



# HIGH COURT BULLETIN

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

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## SUMMARY OF NEW ENTRIES

### [1: Cases Handed Down](#)

<b>Case</b>	<b>Title</b>
<a href="#">Zaburoni v The Queen</a>	Criminal Law
<a href="#">IMM v The Queen</a>	Evidence
<a href="#">Mok v Director of Public Prosecutions (NSW)</a>	Federal Jurisdiction
<a href="#">Fischer &amp; Ors v Nemeske Pty Ltd &amp; Ors</a>	Trusts
<a href="#">Coverdale v West Coast Council</a>	Property

### [2: Cases Reserved](#)

<b>Case</b>	<b>Title</b>
<a href="#">Bell Group NV (In Liq) &amp; Anor v State of Western Australia</a>	Constitutional Law

<a href="#">Maranoa Transport Pty Ltd (In Liq) &amp; Ors v State of Western Australia &amp; Ors</a>	Constitutional Law
<a href="#">WA Glendinning &amp; Associates Pty Ltd v The State of Western Australia</a>	Constitutional Law
<a href="#">Betts v The Queen</a>	Criminal Law
<a href="#">Robinson Helicopter Company Incorporated v McDermott &amp; Ors</a>	Torts

### 3: Original Jurisdiction

<b>Case</b>	<b>Title</b>
<a href="#">Day v Australian Electoral Officer for the State of South Australia v Anor</a>	Constitutional Law
<a href="#">Madden &amp; Ors v Australian Electoral Officer for the State of Tasmania &amp; Ors</a>	Constitutional Law
<a href="#">Murphy v The Electoral Commissioner &amp; Anor</a>	Constitutional Law

### 4: Special Leave Granted

<b>Case</b>	<b>Title</b>
<a href="#">Prince Alfred College Incorporated v ADC</a>	Torts

# 1: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the March 2016 sittings.

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## Criminal Law

*Zaburoni v The Queen*

**B69/2015:** [\[2016\] HCA 12](#)

**Judgment Delivered:** 6 April 2016.

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

**Catchwords:**

Criminal law – Criminal liability – Criminal Code (Q), s 317(b) – Intent to cause specific result – Where appellant HIV positive – Where appellant lied to complainant about his HIV status – Where complainant diagnosed with HIV after frequent unprotected sex with appellant – Whether element of intent to cause specific result satisfied – Whether intent could be inferred from frequency of conduct giving rise to risk of specific result – Whether intent proved by evidence of awareness of risk.

Words and phrases – "awareness of risk", "intent", "motive", "proof of intention", "recklessness", "serious disease", "specific intent".

Criminal Code (Q) – ss 23, 317(b).

**Appealed from QSC (CA):** [\[2014\] QCA 77](#).

**Held:** Appeal allowed.

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## Evidence

*IMM v The Queen*

**D12/2015:** [\[2016\] HCA 14](#)

**Judgment Delivered:** 14 April 2016.

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

**Catchwords:**

Evidence – Admissibility and relevance – Evidence (National Uniform Legislation) Act (NT), ss 97(1)(b), 137 – Where appellant charged with indecent dealing with child and sexual intercourse with child – Where tendency evidence given by complainant that appellant ran his hand up complainant's leg – Where evidence tendered of complaints made by complainant concerning appellant – Whether probative value of evidence assessed on assumption that jury would accept evidence – Whether trial judge should have regard to credibility of witness or reliability of evidence in assessing probative value of evidence – Whether evidence from complainant adduced to show accused's sexual interest can have significant probative value.

Words and phrases – "complaint evidence", "credibility", "danger of unfair prejudice", "probative value", "relevance", "reliability", "significant probative value", "tendency evidence".

Evidence (National Uniform Legislation) Act (NT) – ss 55, 56, 65, 66, 97(1)(b), 101, 137.

**Appealed from NTSC (CCA):** [\[2014\] NTCCA 20](#).

**Held:** Appeal allowed

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## Federal Jurisdiction

*Mok v Director of Public Prosecutions (NSW)*

**S246/2015:** [\[2016\] HCA 13](#)

**Judgment Delivered:** 6 April 2016.

**Coram:** French CJ, Kiefel, Bell, Keane and Gordon JJ.

### **Catchwords:**

Federal jurisdiction – Application of State laws – Service and Execution of Process Act 1992 (Cth) ("SEPA"), s 89(4) – Where appellant arrested in Victoria pursuant to warrant issued in New South Wales – Where order made under s 83(8)(b) of SEPA to return appellant in custody to New South Wales – Where appellant charged with attempting to escape lawful custody under s 310D of Crimes Act 1900 (NSW) ("Crimes Act") – Whether s 89(4) of SEPA applied s 310D of Crimes Act as surrogate federal law – Whether content of applied State law altered – Whether prosecution required to prove all elements of offence under State law.

Words and phrases – "competent authority", "correctional centre",

"court", "escape lawful custody", "inmate", "law of a State", "surrogate federal law".

Constitution – ss 51(xxiv), 52(i).

Commonwealth Places (Application of Laws) Act 1970 (Cth) – s 4.

Judiciary Act 1903 (Cth) – ss 68, 79.

Service and Execution of Process Act 1992 (Cth) – ss 8(4), 81A, 82, 83, 89.

Children (Detention Centres) Act 1987 (NSW) – s 33(1).

Crimes Act 1900 (NSW) – Pt 1A, ss 310A, 310D.

Crimes (Administration of Sentences) Act 1999 (NSW) – ss 3(1), 4.

Interpretation Act 1987 (NSW) – ss 5, 12.

**Appealed from NSWSC (CA):** [\[2015\] NSWCA 98](#).

**Held:** Appeal dismissed with costs.

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## Trusts

*Fischer & Ors v Nemeske Pty Ltd & Ors*

**S223/2015:** [\[2016\] HCA 11](#)

**Judgment Delivered:** 6 April 2016.

**Coram:** French CJ, Kiefel, Bell, Gageler and Gordon JJ.

### Catchwords:

Trusts – Trustees' powers – Power of advancement – Where trust property included shares in a company – Where value of shares recorded in "asset revaluation reserve" – Where trustee made resolution to distribute entire asset revaluation reserve to specified beneficiaries – Where trustee covenanted to pay specified beneficiaries on demand – Whether valid exercise of power to "advance" and "apply" trust capital or income – Whether trustee indebted to specified beneficiaries – Whether action for money had and received maintainable.

