



HIGH COURT BULLETIN

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High Court of Australia Library
[2019] HCAB 7 (24 September 2019)

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

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1: SUMMARY OF NEW ENTRIES

2: Cases Handed Down

Case	Title
<i>Minoque v State of Victoria</i>	Constitutional Law
<i>Taylor v Attorney-General of the Commonwealth</i>	Criminal Practice
<i>Lee v Lee & Ors; Hsu v RACQ Insurance Limited; Lee v RACQ Insurance Limited</i>	Insurance Law
<i>Brisbane City Council v Amos</i>	Limitation of Actions
<i>Bell Lawyers Pty Ltd v Pentelow & Anor</i>	Practice and Procedure

3: Cases Reserved

Case	Title
<i>De Silva v The Queen</i>	Criminal Law
<i>Fennell v The Queen</i>	Criminal Law

<i>HT v The Queen & Anor</i>	Criminal Law
<i>State of New South Wales v Robinson</i>	Tort Law

4: Original Jurisdiction

Case	Title
<i>Smethurst & Anor v Commissioner of Police & Anor</i>	Constitutional Law

5: Section 40 Removal

Case	Title
<i>KMC v Director of Public Prosecutions (SA)</i>	Constitutional Law

6: Special Leave Granted

Case	Title
<i>Moore v Scenic Tours Pty Ltd</i>	Consumer Protection
<i>Pickett v The State of Western Australia; Mead v The State of Western Australia; Mead v The State of Western Australia; Anthony v The State of Western Australia; TSM (A Child) v The State of Western Australia</i>	Criminal Law
<i>Strbak v The Queen</i>	Criminal Law
<i>Swan v The Queen</i>	Criminal Law
<i>Mackellar Mining Equipment Pty Ltd and Dramatic Investments Pty Ltd t/as Partnership 818 & Anor v Thornton & Ors</i>	Private International Law

7: Cases Not Proceeding or Vacated

8: Special Leave Refused

2: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the September 2019 sittings.

Constitutional Law

Minogue v State of Victoria

M162/2018: [\[2019\] HCA 31](#)

Judgment delivered: 11 September 2019

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

Catchwords:

Constitutional law – State Parliament – Constitution – Ch III – Where plaintiff convicted of murder of police officer – Where plaintiff sentenced to imprisonment for life with non-parole period – Where plaintiff's non-parole period expired – Where s 74AB of *Corrections Act 1986* (Vic) prevented making of parole order in respect of plaintiff unless Adult Parole Board satisfied plaintiff in imminent danger of dying or seriously incapacitated and does not have physical ability to harm any person, and does not pose risk to community – Where s 74AB identified plaintiff by name and applied only to plaintiff – Where plaintiff not in imminent danger of dying or seriously incapacitated – Where s 74AAA of *Corrections Act* imposed conditions for making parole order if person convicted of murder and victim police officer – Whether ss 74AB and 74AAA contrary to Ch III of *Constitution* and therefore invalid – Whether ss 74AB and 74AAA impermissibly legislatively resentenced plaintiff – Whether ss 74AB and 74AAA impose additional or separate punishment to that imposed by sentencing court – Whether s 74AB distinguishable from provision upheld in *Knight v Victoria* (2017) 261 CLR 306; [2017] HCA 29 – Whether *Knight* and *Crump v New South Wales* (2012) 247 CLR 1; [2012] HCA 20 should be reopened.

Words and phrases – "additional or separate punishment", "judicial power", "legislative punishment", "legislatively resentenced", "life imprisonment", "minimum term", "more punitive or burdensome to liberty", "non-parole period", "opportunity to be considered for release on parole", "parole", "severity of the punishment", "substantive operation and practical effect".

Constitution, Ch III.

Corrections Act 1986 (Vic), ss 74AAA, 74AB, 127A.

Referred to Full Court on 5 April 2019

Held: Questions answered.

