represent the industrial interests” of letter recipients under s 540(6)(b)(ii) because recipients capable of becoming members of respondent despite not actually being members.

Appealed from FCA (FC): [\[2016\] FCAFC 147](#); (2016) 244 FCR 344

[Return to Top](#)

Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union & Anor

M11/2017: [\[2017\] HCATrans 106](#)

Date heard: 12 May 2017 – *Special leave granted.*

Catchwords:

Industrial law – *Fair Work Act 2009* (Cth) – Where respondents admitted contravention of s 348 of the Act – Where pecuniary penalties imposed on respondents – Where primary judge ordered first respondent not to indemnify second respondent against penalties – Where Full Federal Court set aside order on basis that Court had no power to make such order – Whether Federal Court has power to order party not to indemnify another party in respect of pecuniary penalty order made under s 546.

Appealed from FCA (FC): [\[2016\] FCAFC 184](#)

[Return to Top](#)

Aldi Foods Pty Limited v Shop, Distributive & Allied Employees Association & Anor

M33/2017: [\[2017\] HCATrans 48](#)

Date determined: 8 March 2017 – *Special leave granted.*

Catchwords:

Industrial law – Jurisdictional error – *Fair Work Act 2009* (Cth) – Approval of enterprise agreements – Whether Fair Work Commission fell into jurisdictional error in exercising functions under s 186 – Whether within Fair Work Commission’s jurisdiction to determine whether group of employees who voted on single enterprise agreement within coverage of agreement – Whether Fair Work Commission fell into jurisdictional error in determining agreement satisfied “better off overall test” under s 193 – Unreasonableness in jurisdictional sense.

Appealed from FCA (FC): [\[2016\] FCAFC 161](#); (2016) 262 IR 329

[Return to Top](#)

Esso Australia Pty Ltd v Australian Workers’ Union; Australian Workers’ Union v Esso Australia Pty Ltd

M185/2016; M187/2016: [\[2016\] HCATrans 311](#)

Date heard: 16 December 2016 – *Special leave granted on limited grounds.*

Catchwords:

Industrial Law – *Fair Work Act 2009* (Cth) – Construction of s 413(5) – Where s 413(5) requires that certain persons “must not have contravened any orders that apply to them” for industrial action to be protected – Whether under s 413(5) the contravention must be at the relevant time – Whether under s 413(5) the order must be operative.

Industrial Law – *Fair Work Act 2009* (Cth) – Construction of ss 343 and 348 – Where sections prevent actions being taken against another person “with intent to coerce” the other person to take or not take industrial action – Whether sections require knowledge that action was unlawful.

Appealed from FCA (FC): [\[2016\] FCAFC 72](#); (2016) 258 IR 396

Hearing vacated (4 May 2017).

[Return to Top](#)

Judicial Review

Probuild Constructions (Aust) Pty Ltd v Shade Systems Pty Ltd & Anor

S8/2017: [\[2017\] HCATrans 112](#)

Date heard: 12 May 2017 – *Special leave granted.*

Catchwords:

Jurisdiction – Error of law on face of record – *Building and Construction Industry Security of Payment Act 1999* (NSW) – Where adjudicator made determination under s 22(1) that progress payment to be paid by appellant – Where primary judge made order in nature of certiorari under *Supreme Court Act 1970* (NSW) s 69 quashing determination for error of law on face of record – Where Court of Appeal held relief not available to quash determination under Act for error of law on face of record – Whether Court of Appeal erred in holding that Supreme Court’s power to make orders in nature of certiorari for error of law on face of record ousted in relation to determinations under Act.

Appealed from NSWSC (CA): [\[2016\] NSWCA 379](#)

[Return to Top](#)

Maxcon Constructions Pty Ltd v Vadasz & Ors

A10/2017: [\[2017\] HCATrans 112](#)

Date heard: 12 May 2017 – *Special leave granted.*

Catchwords:

Jurisdiction – Error of law on face of record – *Building and Construction Industry Security of Payment Act 2009 (SA)* – Where adjudicator made determination that amount be paid by appellant – Where appellant sought judicial review of determination – Where Full Court considered it was required by *Farah Constructions Pty Ltd v Say-Dee Pty Ltd* (2007) 230 CLR 89 to follow *Shade Systems Pty Ltd v Probuild Constructions (Aust) Pty Ltd (No 2)* [2016] NSWCA 379 (“*Probuild*”) – Whether Full Court erred in following *Probuild* and concluding that Act excluded judicial review on ground of error of law on face of record – Whether Full Court erred in holding that error of law in application of s 12 did not amount to jurisdictional error – Whether Full Court erred in holding that, if error enlivened Court’s jurisdiction to grant certiorari, appropriate order would be to partially set aside but partially preserve determination.