Words and phrases – "advance", "apply", "pay", "pay or apply", "raise".

Trustee Act 1925 (NSW) – s 44.

Trustee Act 1925 (UK) – s 32.

**Appealed from NSWSC (CA):** [\[2015\] NSWCA 6](#).

**Held:** Appeal dismissed with costs.

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## Property

*Coverdale v West Coast Council*

**H10/2015:** [\[2016\] HCA 15](#)

**Judgment Delivered:** 14 April 2016.

**Coram:** French CJ, Kiefel, Keane, Nettle and Gordon JJ.

### Catchwords:

Statutes – Interpretation – Meaning of "land" – Meaning of "Crown lands" – Whether "Crown lands" in s 11(1) of Valuation of Land Act 2001 (Tas) includes seabed and waters above it – Whether s 11(1) of Valuation of Land Act and s 2 of Crown Lands Act 1976 (Tas) in pari materia.

Words and phrases – "Crown lands", "in pari materia", "including", "land".

Acts Interpretation Act 1931 (Tas) – s 46.

Crown Lands Act 1976 (Tas) – ss 2, 29.

Local Government Act 1993 (Tas) – Pt 9, s 87(1).

Valuation of Land Act 2001 (Tas) – ss 3, 11.

**Appealed from TASC (FC):** [\[2015\] TASFC 1](#).

**Held:** Appeal dismissed.

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## 2: CASES RESERVED

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

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### Banking

*Paciocco & Anor v Australia and New Zealand Banking Group Limited*

**M219/2015; M220/2015:** [\[2016\] HCATrans 9](#); [\[2016\] HCATrans 10](#).

**Date heard:** 4 February 2016; 5 February 2016.

**Coram:** French CJ, Kiefel, Gageler, Keane and Nettle JJ.

**Catchwords:**

Banking and financial institutions – Consumer protection – *Australian Securities and Investments Commission Act 2001* (Cth) s 12CB – *National Consumer Credit Protection Act 2009* (Cth) s 76 and *Fair Trading Act 1999* (Vic) s 8 – Where first appellant was charged 26 late payment fees on two credit card accounts held with respondent – Where there was a disparity between the fee charged and the loss accrued as a consequence of late payment – Whether the terms “unconscionable”, “unfair” and “unjust”, as used in the statutory causes of action available, are intended to extend the common law in respect of standard form consumer contracts – Whether disproportion between the quantum of late payment fees and cost to respondent associated with late payment gives rise to statutory unconscionability, unjustness or unfairness if the fees were not exorbitant from respondent’s perspective.

**Appealed from FCA (FC):** [\[2015\] FCAFC 50](#).

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### Constitutional Law

*Alqudsi v The Queen*

**S279/2015:** [\[2016\] HCATrans 13](#).

**Date heard:** 10 February 2016.

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

**Catchwords:**

Constitutional law – Trial by jury for Commonwealth indictable offences – Whether s 80 of the Constitution can be read to permit a state Parliament to pass a statute allowing for a trial to be by a judge alone where the prosecution and accused agree or the accused seeks that outcome and the Court considers it in the interest of justice – Whether such a position would be consistent with *Brown v The Queen*.

Orders made on 10 February 2016 dismissing motion. Written reasons of the Court to be published at a future date.

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*Bell Group NV (In Liq) & Anor v State of Western Australia*

**S248/2015:** [\[2016\] HCATrans 78](#); [\[2016\] HCATrans 79](#); [\[2016\] HCATrans 80](#).

**Date heard:** 5 April 2016; 6 April 2016; 7 April 2016

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

**Catchwords:**

Constitution – s 109 – inconsistency – *Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Act 2015* (WA) (“*Bell Group Act*”) – *Income Tax Assessment Act 1936* (Cth), *Income Tax Assessment Act 1997* (Cth) and *Tax Administration Act 1953* (Cth) – whether parts 3 & 4 of the *Bell Group Act* are inconsistent with the Commonwealth’s tax regime – *Judiciary Act 1903* (Cth) – where *Bell Group Act* ends litigation in the Western Australian Supreme Court – where litigation involves federal jurisdiction – whether *Bell Group Act* is inconsistent with *Judiciary Act 1903* (Cth) – whether the *Bell Group Act* is inconsistent with Ch III of the *Constitution* – *Corporations Act 2001* (Cth) – whether *Bell Group Act* is inconsistent with *Corporations Act 2001* (Cth) – whether ss 5F and 5G of the *Corporations Act 2001* (Cth) operate to avoid any inconsistency with the *Bell Group Act* – whether *Bell Group Act* can be severed.

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*Maranoa Transport Pty Ltd (In Liq) & Ors v State of Western Australia & Ors*

**P4/2016:** [\[2016\] HCATrans 78](#); [\[2016\] HCATrans 79](#); [\[2016\] HCATrans 80](#).

**Date heard:** 5 April 2016; 6 April 2016; 7 April 2016



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

**Catchwords:**

Constitution – s 109 – inconsistency – *Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Act 2015* (WA) (“*Bell Group Act*”) – *Income Tax Assessment Act 1936* (Cth), *Income Tax Assessment Act 1997* (Cth) and *Tax Administration Act 1953* (Cth) – whether parts 3 & 4 of the *Bell Group Act* are inconsistent with the Commonwealth’s tax regime – *Corporations Act 2001* (Cth) – whether *Bell Group Act* is inconsistent with *Corporations Act 2001* (Cth) – whether ss 5F and 5G of the *Corporations Act 2001* (Cth) operate to avoid any inconsistency with the *Bell Group Act* – whether *Bell Group Act* can be severed.