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Criminal Practice

Taylor v Attorney-General of the Commonwealth

M36/2018: [\[2019\] HCA 30](#)

Judgment delivered: 11 September 2019

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

Catchwords:

Criminal practice – Private prosecution – Authority to prosecute – Where private citizen sought to commence criminal proceeding for offence of crime against humanity contrary to s 268.11 of *Criminal Code* (Cth) – Where offence located within Div 268 of *Criminal Code* – Where s 268.121(1) provides that proceedings under Div 268 must not be commenced without Attorney-General's written consent – Where Attorney-General did not consent – Where s 268.121(2) of *Criminal Code* provides that offence against Div 268 "may only be prosecuted in the name of the Attorney-General" – Where s 13(a) of *Crimes Act 1914* (Cth) provides that any person may "institute proceedings for the commitment for trial of any person in respect of any indictable offence against the law of the Commonwealth" unless contrary intention appears – Whether s 268.121(2) expresses contrary intention for purpose of s 13(a) – Whether s 268.121(2) precludes private prosecution of offence against Div 268.

Words and phrases – "commencement of proceedings", "committal", "consent", "consent of the Attorney-General", "contrary intention", "crime against humanity", "in the name of", "indictable offence against the law of the Commonwealth", "private prosecution", "prosecuted in the name of the Attorney-General", "relator proceeding", "right to prosecute", "summary proceedings", "trial on indictment".

Crimes Act 1914 (Cth), s 13(a).

Criminal Code (Cth), ss 268.11, 268.121.

Judiciary Act 1903 (Cth), ss 68, 69.

Referred to Full Court on 8 March 2019

Held: Questions answered on 19 June 2019.

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Insurance Law

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

[B61/2018](#); [B62/2018](#); [B63/2018](#): [\[2019\] HCA 28](#)

Judgment delivered: 4 September 2019

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

Catchwords:

Insurance law – Motor vehicles – Personal injury – Where appellant injured in motor vehicle collision – Where appellant gave evidence father driving vehicle at time of collision – Where appellant alleged injuries caused by negligence of father – Where appellant's blood located on driver's airbag – Where expert evidence relating to possible source of blood – Where expert evidence relating to seatbelt and airbag design – Where trial judge concluded appellant driving vehicle – Where Court of Appeal dismissed appeal – Whether trial judge's findings glaringly improbable or contrary to compelling inferences.

Appeal – Rehearing – Where trial judge drew inferences and made findings of fact based on lay and expert evidence – Where Court of Appeal found inferences wrong in material respects – Whether Court of Appeal erred in failing to conclude trial judge misused advantage as trial judge – Whether Court of Appeal failed to conduct "real review" of evidence given and trial judge's reasons for judgment.

Words and phrases – "contrary to compelling inferences", "glaringly improbable", "real review", "trial judge's advantage".

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

Held: In B61/2018, appeal allowed and third respondent to pay appellant's costs; in B62/2018, appeal allowed with costs; in B63/2018, appeal allowed with costs.

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Limitation of Actions

Brisbane City Council v Amos

[B47/2018](#): [\[2019\] HCA 27](#)

Judgment delivered: 4 September 2019

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

Catchwords:

Limitation of actions – Debts created by statute – Debts secured by charge – Where Council commenced proceeding against respondent for overdue rates and charges – Where overdue rates and charges secured by charge – Where respondent argued claim was an action to recover a sum recoverable by virtue of an enactment under s 10(1)(d) of *Limitation of Actions Act 1974* (Qld) – Where Council argued claim was an action to recover a principal sum of money secured by a charge and subject to s 26(1) of the Act – Where proceeding falls within both ss 10(1)(d) and 26(1) – Whether s 26(1) applies to exclude operation of s 10(1)(d).

Words and phrases – "*Barnes v Glenton*", "claim in rem", "limitation of actions", "overlap between limitation periods", "personal claim", "real claim", "sums secured by mortgage or charge", "what claims are within limitation statutes".

Limitation of Actions Act 1974 (Qld), ss 10(1)(d), 26(1).

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

Held: Appeal dismissed with costs.

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Practice and Procedure

Bell Lawyers Pty Ltd v Pentelow & Anor
S352/2018: [\[2019\] HCA 29](#)

Judgment delivered: 4 September 2019

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

Catchwords:

Practice and procedure – Costs – Legal practitioners – Barristers – Where self-represented litigant may not obtain any recompense for value of his or her time spent in litigation – Where exception commonly referred to as "*Chorley* exception" exists for a self-represented litigant who is a solicitor – Where first respondent is a barrister – Where first respondent undertook legal work in litigation in which she was represented – Where first respondent incurred costs on her own behalf and for legal services provided by herself – Whether *Chorley* exception operates to benefit barristers – Whether *Chorley* exception recognised as part of common law of Australia.