Appealed from SASC (CA): [\[2017\] SASCF 2](#)

[Return to Top](#)

Negligence

Briggs v State of New South Wales

S14/2017: [\[2017\] HCATrans 109](#)

Date heard: 12 May 2017 – *Special leave granted.*

Catchwords:

Negligence – *Works Compensation Act 1987 (NSW)* – Breach of duty – Where appellant suffered psychological injury due to exposure to traumatic events in course of duties as police officer – Where appellant told supervisor he was “struggling” and applied for “theoretical demotion” – Where appellant interviewed by Professional Standards Command while on sick leave – Whether Court of Appeal erred in finding respondent did not breach duty of care by failing to make enquiries as to appellant’s reasons for seeking demotion – Whether Court of Appeal erred in formulation of content of duty of care – Whether Court of Appeal erred in finding respondent did not breach duty of care in manner in which professional standards enquiry conducted while appellant was on sick leave.

Appealed from NSWSC (CA): [\[2016\] NSWCA 344](#); (2016) Aust Tort Reports 82-319

[Return to Top](#)

6: CASES NOT PROCEEDING OR VACATED

7: SPECIAL LEAVE REFUSED

Publication of Reasons: 3 May 2017

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Burke	Commissioner of Police (B11/2017)	Supreme Court of Queensland (Court of Appeal) [2016] QCA 184	Application dismissed [2017] HCASL 96
2.	Kennedy	Secretary, Department of Industry (Commonwealth of Australia) & Anor (C4/2017)	Full Court of the Federal Court of Australia [2017] FCAFC 7	Application dismissed [2017] HCASL 97
3.	Frigger & Anor	Clavey Legal Pty Ltd (P3/2017)	Supreme Court of Western Australia (Court of Appeal) [2016] WASCA 209	Application dismissed [2017] HCASL 98
4.	Nalbandian	Commonwealth of Australia (Australian Bureau of Statistics) (S40/2017)	Federal Court of Australia [2017] FCA 45	Application dismissed [2017] HCASL 99
5.	Valdez	Frazer (S46/2017)	Family Court of Australia	Application dismissed [2017] HCASL 100
6.	BFS16	Minister for Immigration and Border Protection & Anor (S54/2017)	Federal Court of Australia [2017] FCA 142	Application dismissed [2017] HCASL 101
7.	Yadagiri	Minister for Immigration and Border Protection & Anor (S64/2017)	Federal Court of Australia [2017] FCA 145	Application dismissed [2017] HCASL 102
8.	Westcott	South Metropolitan Health Service (P5/2017)	Supreme Court of Western Australia (Court of Appeal) [2016] WASCA 225	Application dismissed with costs [2017] HCASL 103
10.	Norris	Routley (S12/2017)	Supreme Court of New South Wales (Court of Appeal) [2016] NSWCA 367	Application dismissed with costs [2017] HCASL 104

[Return to Top](#)

Publication of Reasons: 10 May 2017

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Dirckze	Holmesglen Institute (M23/2017)	Supreme Court of Victoria [2017] VSC 18	Application dismissed [2017] HCASL 105
2.	Re Lui (M25/2017)		High Court of Australia	Application dismissed [2017] HCASL 106
3.	AMR15	Minister for Immigration and Border Protection & Anor (M30/2017)	Federal Court of Australia [2017] FCA 171	Application dismissed [2017] HCASL 107
4.	ATC15 & Ors	Minister for Immigration and Border Protection & Anor (P4/2017)	Federal Court of Australia [2016] FCA 1420	Application dismissed [2017] HCASL 108
5.	SZVTB	Minister for Immigration and Border Protection & Anor (S49/2017)	Federal Court of Australia [2017] FCA 234	Application dismissed [2017] HCASL 110
6.	ANA16	Minister for Immigration and Border Protection & Anor (S55/2017)	Federal Court of Australia [2017] FCA 155	Application dismissed [2017] HCASL 111