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*WA Glendinning & Associates Pty Ltd v The State of Western Australia*

**P63/2015:** [\[2016\] HCATrans 78](#); [\[2016\] HCATrans 79](#); [\[2016\] HCATrans 80](#).

**Date heard:** 5 April 2016; 6 April 2016; 7 April 2016

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

**Catchwords**

Constitution – s 109 – inconsistency – *Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Act 2015* (WA) (“*Bell Group Act*”) – *Income Tax Assessment Act 1936* (Cth), *Income Tax Assessment Act 1997* (Cth) and *Tax Administration Act 1953* (Cth) – whether parts 3 & 4 of the *Bell Group Act* are inconsistent with the Commonwealth’s tax regime – *Judiciary Act 1903* (Cth) – where *Bell Group Act* ends litigation in the Western Australian Supreme Court – where litigation involves federal jurisdiction – whether *Bell Group Act* is inconsistent with *Judiciary Act 1903* (Cth) – whether the *Bell Group Act* is inconsistent with Ch III of the *Constitution* – *Corporations Act 2001* (Cth) – whether *Bell Group Act* is inconsistent with *Corporations Act 2001* (Cth) – whether ss 5F and 5G of the *Corporations Act 2001* (Cth) operate to avoid any inconsistency with the *Bell Group Act* – whether *Bell Group Act* can be severed.

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## Criminal Law

*Nguyen v The Queen*

**S271/2015:** [\[2016\] HCATrans 49](#).

**Date heard:** 10 March 2016.

**Coram:** Bell J, Gageler, Keane, Nettle and Gordon JJ.

**Catchwords:**

Criminal law – Sentencing – Objective seriousness of offending – Whether sentencing judge appropriately considered the objective seriousness of the offending – Whether the principle in *The Queen v De Simoni* prohibits a sentencing judge from having regard to the absence of a fact which would render an offender guilty of a more serious offence where that fact is not an element of the more serious offence.

**Appealed from NSWSC (CCA):** [\[2013\] NSWCCA 195](#).

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*Betts v The Queen*

**S281/2015:** [\[2016\] HCA Trans 82](#).

**Date heard:** 8 April 2016.

**Coram:** French CJ, Kiefel, Bell, Gageler and Gordon JJ.

**Catchwords:**

Criminal law – Sentencing – Where Court of Criminal Appeal found that the sentencing judge made errors in the sentencing of appellant – Where Court of Appeal considered the matter afresh – Whether Court of Appeal erred by failing to consider new evidence when exercising the sentencing discretion afresh.

**Appealed from NSWSC (CCA):** [\[2015\] NSWCCA 39](#).

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## Professions and Trades

*Badenach & Anor v Calvert*

**H12/2015:** [\[2016\] HCATrans 44](#).

**Date heard:** 2 March 2016.

**Coram:** French CJ, Kiefel, Gageler, Keane and Gordon JJ.

**Catchwords:**

Professions and trades – Lawyers – Duties and liabilities – Solicitors’ duties to other persons – Beneficiaries – Where first appellant acted for a testator who had terminal cancer in the preparation of a will – Where respondent was regarded as a son by testator – Where testator had an estranged daughter – Where testator did not disclose existence of estranged daughter and first appellant did not make any inquiries in this respect and did not give any advice as the effect of the *Testator’s Family Maintenance Act 1912* (Tas) on this arrangement – Whether a solicitor retained to draw a will owes a testator a duty of care which extends to inquiries as to the existence of estranged children and advice pursuant to the effect of the Act.

Torts – Negligence – Duty of care – *Civil Liability Act 2002* (Tas) – Whether solicitor owed a duty of care to a non-client beneficiary – Whether damages for loss of opportunity can be awarded where opportunity is hypothetical and dependent on acts of third parties.

**Appealed from TASC (FC):** [\[2015\] TASFC 8](#).

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## Torts

*Attwells & Anor v Jackson Lalic Lawyers Pty Limited*

**S161/2015:** [\[2016\] HCATrans 48](#).

**Date heard:** 8 March 2016.

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

**Catchwords:**

Torts – Negligence – Defences – Advocates’ immunity – Scope – Where respondent gave advice to appellants to agree to a terms of settlement – Where the terms of settlement caused the appellants to accept liability significantly higher than they would have otherwise been liable for if they had not defended the proceedings – Whether advocates’ immunity applies – Whether the advice falls within the boundaries of advocates’ immunity – Whether immunity is attracted in respect of final outcomes not the subject of a judicial determination on the merits.

**Appealed from NSWSC (CA):** [\[2014\] NSWCA 335](#).

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*Robinson Helicopter Company Incorporated v McDermott & Ors*  
**B61/2015:** [\[2016\] HCATrans 83](#).

**Date heard:** 12 April 2016

**Coram:** French CJ, Bell, Keane, Nettle and Gordon JJ.

**Catchwords:**

Torts – Negligence – Where first respondent was a passenger in a Robinson R 22 helicopter which was manufactured by the appellant – Where helicopter crashed, killing the pilot and seriously injuring first respondent – Where it was a failure in the forward flexplate of the helicopter which caused it to crash – Whether appellant is liable for the failures of the helicopter – Whether a manufacturer of goods is to be held liable under ss 75AD and AE of the *Trade Practices Act 1974* (Cth) or in negligence by reason of the maintenance manual calling for a technician to verify the parts without specifying the particular method to do so – Whether appellant should have been held liable without consideration of whether the negligence or breach of the Trade Practices Act was causative of any loss.

**Appealed from QSC (CA):** [\[2014\] QCA 357](#).

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## Workers Compensation

*Military Rehabilitation and Compensation Commission v May*  
**S243/2015:** [\[2016\] HCATrans 45](#).