Words and phrases – "anomalous", "*Chorley* exception", "common law of Australia", "costs", "costs payable", "creature of statute", "employed solicitors", "equality before the law", "exception to the general rule", "exercise of professional skill", "incorporated legal practice", "indemnity", "judicial abolition", "professional legal services", "prospective overruling", "remuneration", "rule of practice", "rules committees", "self-represented litigants", "statutory power".

Civil Procedure Act 2005 (NSW), ss 3(1), 98(1).

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

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

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3: CASES RESERVED

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

Constitutional Law

BMW Australia Ltd v Brewster & Anor

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

Date heard: 13, 14 August 2019

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

Catchwords:

Constitutional law – Separation of powers – Acquisition of property on just terms – “Common fund order” in class action proceeding – Where Brewster is representative plaintiff in class action against BMW Australia Ltd – Whether Court of Appeal erred in concluding s 183 of *Civil Procedure Act 2005* (NSW) (“CPA”) empowered Supreme Court of New South Wales to make common fund order – Whether Court of Appeal erred in failing to conclude that insofar as s 183 of CPA empowered making of common fund order it was not picked up by s 79 of *Judiciary Act 1903* (Cth) because that would infringe Chapter III and/or s 51(xxxi) of *Constitution*.

Appealed from NSWSC (CA): [\[2019\] NSWCA 35](#); (2019) 366 ALR 171

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

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

Date heard: 6, 7 August 2019

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

Catchwords:

Constitutional law – Judicial power – Incompatibility – Where proceeding commenced by first defendant in Supreme Court of New South Wales under *Crimes (Serious Crime Prevention Orders) Act 2016* (NSW) seeking orders against plaintiffs prohibiting contact with members and former members of any Outlaw Motor Cycle Gang and limiting travel and possession of encrypted communications devices – Where proceeding asserts involvement of

plaintiffs in serious crime-related activity for which plaintiffs have not been convicted in addition to conduct for which plaintiffs convicted – Whether s 5(1) of Act is invalid (in whole or in part) because it is inconsistent with and prohibited by Chapter III of Constitution.

Referred to Full Court on 3 June 2019

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Westpac Banking Corporation & Anor v Lenthall & Ors

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

Date heard: 13, 14 August 2019

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

Catchwords:

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

Appealed from FCA (FC): [\[2019\] FCAFC 34](#); (2019) 366 ALR 136

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Contract Law

Mann & Anor v Paterson Constructions Pty Ltd

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

Date heard: 14 May 2019

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

Catchwords:

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

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

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Corporations Law

Connective Services Pty Ltd & Anor v Sleat Pty Ltd & Ors

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

Date heard: 15 May 2019

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

Catchwords:

Corporations law – Financial assistance to acquire shares – *Corporations Act 2001* (Cth) s 260A – Where appellants’ constitutions require member who wishes to transfer shares of particular class to first offer shares to existing holders of that class (“pre-emptive rights provisions”) – Where appellants commenced proceeding alleging first and second respondents entered into agreement to avoid pre-emptive rights provisions – Where primary judge held proceeding not instituted in breach of s 260A – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in holding appellants’ conduct capable of amounting to financial assistance to acquire shares within meaning of s 260A – Whether Court of Appeal erred in concluding open to primary judge to

characterise appellants' conduct as net transfer of value to appellants' shareholders – Whether Court of Appeal erred in concluding open to primary judge to characterise conduct as capable of materially prejudicing interests of appellants and/or shareholders or creditors – Whether Court of Appeal erred in concluding financial assistance directed to enabling appellants' shareholders to acquire shares.