Publication of Reasons: 11 May 2017

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Re Jin (A11/2017)		High Court of Australia	Application dismissed [2017] HCASL 112
2.	Bowman	Transport Accident Commission (M9/2017)	Supreme Court of Victoria (Court of Appeal) [2016] VSCA 120	Application dismissed [2017] HCASL 113
3.	Nugawela	Deputy Commissioner of Taxation (P9/2017)	Supreme Court of Western Australia (Court of Appeal) [2017] WASCA 9	Application dismissed [2017] HCASL 114
4.	Jamal	NSW Police Commissioner & Ors (S38/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 7	Application dismissed [2017] HCASL 115
5.	Ara	Minister for Immigration and Border Protection & Anor (S48/2017)	Federal Court of Australia [2016] FCA 130	Application dismissed [2017] HCASL 116
6.	Cayzer	Minister for Immigration and Border Protection & Anor (H1/2017)	Full Court of the Federal Court of Australia [2016] FCAFC 176	Application dismissed with costs [2017] HCASL 117
7.	Zhang	ROC Services (NSW) Pty Ltd (S21/2017)	Supreme Court of New South Wales (Court of Appeal) [2016] NSWCA 370	Application dismissed with costs [2017] HCASL 118
8.	National Transport Insurance by its manager, NTI Ltd & Ors	Zhang & Ors (S22/2017)	Supreme Court of New South Wales (Court of Appeal) [2016] NSWCA 370	Application dismissed with costs [2017] HCASL 119
9.	Koranteng	The Queen (B3/2017)	Supreme Court of Queensland (Court of Appeal) [2016] QCA 299	Application dismissed [2017] HCASL 120
10.	Edington	Board of Trustees of the State Public Sector Superannuation Scheme (B66/2016)	Supreme Court of Queensland (Court of Appeal) [2016] QCA 247	Application dismissed with costs [2017] HCASL 121
11.	Edington	Board of Trustees of the State Public Sector Superannuation Scheme (B1/2017)	Supreme Court of Queensland (Court of Appeal) [2016] QCA 247	Application dismissed with costs [2017] HCASL 122
12.	Ingham & Ors	Australian Building and Construction Commissioner & Anor (B6/2017)	Full Court of the Federal Court of Australia [2017] FCAFC 3	Application dismissed with costs [2017] HCASL 123

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
13.	SZUUH	Minister for Immigration and Border Protection & Anor (S292/2016)	Federal Court of Australia [2016] FCA 1370	Application dismissed with costs [2017] HCASL 124
14.	Doble Express Transport Pty Ltd (In liquidation)	John L Pierce Pty Ltd (S19/2017)	Supreme Court of New South Wales (Court of Appeal) [2016] NSWCA 352	Application dismissed with costs [2017] HCASL 125
15.	Gould	Deputy Commissioner of Taxation (S29/2017)	Full Court of the Federal Court of Australia [2017] FCAFC 1	Application dismissed with costs [2017] HCASL 126
16.	Russell Associates Ltd	Deputy Commissioner of Taxation (S30/2017)	Full Court of the Federal Court of Australia [2017] FCAFC 1	Application dismissed with costs [2017] HCASL 127
17.	Kamm	State of New South Wales (S90/2017)	Supreme Court of New South Wales (Court of Appeal)	Application for removal dismissed with costs [2017] HCASL 128

12 May 2017: Canberra

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Struber	The Queen (B71/2016)	Supreme Court of Queensland (Court of Appeal) [2016] QCA 288	Special leave refused [2017] HCATrans 103
2.	Vasiliades	Commissioner of Taxation of the Commonwealth of Australia (M6/2017, M7/2017 and M8/2017)	Full Court of the Federal Court of Australia [2016] FCAFC 170	Special leave refused with costs [2017] HCATrans 104
3.	Minister for Immigration and Border Protection	Singh & Anor (M12/2017)	Full Court of the Federal Court of Australia [2016] FCAFC 183	Special leave refused with costs [2017] HCATrans 107
4.	Walker	Sell (S265/2016)	Federal Court of Australia [2016] FCA 1259	Special leave refused with costs [2017] HCATrans 110
5.	The Queen	Barbieri (S6/2017)	Supreme Court of New South Wales (Court of Criminal Appeal) [2016] NSWCCA 295	Special leave refused [2017] HCATrans 111

[Return to Top](#)