**Date heard:** 3 March 2016.

**Coram:** French CJ, Kiefel, Gageler, Nettle and Gordon JJ.

**Catchwords:**

Workers' compensation – Injury – *Safety, Rehabilitation and Compensation Act 1988* (Cth) ("Act") – Where respondent enlisted in the Royal Australian Air Force in 1998 – Where respondent lodged a claim under the Act for rehabilitation and compensation in for "low immunity, fatigue, illnesses and dizziness" that respondent claimed was caused by vaccinations he received in the course of his employment in 1998 – Where no specific condition or cause of

symptoms was diagnosed – Whether respondent’s symptoms amount to an “injury” as defined by the Act – Whether an injury as defined by the Act requires a sudden or identifiable physiological change or disturbance of the normal physiological state in an employee – Whether the Act contemplates no more than a physiological change or disturbance of the normal physiological state in the employee.

**Appealed from FCA (FC): [\[2015\] FCAFC 93](#).**

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## 3: ORIGINAL JURISDICTION

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

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### Constitutional Law

*Day v Australian Electoral Officer for the State of South Australia & Anor*

[S77/2016](#): Application for an order to show cause

**Catchwords:**

Constitution – Election of Senators – s 9 – Where constitution requires uniform method for the election of senators – whether *Commonwealth Electoral Act 1918* (Cth) as amended by *Commonwealth Electoral Amendment Act 2016* (Cth) provides for one method for the election of senators – s 7 – Whether allowing a person to vote for a party is contrary to the requirement for a Senator to be directly chosen by the people – Whether the use of a party logo discriminates against independent candidates – Whether the method to elect Senators under the *Commonwealth Electoral Act 1918* (Cth) disenfranchises voters – Whether amendments to the *Commonwealth Electoral Act 1918* (Cth) are contrary to the constitutional guarantee of freedom of political communication – Whether amendments to the *Commonwealth Electoral Act 1918* (Cth) are compatible with the constitutionally prescribed system of representative government.

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*Madden & Ors v Australian Electoral Officer for the State of Tasmania & Ors*

[S109/2016](#): Application for an order to show cause

**Catchwords:**

Constitution – Election of Senators – s 9 – Where constitution requires uniform method for the election of senators – Whether *Commonwealth Electoral Act 1918* (Cth) as amended by *Commonwealth Electoral Amendment Act 2016* (Cth) provides for one method for the election of Senators – s 7 – Whether allowing a person to vote for a party is contrary to the requirement for a Senator to be directly chosen by the people – Whether the use of a party logo discriminates against independent candidates – Whether the method to elect Senators under the *Commonwealth Electoral*

*Act 1918 (Cth)* disenfranchises voters – Whether amendments to the *Commonwealth Electoral Act 1918 (Cth)* are contrary to the constitutional guarantee of freedom of political communication – Whether amendments to the *Commonwealth Electoral Act 1918 (Cth)* are compatible with the constitutionally prescribed system of representative government.

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### *Cunningham & Ors v Commonwealth of Australia & Anor*

**S140/2015:** *Special Case*

#### **Catchwords:**

Constitution – s 51(xxxi) – *Remuneration and Other Legislation Amendment Act 2011 (Cth)* – *Members of Parliament (Life Gold Pass) and Other Legislation Amendment Act 2012 (Cth)* – Acquisition of property on just terms – Where applicants are former members of the House of Representatives – Where applicants occupied positions as Ministers of State or where officeholders of the Parliament or of a House of Parliament – Where Parliament reduced the ‘retiring allowance’ of past members – Where Parliament restricted the number of return trips per year using the ‘Gold Pass’.

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### *Murphy v The Electoral Commissioner & Anor*

**M247/2015:** *Special Case*

#### **Catchwords:**

Constitutional law – Legislative power – Franchise – Constitutional limitations upon power of Parliament to regulate exercise of entitlement to enrol to vote – Date for close of Electoral Rolls in Commonwealth Electoral Act 1918 (Cth) – Where Act suspends the enrolment or transfer of enrolment of electors in the period between the close of the Rolls and the close of the poll – Whether denial of enrolment effected by Act contravenes constitutional requirement that representatives be “directly chosen by the people” – Whether amendments operated as disqualification from entitlement to vote and, if so, whether disqualification for substantial reason – Relevance of *Roach v Electoral Commissioner (2007)* 233 CLR 162 – Relevance of *Rowe v Electoral Commissioner (2010)* 243 CLR 1.

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See also **Native Title**: *Quandamooka Yoolooburrabee Aboriginal Corporation RNTBC v State of Queensland*

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## Migration

*The Maritime Union of Australia & Anor v Minister for Immigration and Border Protection & Anor*

**S136/2015**: *Special case.*

### Catchwords:

Migration – Categories of visas – *Migration Act 1958* (Cth) (“Act”) – Where Act contains a regime under which non-citizens working in the offshore resources industries must hold permanent or prescribed temporary visas – Where Minister made two Determinations which excluded some off-shore activities from the regime - Whether Determinations IMMI 14/073 and IMMI 14/074 made pursuant to s 9A(6) of the Act by the Minister are valid.

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## Native Title

*Quandamooka Yoolooburrabee Aboriginal Corporation RNTBC v State of Queensland*

**B26/2014**: *Special case.*

### Catchwords:

Native title – Indigenous Land Use Agreement (“ILUA”) – *North Stradbroke Island Protection and Sustainability Act 2011* (Qld) (“Principal Act”) – *North Stradbroke Island Protection and Sustainability and Another Act Amendment Act 2013* (Qld) (“Amendment Act”) – Amendment Act allowed for renewal of four mining leases for periods longer than those provided in Principal Act – Amendment Act replaced environmental authority provisions in Principal Act with new s 17 which no longer applied conditions to two mining leases – ILUA registered as area agreement under ss 24CA to 24CL of *Native Title Act 1993* (Cth) (“NTA”) – Whether ILUA binds defendant not to enact ss 9 and 12 of Amendment Act.

Constitutional law – Inconsistency – Commonwealth Constitution, s 109 – Whether Amendment Act is invalid under s 109 of Constitution by reason of inconsistency between Amendment Act and ss 24EA and 87 of NTA.