Appealed from VSC (CA): [\[2018\] VSCA 180](#); (2018) 341 FLR 208; (2018) 359 ALR 159; (2018) 129 ACSR 540

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Criminal Law

De Silva v The Queen

B24/2019: [\[2019\] HCATrans 176](#)

Date heard: 4 September 2019

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

Catchwords:

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

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

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Fennell v The Queen

B20/2019: [\[2019\] HCATrans 186](#)

Date heard: 11 September 2019 – orders made, reasons to be published at a later date

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

Catchwords:

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

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

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HT v The Queen & Anor

[S123/2019](#): [2019] HCATrans 179

Date heard: 10 September 2019

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

Catchwords:

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

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

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Lordianto & Anor v Commissioner of the Australian Federal Police;
Kalimuthu & Anor v Commissioner of the Australian Federal Police

[S110/2019](#); **[P17/2019](#)**: [\[2019\] HCATrans 150](#); [\[2019\] HCATrans 151](#)

Date heard: 7, 8 August 2019

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

Catchwords:

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

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

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

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

Date heard: 12 June 2019

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

Catchwords:

Criminal law – Female genital mutilation – Where A2 and Magennis had been convicted of offences of female genital mutilation contrary to s 45(1)(a), *Crimes Act 1990* (NSW) – Where Vaziri had been convicted of being an accessory to those offences – Where, on appeal, Court of Criminal Appeal of New South Wales (“CCA”) entered verdicts of acquittal for A2, Magennis and Vaziri – Whether CCA erred in construing the words “otherwise mutilates” and “clitoris” in s 45(1)(a) of *Crimes Act* – Whether “otherwise mutilates” extends to include any injury and/or damage to another person’s clitoris in s 45(1)(a) of *Crimes Act* – Whether “clitoris” includes clitoral hood or prepuce in s 45(1)(a) of *Crimes Act*.

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

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Migration Law

BVD17 v Minister for Immigration and Border Protection & Anor
[S46/2019](#); [\[2019\] HCATrans 123](#)

Date heard: 13 June 2019

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

Catchwords:

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

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

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Love v Commonwealth of Australia; Thoms v Commonwealth of Australia

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

Date heard: 8 May 2019

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

Catchwords:

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

bodily harm contrary to ss 339(1) and 47(9) of *Criminal Code* – Where Thoms’ Subclass 444 Special Category (temporary) Visa cancelled under s 501(3A) of *Migration Act* – Where Thoms was and remains detained purportedly under s 189 of *Migration Act* on suspicion of being an “unlawful non-citizen” – Whether each of Love and/or Thoms an “alien” within meaning of s 51(xix) of *Constitution* (Cth).

Referred to Full Court on 5 March 2019

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Taxation

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

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

Date heard: 9 August 2019

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

Catchwords:

Taxation – Deductions – Where Administrative Appeals Tribunal held that outgoing of \$600,300 incurred by trustee of Daylesford Royal Hotel Trust in year ended 30 June 2010 for acquisition of 18 gaming machine entitlements under *Gambling Regulation Act 2003* (Vic) was on revenue account and therefore deductible under s 8-1 of *Income Tax Assessment Act 1997* (Cth) – Whether Full Court (by majority) erred in upholding decision of Tribunal instead of finding that outgoing was “of capital, or of a capital nature” – Whether Full Court erred in holding that if it was outgoing of capital or of a capital nature, it was expenditure to which s 40-880(6) of *Income Tax Assessment Act* applied and accordingly a deduction was allowable to trustee in respect of expenditure under s 40-880(2).

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

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Tort Law

State of New South Wales v Robinson

[S119/2019](#): [\[2019\] HCATrans 175](#)

Date heard: 3 September 2019

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

Catchwords:

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

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

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4: ORIGINAL JURISDICTION

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

Constitutional Law

Smethurst & Anor v Commissioner of Police & Anor

[S196/2019](#): *Special Case*

Catchwords:

Constitutional law – Implied freedom of political communication – Where members of Australian Federal Police executed search warrant issued under s 3E of *Crimes Act 1914* (Cth) at residential premises of journalist – Where warrant specified contravention of s 79(3) of Act by journalist – Where order made under s 3LA of Act that was directed to journalist, requiring information and assistance to be provided – Where plaintiffs seek to have warrant and s 3LA order quashed – Whether s 79(3), as it stood on 29 April 2018, was invalid on ground that it infringed implied freedom of political communication in *Constitution* (Cth) – Whether warrant is invalid because it misstates substance of s 79(3), does not state offence with sufficient precision, and/or s 79(3) was invalid – Whether s 3LA order is invalid.

Referred to Full Court on 6 September 2019

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5: SECTION 40 REMOVAL

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

Constitutional Law

KMC v Director of Public Prosecutions (SA)

[A20/2019](#): *Removed into the High Court under s 40 of the Judiciary Act 1903 (Cth) on 30 August 2019*

Catchwords:

Constitutional law – Ch III of *Constitution* (Cth) – Invalidity – Where appellant convicted of one count of persistent sexual exploitation of child contrary to s 50 of *Criminal Law Consolidation Act 1935* (SA) (“CLCA”) – Where CLCA repealed on 24 October 2017 and *Statutes Amendment (Attorney-General’s Portfolio) (No 2) Act 2017* (SA) (“Amendment Act”) commenced – Whether s 9(1) of Amendment Act is invalid because it impermissibly directs manner or outcome of exercise of appellate jurisdiction, impermissibly impairs institutional integrity of appellate court and/or sentencing court, and/or amounts to or involves an exercise of part of judicial power by Parliament of South Australia in manner contrary to scheme of Ch III of *Constitution*.

Removed from Full Court of the Supreme Court of South Australia (Court of Criminal Appeal)

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6: SPECIAL LEAVE GRANTED

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

Administrative Law

Hocking v Director-General of the National Archives of Australia
S262/2019: [\[2019\] HCATrans 160](#)

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

Catchwords:

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

Appealed from FCA (FC): [\[2019\] FCAFC 12](#); (2019) 264 FCR 1; (2019) 366 ALR 247

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Consumer Protection

Moore v Scenic Tours Pty Ltd
S298/2018: [\[2019\] HCATrans 189](#)

Date heard: 13 September 2019 – *Special leave granted on limited grounds.*

Catchwords:

Consumer protection – Disappointment and distress damages – Where representative proceedings brought on behalf of passengers who paid for and travelled on European river cruises supplied by respondent – Where number of cruises seriously disrupted by high water levels on rivers – Where seeking compensation for loss of value and damages for disappointment and distress – Whether s 275 of Australian Consumer Law (“ACL”) operates to apply s 16 of

Civil Liability Act 2002 (NSW) as Commonwealth law to direct court exercising federal jurisdiction in how to fix damages under s 267(4) of ACL for breach of statutory guarantees in ss 60 and 61 of ACL – Whether s 16 limited to cases where tort claim governed by NSW law or death or injury suffered in NSW – Whether claim under s 267(4) for damages for disappointment and distress constituted claim governed by s 16.

Appealed from NSWSC (CA): [\[2018\] NSWCA 238](#); (2018) 339 FLR 244; (2018) 361 ALR 456

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Corporations Law

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

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

Catchwords:

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

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

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Criminal Law

Pickett v The State of Western Australia; Mead v The State of Western Australia; Mead v The State of Western Australia; Anthony v The State of Western Australia; TSM (A Child) v The State of Western Australia

P28/2019; P29/2019; P30/2019; P31/2019; P32/2019: [\[2019\] HCATrans 181](#)

Date determined: 11 September 2019 – *Special leave granted.*

Catchwords:

Criminal law – Derivative criminal liability – Where victim killed by stab wound to chest inflicted in course of attack by group of eight males – Where eight males ranged in age from 11 years to 29 years – Where State unable to prove beyond reasonable doubt which of them inflicted fatal stab wound – Where State did not prove that 11 year old had capacity under s 29 of *Criminal Code* (WA) – Whether appellants could be guilty by operation of ss 7(b), 7(c), or 8 of *Criminal Code* (WA) of offence founded upon act of 11 year old alleged co-offender when act of that child did not constitute offence because prosecution had not proved that child was criminally responsible for act.