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## 4: SPECIAL LEAVE GRANTED

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

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### Criminal Law

*Miller v The Queen*

**A28/2015:** [\[2015\] HCATrans 296](#).

**Date heard:** 13 November 2015 – *Special leave granted*.

**Catchwords:**

Criminal law – *Criminal Law Consolidation Act 1935* (SA) ss 11, 24(1), 269 - Murder – Intention – Where appellant was convicted of one count of murder and one count of aggravated causing of harm with two others – Where appellant was convicted on the basis of joint criminal enterprise or extended joint criminal enterprise - Where appellant was highly intoxicated – Where evidence was given that this intoxication significantly impaired appellant’s decision-making – Whether appellant was too intoxicated to form the relevant intention for a conviction of murder.

**Appealed from SASC (FC):** [\[2015\] SASCF 53](#).

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*Presley v The Director of Public Prosecutions for the State of South Australia*

**A17/2015:** [\[2016\] HCATrans 17](#).

**Date Heard:** 12 February 2016 – *Referred to the Full Court*.

**Catchwords:**

Criminal law – *Criminal Law Consolidation Act 1935* (SA) ss 11, 24(1), 269 - Murder – Intention – Where appellant was convicted of one count of murder – Where appellant plead guilty to one count of aggravated causing of harm with intent to cause harm – Where appellant was convicted on the basis of joint criminal enterprise or extended joint criminal enterprise - Where appellant was highly intoxicated – Where evidence was given that this intoxication significantly impaired appellant’s decision-making – Whether appellant was too intoxicated to form the relevant intention for a conviction of murder.

**Appealed from SASC (FC):** [\[2015\] SASCF 53](#).

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*Smith v The Queen*

**A22/2015:** [\[2016\] HCATrans 16](#).

**Date Heard:** 12 February 2016 – *Referred to the Full Court*.

**Catchwords:**

Criminal law – *Criminal Law Consolidation Act 1935* (SA) ss 11, 24(1), 269 - Murder – Intention – Where appellant was convicted of one count of murder and one count of aggravated causing of harm with two others – Where appellant was convicted on the basis of joint criminal enterprise or extended joint criminal enterprise - Where appellant was highly intoxicated – Where evidence was given that this intoxication significantly impaired appellant’s decision-making – Whether appellant was too intoxicated to form the relevant intention for a conviction of murder.

**Appealed from SASC (FC):** [\[2015\] SASCF 53](#).

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*Graham v The Queen*

**B14/2016:** [\[2016\] HCATrans 62](#).

**Date Heard:** 11 March 2016 – *Special leave granted*.

**Catchwords:**

Criminal law – misdirection and non-direction – effect of misdirection or non-direction – where the appellant was convicted after a trial of attempted murder – where the defence of self-defence was raised at trial under ss 271(1), 271(2) and 272(1) of the Criminal Code – where the trial judge gave detailed directions to the jury about each form of self-defence – where the trial judge provided further directions to the jury at their request – where no redirection was sought at trial – whether the trial judge failed to properly direct the jury as to the defence of self-defence under ss 271(1), 271(2) and 272(1) of the Criminal Code.

**Appealed from QCA:** [\[2015\] QCA 137](#).

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*Sio v The Queen*

**S83/2016:** [\[2016\] HCATrans 56](#).

**Date Heard:** 11 March 2016 – *Special leave granted on limited grounds.*

**Catchwords:**

Criminal law – conviction appeal – armed robbery – joint criminal enterprise – unreasonable verdict – where appellant was acquitted of constructive murder based on the appellant’s participation in a joint criminal enterprise to commit armed robbery – where appellant was convicted of armed robbery with wounding – whether appellant’s conviction on alternative count is inconsistent with acquittal on principle count.

Criminal law – evidence – hearsay rule – accomplice – made admission against interest in police interview – accomplice not available - whether the trial judge was required to take into account the “demonstrable unreliability” of individual representations to determine whether interview was “made in circumstance that made it likely the representation was reliable”.

**Appealed from NSWSC (CCA):** [\[2015\] NSWCCA 42](#).

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*Zefi v The Director of Public Prosecutions; Jakaj v The Director of Public Prosecutions; Stakaj v The Director of Public Prosecutions; NH v The Director of Public Prosecutions*

**A16/2016; A15/2016; A19/2016; A14/2016:** [\[2016\] HCATrans 65](#); [\[2016\] HCATrans 84](#).

**Date heard:** 11 March 2016 – *Special leave granted*

**Catchwords:**

Criminal law – procedure – jury – verdict – alternative verdict – exercise of jurisdiction – whether the Supreme Court of a State has an inherent jurisdiction to set aside perfected orders that there be a conviction or acquittal – whether open to the court to admit evidence of the 12 (former) jurors in relation to whether the jury had determined to return a verdict of not guilty of the charge of murder.

**Appealed from SASC (CCA):** [\[2015\] SASCF 139](#).

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## Competition

*Australian Competition & Consumer Commission v Flight Centre Travel Group Limited*

**B15/2016:** [\[2016\] HCATrans 59](#).

**Date heard:** 11 March 2016 – *Special leave granted*.

**Catchwords:**

Competition – whether appellant travel agent attempted to induce specific airlines to make a contract, arrangement or arrive at an understanding which had the purpose or effect of substantially lessening competition in a market – consideration of relevant market – characterisation of relevant services supplied by airlines and travel agents – whether airlines and travel agents competed in a market for booking and distribution services, or whether the only relevant market was the market for international passenger air travel services – whether travel agents competed with airlines in that market given they were the agent of the airlines when supplying such services – application of ss 45 and 45A of the *Trade Practices Act 1974* (Cth)

**Appealed from FCAFC:** [\[2015\] FCAFC 104](#).

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## Discrimination

*Lyons v State of Queensland*

**B16/2016:** [\[2016\] HCATrans 60](#).

**Date Heard:** 11 March 2016 – *Special leave granted*.

**Catchwords:**

Discrimination – direct discrimination – where the appellant, who was deaf, was excluded from jury service by a Deputy Registrar – where the appellant made a complaint of direct discrimination – construction of s 11 of the *Anti-Discrimination Act 1991* (Qld) – where the appellant argues that her impairment was inextricably linked to her requirement of an Auslan interpreter – construction of *Jury Act 1995* (Qld).