Appealed from WASC (CCA): [\[2019\] WASCA 79](#)

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Singh v The Queen; Nguyen v The Queen

D16/2019; D15/2019: [\[2019\] HCATrans 159](#)

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

Catchwords:

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

D16/2019 appealed from NTSC (CCA): [\[2019\] NTCCA 8](#)

D15/2019 appealed from NTSC (FC): [\[2019\] NTSC 37](#)

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Strbak v The Queen

B25/2019: [\[2019\] HCATrans 180](#)

Date determined: 11 September 2019 – *Special leave granted.*

Catchwords:

Criminal law – Sentencing – Right to silence – Where appellant pleaded guilty to manslaughter of four year old son but contested factual basis of conviction – Where sentencing judge applied *R v Miller* [2004] 1 Qd R 548 which held that sentencing judge may more readily accept or draw inferences from prosecution evidence which is uncontradicted – Where contended before Queensland Court of Appeal that *Miller* is wrong and should be revisited because it impermissibly infringes on right to silence – Whether refusing to reconsider *Miller* was constructive failure by Queensland Court of Appeal to exercise its jurisdiction.

Appealed from QSC (CA): [\[2019\] QCA 42](#)

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Swan v The Queen

S34/2019: [\[2019\] HCATrans 193](#)

Date heard: 13 September 2019 – *Special leave granted.*

Catchwords:

Criminal law – Causation – Where accused and another tried and convicted for murder – Where victim died almost eight months after assault during a home robbery – Where assault caused victim serious injuries amounting to grievous bodily harm – Where victim died due to complications from fractured hip not sustained during assault – Whether Crown case theory on cause of death was not supported by evidence and should not have been left to jury – Whether miscarriage of justice resulted from crown prosecutor’s closing address about causation.

Appealed from NSWSC (CCA): [\[2018\] NSWCCA 260](#)

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The Queen v Guode

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

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

Catchwords:

Criminal law – Sentencing – Manifest excess – Infanticide, murder and attempted murder – Where mother caused death of three children and attempted to kill fourth – Where mother pled guilty – Where mother had had traumatic life and suffered a major depressive disorder as consequence of giving birth to her youngest child – Whether mother suffering from post-traumatic stress

disorder – Whether Court of Appeal erred in taking into account as relevant consideration in making its determination as to manifest excess fact that prosecution had accepted plea to infanticide in respect of Charge 1 on the indictment.

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

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Evidence

Commonwealth of Australia v Helicopter Resources Pty Ltd & Ors
S217/2019: [\[2019\] HCATrans 131](#)

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

Catchwords:

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

Appealed from FCA (FC): [\[2019\] FCAFC 25](#); (2019) 264 FCR 174; (2019) 365 ALR 233

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

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

Catchwords:

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

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

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Migration Law

CNY17 v Minister for Immigration and Border Protection & Anor

M72/2019: [\[2019\] HCATrans 101](#)

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

Catchwords:

Migration law – Fast track review process – Apprehended bias – Where Secretary of Department of Immigration and Border Protection provided documents to Immigration Assessment Authority (“IAA”) – Where documents contained information about criminal conviction, charges, and appellant’s conduct while in immigration detention – Whether in considering apprehended bias Full Court erred in finding that materials were not prejudicial – Whether Full Court erred in failing to find decision of IAA vitiated by apprehended bias – Whether Full Court erred in failing to find IAA obliged to afford opportunity to appellant to comment on materials before it in circumstances where their existence not known to appellant – Whether Full Court erred in finding it was open to delegate to lawfully form view documents relevant to task of IAA – Whether Full Court erred in failing to find review conducted by IAA led to a decision made in excess of jurisdiction.

Appealed from FCA (FC): [\[2018\] FCAFC 159](#); (2018) 264 FCR 87

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Native Title

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

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

Catchwords:

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

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

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Statutory Interpretation

Binsaris v Northern Territory of Australia; Webster v Northern Territory of Australia; O'Shea v Northern Territory of Australia; Austral v Northern Territory of Australia
[D11/2019; D12/2019; D13/2019; D14/2019](#): [\[2019\] HCATrans 163](#)

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

Catchwords:

Statutory interpretation – Power of superintendent of youth detention centre – Use of CS gas (form of tear gas) in youth detention centre – Where prison officers called upon to assist at youth detention centre – Where CS gas was deployed – Whether exemption in s 12(2) of *Weapons Control Act* (NT) applied to

deployment of CS gas by prison officer at youth detention centre – Whether superintendent’s general power under s 152(1) of *Youth Justice Act* (NT) limited by s 153(3).