**Appealed from QCA:** [\[2015\] QCA 159](#).

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## Equity

*Crown Melbourne Limited v Cosmopolitan Hotel (Vic) Pty Ltd & Anor*

**M253/2015:** [\[2015\] HCATrans 335](#).

**Date heard:** 11 December 2015 – *Special leave granted*.

**Catchwords:**

Equity – Promissory estoppel – Where respondent operated restaurants at appellant’s complex - Where the appellant made representations to the respondent that if certain refurbishments were made respondent would be “looked after” when it came time to renew the lease for the premises – Whether an ambiguous representation is capable of founding a promissory estoppel – Whether a promissory estoppel can be found to exist by proving the making and the resiling from a representation made.

**Appealed from VSC (CA):** [\[2014\] VSCA 353](#).

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## Family

*Hall v Hall*

**A7/2016:** [\[2016\] HCATrans 23](#).

**Date Heard:** 12 February 2016 – *Special leaved granted on limited grounds*.

**Catchwords:**

Family – spousal maintenance – appeal from an interlocutory order – where primary judge made order that respondent husband pay spousal maintenance on the basis that applicant wife was ‘unable to support herself adequately’ under s 72(1) *Family Law Act* 1975 (Cth) – where applicant wife’s deceased father’s will contains ‘wish’ that the applicant wife receives annual payment of \$150,000 net of income tax until such time as she receives a payment of \$16.5 million – whether voluntary payment is a ‘financial resource’ under the *Family Law Act* 1975 (Cth).

**Appealed from FamCA (FC):** [\[2015\] FamCAFC 154](#).

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## Migration

*Minister for Immigration and Border Protection & Anor v SZSSJ & Anor; Minister for Immigration and Border Protection & Ors v SZTZI*

**S75/2016; S76/2016:** [\[2016\] HCATrans 55](#).

**Date heard:** 11 March 2016 – *Special leave granted*.

**Catchwords:**

Migration – procedural fairness – whether the processes adopted by the Department for considering consequences of release of personal information for protection visa applicant in immigration detention procedurally fair – whether the Full Court erred in finding that s 197C of the *Migration Act 1958* does not apply because the respondent had an accrued right not to be removed from Australia under s 198 until a procedurally fair assessment of his/her non-refoulement claims was conducted – whether Federal Circuit Court has jurisdiction to determine the claims – whether the rules of procedural fairness apply to conduct preparatory to the Minister’s dispensing powers under s 48B, 195A and 417 – whether the conduct of officers of the Department are capable of generating an obligation of procedural fairness in circumstances in which the rules of procedural fairness would not otherwise apply.

**Appealed from FCA (FC):** [\[2015\] FCAFC 125](#).

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## Torts

*Prince Alfred College Incorporated v A, DC*

**A31/2015:** [\[2016\] HCATrans 89](#).

**Date Heard:** 15 April 2016 – *Special Leave Granted*

**Catchwords:**

Torts – Negligence – Negligence of school authorities or teachers – Liability of employer – Limitation of actions – Extension of time in personal injuries matters – Knowledge of material facts of decisive character – Principles upon which discretion to grant extension of time – Whether Full Court erred in granting extension of time.

**Appeal from SASC(FC):** [\[2015\] SASCFC 161](#)

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See also **[Professions and Trades](#)**: *Badenach & Anor v Calvert*.

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## Workers' Compensation

*Deal v Kodakkathanath*

**M252/2015:** [\[2015\] HCATrans 333](#).

**Date heard:** 11 December 2015 – *Special leave granted*.

### Catchwords:

Workers' compensation – Accident compensation – *Occupational Health and Safety Regulations 2007* (Vic) r 3.1.2 ("regulations") – Where appellant fell off a step ladder whilst attempting to remove large displays from a wall and suffered a knee injury – Whether "associated with" in the phrase "associated with a hazardous manual handling task affecting an employee" requires a close connection between the manual handling task and the anticipated risk – Whether injury is the kind that the regulations are designed to prevent – Whether regulations should be interpreted to apply to an injury occasioned by the stresses or forces involved in the activity.

**Appealed from VSC (CA):** [\[2015\] VSCA 191](#).

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## 5: CASES NOT PROCEEDING OR VACATED

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### Administrative Law

*Acquista Investments Pty Ltd & Anor v The Urban Renewal Authority & Ors*

**A29/2015:** [\[2015\] HCATrans 295](#).

**Date discontinued:** 4 April 2016

**Catchwords:**

Administrative law – Judicial review – Grounds of review – Delegation of power – Where first respondent entered into a deed with the Minister for State Development and third respondent to grant third respondent options to purchase 407 hectares of land owned by first respondent – Where Cabinet had made decision to enter into Deed, purportedly on behalf of first respondent – Where appellants had previously expressed interest in purchasing the property – Whether the decision of first respondent to entered into a deed granting third respondent options to purchase is amenable to judicial review – Whether a valid delegation and exercise of power under relevant legislation or executive power occurred – Whether decision to enter into deed was legally unreasonable and ultra vires in the circumstances.

**Appealed from SASC (FC):** [\[2015\] SASCF 91](#).

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### Migration

*The Maritime Union of Australia & Anor v Minister for Immigration and Border Protection & Anor*

**S136/2015:** [\[2015\] HCATrans 341](#). *Special case*.

**Date Heard:** 10 February 2016 - hearing vacated.

**Catchwords:**

Migration – Categories of visas – *Migration Act 1958* (Cth) (“Act”) – Where Act contains a regime under which non-citizens working in the offshore resources industries must hold permanent or

prescribed temporary visas - Where Minister made two Determinations which excluded some off-shore activities from the regime - Whether Determinations IMMI 14/073 and IMMI 14/074 made pursuant to s 9A(6) of the Act by the Minister are valid.