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

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Private International Law

Mackellar Mining Equipment Pty Ltd and Dramatic Investments Pty Ltd t/as Partnership 818 & Anor v Thornton & Ors

S171/2019: [\[2019\] HCATrans 188](#)

Date heard: 13 September 2019 – *Special leave granted on limited grounds.*

Catchwords:

Private international law – Restraint of foreign proceedings – Where plane crash in Queensland killed two pilots and 13 passengers – Where respondents, relatives of deceased, commenced proceedings against appellants in Missouri in May 2008 – Where appellants brought application in March 2017 in Queensland Supreme Court for permanent anti-suit injunction in respect of Missouri proceedings – Whether complete relief was available in Queensland proceedings and nothing additional could be gained in Missouri proceedings – Whether continuation of Missouri proceeding, after all foreign parties removed, was vexatious or oppressive or otherwise unconscionable within *CSR Ltd v Cigna Insurance Australia Ltd* (1997) 189 CLR 345.

Appealed from QSC (CA): [\[2019\] QCA 77](#); (2019) 367 ALR 171

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Taxation

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

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

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

Catchwords:

Taxation – Where appellant is part of a dual-listed company arrangement with non-resident company – Where third company (BMAG) indirectly owned by appellant and non-resident company – Where BMAG derived income from sale of commodities purchased from non-resident company's Australian subsidiaries – Whether non-resident company's Australian subsidiaries were "associates" of BMAG within meaning of s 318 of *Income Tax Assessment Act 1936* (Cth) – Whether BMAG, appellant and/or non-resident company were "sufficiently influenced" by appellant and/or non-resident company within meaning of s 318(6) – Whether Full Court erred in concluding that a person or entity acts "in accordance with" directions, instructions or wishes of another entity for purposes of s 318(6)(b) if person or entity merely acts "in harmonious correspondence, agreement or conformity with" those directions, instructions or wishes – Whether Full Court should have found that, in order to act "in accordance with" directions, instructions or wishes of another entity for purposes of s 318(6)(b) a person or entity must treat that other entity's directions, instructions or wishes as themselves being a sufficient reason so to act – Whether Full Court erred in finding that at a minimum appellant and BHP Billiton Plc each acted "in accordance with" the "directions, instructions or wishes" of the other for purposes of s 318(6)(b) – Whether Full Court should have concluded that such actions were not done "in accordance with" the "directions, instructions or wishes" of the other for purposes of s 318(6)(b).

Appealed from FCA (FC): [\[2019\] FCAFC 4](#); (2019) 263 FCR 334; (2019) 366 ALR 206; (2019) 134 ACSR 550

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Commissioner of State Revenue v Rojoda Pty Ltd

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

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

Catchwords:

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

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

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

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

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

Catchwords:

Taxation – Customs and Excise – Tariff classification – Classifying vitamin preparations and garcinia preparations – Medicaments – Whether Full Court erred in holding that Administrative Appeals Tribunal (“Tribunal”) had not erred in construing Note 1(a) to Chapter 30 of Sch 3 of *Customs Tariff Act 1995* (Cth) (“Act”) – Whether Full Court erred in holding that Tribunal had not erred in construing heading 2106 of Act.

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

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Trusts

Franz Boensch as trustee of the Boensch Trust v Pascoe

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

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

Catchwords:

Trusts – Bankruptcy – Where respondent trustee in bankruptcy found to hold caveatable interest in real property held by bankrupt on trust by operation of s 58(1) of *Bankruptcy Act 1966* (Cth) – Whether Full Court erred in concluding any caveatable interest vested in respondent – Where claim under s 74P of *Real Property Act 1900* (NSW) for compensation in relation to lodging and maintenance of caveat over piece of real property against trustee in bankruptcy – Whether it was permissible for trustee in bankruptcy to claim in his caveat under s 74P(1) of *Real Property Act* inconsistent interests in Rydalmere property – Whether existence of caveatable interest rendered it unnecessary for Court to embark upon enquiry of whether trustee in bankruptcy lodged caveat, or failed or refused to remove it, “without reasonable cause”.