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## 6: SPECIAL LEAVE REFUSED

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### Publication of Reasons: 5 April 2016

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<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	Oakes	Chief Executive, Department of the Premier & Cabinet (SA) & Anor (A26/2015)	Supreme Court of South Australia [2015] SASCFC 144	Application dismissed with costs <a href="#">[2016] HCASL 20</a>
2.	Whittaker	The Queen (B40/2015)	Supreme Court of Queensland (Court of Appeal) [2015] QCA 116	Application dismissed <a href="#">[2016] HCASL 21</a>
3.	Medical Board of Australia	Broadbent (B46/2015)	Federal Court of Australia [2015] FCA 717	Application dismissed with costs <a href="#">[2016] HCASL 22</a>
4.	Redmond	Deputy Commissioner of Taxation (B58/2015)	Supreme Court of Queensland (Court of Appeal) [2015] QCA 172	Application dismissed with costs <a href="#">[2016] HCASL 23</a>
5.	Bodycorp Repairers Pty Ltd	Australian Associated Motor Insurers Ltd (trading as AAMI) & Anor (M78/2015)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 73	Application dismissed with costs <a href="#">[2016] HCASL 24</a>
6.	de Saram & Anor	Brown & Anor (M136/2015)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 142	Application dismissed with costs <a href="#">[2016] HCASL 25</a>

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## Publication of Reasons: 6 April 2016

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	BZAHB	Minister for Immigration and Border Protection & Anor (B72/2015)	Federal Court of Australia [2015] FCA 1205	Application dismissed <a href="#">[2016] HCASL 26</a>
2.	ARP15 & Ors	Minister for Immigration and Border Protection & Anor (B73/2015)	Federal Court of Australia [2015] FCA 1220	Application dismissed <a href="#">[2016] HCASL 27</a>
3.	Yabsley	The Queen (H1/2016)	Supreme Court of Tasmania (Court of Criminal Appeal) [2015] TASCCA 25	Application dismissed <a href="#">[2016] HCASL 28</a>
4.	Kezic	St John of God Health Care Inc (P49/2015) to P52/2015)	Supreme Court of Western Australia (Court of Appeal) [2015] WASCA 220	Application dismissed <a href="#">[2016] HCASL 29</a>
5.	Francuziak	Minister for Justice (P57/2015)	Full Court of the Federal Court of Australia [2015] FCAFC 162	Application dismissed <a href="#">[2016] HCASL 30</a>
6.	N'Ge Sala	NSW Police Force (S242/2015)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 76	Application dismissed <a href="#">[2016] HCASL 31</a>
7.	SZTMC	Minister for Immigration and Border Protection & Anor (S249/2015)	Federal Court of Australia [2015] FCA 1282	Application dismissed <a href="#">[2016] HCASL 32</a>
8.	Uddin	Minister for Immigration and Border Protection & Anor (S286/2015)	Federal Court of Australia [2015] FCA 1375	Application dismissed <a href="#">[2016] HCASL 33</a>
9.	SZTFZ	Minister for Immigration and Border Protection & Anor (S288/2015)	Federal Court of Australia [2015] FCA 1347	Application dismissed <a href="#">[2016] HCASL 34</a>
10.	SZVBB	Minister for Immigration and Border Protection & Anor (S6/2016)	Federal Court of Australia [2015] FCA 1414	Application dismissed <a href="#">[2016] HCASL 35</a>
11.	Montenegro	Prothonotary of the Supreme Court of New South Wales (S22/2016)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 409	Application dismissed <a href="#">[2016] HCASL 36</a>

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
12.	Simmons	The Queen (B66/2015)	Supreme Court of Queensland (Court of Appeal) [2015] QCA 194	Application dismissed <a href="#">[2016] HCASL 37</a>
13.	SZTES	Minister for Immigration and Border Protection & Ors (S253/2015)	Full Court of the Federal Court of Australia [2015] FCAFC 158	Application dismissed with costs <a href="#">[2016] HCASL 38</a>
14.	Davint	Malburon (M235/2015)	Family Court of Australia No media neutral citation	Application dismissed with costs <a href="#">[2016] HCASL 39</a>

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## Publication of Reasons: 7 April 2016

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Boz One Pty Ltd & Anor	McLellan & Ors (M210/2015)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 68	Application dismissed <a href="#">[2016] HCASL 40</a>
2.	Slaveski	The Queen (M237/2015)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 264	Application dismissed <a href="#">[2016] HCASL 41</a>
3.	Schaefer	Gregory (P56/2015)	Supreme Court of Western Australia (Court of Appeal) [2015] WASCA 222	Application dismissed <a href="#">[2016] HCASL 42</a>
4.	Christian	Societe Des Produits Nestle SA & Ors (S239/2015)	Full Court of the Federal Court of Australia [2015] FCAFC 153	Application dismissed <a href="#">[2016] HCASL 43</a>
5.	AIY15	Minister for Immigration and Border Protection & Anor (S251/2015)	Federal Court of Australia [2015] FCA 1180	Application dismissed <a href="#">[2016] HCASL 44</a>
6.	SZXTU & Anor	Minister for Immigration and Border Protection & Anor (S252/2015)	Federal Court of Australia [2015] FCA 1210	Application dismissed <a href="#">[2016] HCASL 45</a>
7.	AAX15	Minister for Immigration and Border Protection & Anor (S256/2015)	Federal Court of Australia [2015] FCA1206	Application dismissed <a href="#">[2016] HCASL 46</a>
8.	Liu	Minister for Immigration and Border Protection & Anor (S284/2015)	Federal Court of Australia [2015] FCA 1368	Application dismissed <a href="#">[2016] HCASL 47</a>
9.	AOY15	Minister for Immigration and Border Protection & Anor (S289/2015)	Federal Court of Australia [2015] FCA 1348	Application dismissed <a href="#">[2016] HCASL 48</a>
10.	Kapoor	Kapoor (S14/2016)	Family Court of Australia No media neutral citation	Application dismissed <a href="#">[2016] HCASL 49</a>
11.	McGinn	Cranbrook School (S16/2016)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 419	Application dismissed <a href="#">[2016] HCASL 50</a>

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
12.	ASW15 & Ors	Minister for Immigration and Border Protection & Anor (S24/2016)	Federal Court of Australia [2015] FCA 1484	Application dismissed with costs <a href="#">[2016] HCASL 51</a>
13.	BZAED	Minister for Immigration and Border Protection & Anor (B27/2015)	Federal Court of Australia [2015] FCA 436	Application dismissed with costs <a href="#">[2016] HCASL 52</a>
14.	Lee	Australia and New Zealand Banking Group Limited ACN 005 357 522 (B49/2015)	Supreme Court of Queensland No media neutral citation	Application dismissed with costs <a href="#">[2016] HCASL 53</a>
15.	APN DF2 Project 2 Pty Ltd	Grocon Constructors (Victoria) Pty Ltd & Anor (M188/2015)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 190	Application dismissed with costs <a href="#">[2016] HCASL 54</a>
16.	Guss	Deputy Commissioner of Taxation (M208/2015)	Federal Court of Australia [2015] FCA 841	Application dismissed with costs <a href="#">[2016] HCASL 55</a>
17.	AJH Lawyers	Mathieson Nominees Pty Ltd & Anor (M218/2015)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 227	Application dismissed with costs <a href="#">[2016] HCASL 56</a>
18.	MZZMG	Minister for Immigration and Border Protection & Anor (M238/2015)	Full Court of Federal Court of Australia [2015] FCAFC 134	Application dismissed with costs <a href="#">[2016] HCASL 57</a>
19.	Taylor	Wilkins (M242/2015)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 273	Application dismissed with costs <a href="#">[2016] HCASL 58</a>
20.	Aircraft Support Industries Pty Limited	William Hare UAE LLC (S177/2015)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 229	Application dismissed with costs <a href="#">[2016] HCASL 59</a>
21.	SZTJF	Minister for Immigration and Border Protection & Anor (S219/2015)	Federal Court of Australia [2015] FCA 1052	Application dismissed with costs <a href="#">[2016] HCASL 60</a>
22.	Bant	Clayton (B77/2015)	Full Court of the Family Court of Australia No media neutral citation	Application dismissed with costs <a href="#">[2016] HCASL 61</a>
23.	Vartuli & Anor	Chief Commissioner of State Revenue (S277/2015)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 372	Application dismissed with costs <a href="#">[2016] HCASL 62</a>

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## Publication of Reasons: 13 April 2016

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	BZAHA	Minister for Immigration and Border Protection & Anor (B53/2015)	Federal Court of Australia [2015] FCA 942	Application dismissed <a href="#">[2016] HCASL 63</a>
2.	Berg	Director of Public Prosecutions (B64/2015)	Supreme Court of Queensland (Court of Appeal) [2015] QCA 196	Application dismissed <a href="#">[2016] HCASL 64</a>
3.	BZAIN	Minister for Immigration and Border Protection & Anor (B76/2015)	Federal Court of Australia [2015] FCA 1335	Application dismissed <a href="#">[2016] HCASL 65</a>
4.	Agapis	A Deputy President of the Administrative Appeals Tribunal at Perth & Ors (P47/2015)	High Court of Australia [2015] HCATrans 246	Application dismissed <a href="#">[2016] HCASL 66</a>
5.	Nyoni	Murphy (P64/2015)	Supreme Court of Western Australia (Court of Appeal) [2014] WASCA 70	Application dismissed <a href="#">[2016] HCASL 67</a>
6.	SZTPI	Minister for Immigration and Border Protection & Anor (S181/2015)	Federal Court of Australia [2015] FCA 980	Application dismissed <a href="#">[2016] HCASL 68</a>
7.	SZVFB	Minister for Immigration and Border Protection & Anor (S267/2015)	Federal Court of Australia [2015] FCA 1301	Application dismissed <a href="#">[2016] HCASL 69</a>
8.	AOM15	Minister for Immigration and Border Protection & Anor (S273/2015)	Federal Court of Australia [2015] FCA 1285	Application dismissed <a href="#">[2016] HCASL 70</a>
9.	McCarthy	National Australia Bank Limited (S280/2015)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 370	Application dismissed <a href="#">[2016] HCASL 71</a>
10.	SZSTS	Minister for Immigration and Border Protection & Anor (S9/2016)	Federal Court of Australia [2015] FCA 1031	Application dismissed <a href="#">[2016] HCASL 72</a>
11.	Islam	Minister for Immigration and Border Protection & Anor (S11/2016)	Federal Court of Australia [2015] FCA 1417	Application dismissed <a href="#">[2016] HCASL 73</a>
12.	Schultz	Bank of Queensland Limited (B68/2015)	Supreme Court of Queensland (Court of Appeal) [2015] QCA 208	Application dismissed with costs <a href="#">[2016] HCASL 74</a>



6: Special Leave Refused

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
13.	Aitchison	The Queen (M9/2016)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 348	Application dismissed <a href="#">[2016] HCASL 75</a>
14.	Robson & Anor	White Ant Co Pty Ltd (S255/2015)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 345	Application dismissed with costs <a href="#">[2016] HCASL 76</a>
15.	SZTJK	Minister for Immigration and Border Protection & Anor (S282/2015)	Federal Court of Australia No media citation	Application dismissed with costs <a href="#">[2016] HCASL 77</a>

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## 15 April 2016: Melbourne

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<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	Karam	The Queen (M55/2015)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 50	Application dismissed <a href="#">[2016] HCATrans 91</a>
2.	Sandhu	Minister for Immigration and Border Protection & Anor (M200/2015)	Federal Court of Australia [2015] FCA 987	Application dismissed with costs <a href="#">[2016] HCATrans 90</a>
3.	McCarthy	State of New South Wales (S228/2015)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 153	Application dismissed with costs <a href="#">[2016] HCATrans 88</a>

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