Appealed from FCA (FC): [\[2018\] FCAFC 234](#); (2018) 264 FCR 25; (2018) 365 ALR 24; (2018) 133 ACSR 268; (2018) 16 ABC(NS) 365

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7: CASES NOT PROCEEDING OR VACATED

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8: SPECIAL LEAVE REFUSED

Publication of Reasons: 4 September 2019

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	BQR18	Minister for Home Affairs & Anor (B33/2019)	Federal Court of Australia [2019] FCA 703	Application Dismissed [2019] HCASL 245
2.	CUK17 & Ors	Minister for Home Affairs & Anor (B40/2019)	Federal Court of Australia [2019] FCA 835	Application Dismissed [2019] HCASL 246
3.	In the matter of an application by Michael Van Thanh Quach for leave to appeal (C6/2019)		High Court of Australia HCATrans 120	Applications Dismissed [2019] HCASL 247
	In the matter of an application by Michael Van Thanh Quach for leave to appeal (C7/2019)		High Court of Australia HCATrans 120	
4.	AFQ16 & Anor	Minister for Immigration and Border Protection & Anor (M59/2019)	Federal Court of Australia [2019] FCA 407	Application Dismissed [2019] HCASL 248
5.	Peake	Cousins (M70/2019)	Family Court of Australia	Application Dismissed [2019] HCASL 249
6.	CAQ16	Minister for Immigration and Border Protection & Anor (S173/2019)	Federal Court of Australia [2019] FCA 709	Application Dismissed [2019] HCASL 250
7.	BKR16	Minister for Immigration and Border Protection & Anor (S176/2019)	Federal Court of Australia [2019] FCA 708	Application Dismissed [2019] HCASL 251
8.	AEW18	Minister for Home Affairs & Anor (S184/2019)	Federal Court of Australia [2019] FCA 208	Application Dismissed [2019] HCASL 252
9.	Plaintiff S56/2019	Minister for Immigration, Citizenship and Multicultural Affairs & Ors (S187/2019)	High Court of Australia No Media Neutral Citation	Application Dismissed [2019] HCASL 253
10.	BYI18 & Ors	Minister for Home Affairs & Anor (S202/2019)	Federal Court of Australia [2019] FCA 803	Application Dismissed [2019] HCASL 254
11.	SZRHL & Anor	Minister for Home Affairs & Anor (S208/2019)	Federal Court of Australia [2019] FCA 785	Application Dismissed [2019] HCASL 255

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
12.	DYD16	Minister for Immigration and Border Protection & Anor (S214/2019)	Federal Court of Australia [2019] FCA 828	Application Dismissed [2019] HCASL 256
13.	ENE17	Minister for Immigration and Border Protection & Anor (S223/2019)	Federal Court of Australia [2019] FCA 942	Application Dismissed [2019] HCASL 257
14.	Akbar	Minister for Immigration and Border Protection & Anor (C5/2019)	Federal Court of Australia [2019] FCA 515	Application Dismissed with costs [2019] HCASL 258
15.	Australian Building and Construction Commissioner	Construction, Forestry, Maritime, Mining and Energy Union & Ors (B26/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 59	Application Dismissed with costs [2019] HCASL 259
16.	Tsvetnenko	United States of America & Anor (P27/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 74	Application Dismissed with costs [2019] HCASL 260
17.	Harker-Mortlock & Anor	Commonwealth Bank of Australia & Anor (S126/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 56	Application Dismissed with costs [2019] HCASL 261
18.	Menon	The Commissioner of the Australian Federal Police (S174/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 101	Applications Dismissed with costs [2019] HCASL 262
	Onley	The Commissioner of the Australian Federal Police (S175/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 101	

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Publication of Reasons: 11 September 2019

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Tam & Anor	Minister for Immigration and Border Protection & Anor (A14/2019)	Federal Court of Australia [2019] FCA 780	Application Dismissed [2019] HCASL 263
2.	CXB16	Minister for Home Affairs & Anor (B39/2019)	Federal Court of Australia [2019] FCA 779	Application Dismissed [2019] HCASL 264
3.	AEG16	Minister for Immigration and Border Protection & Anor (M69/2019)	Federal Court of Australia [2019] FCA 585	Application Dismissed [2019] HCASL 265
4.	DLV17	Minister for Immigration and Border Protection & Anor (M84/2019)	Federal Court of Australia [2019] FCA 801	Application Dismissed [2019] HCASL 266
5.	DEX16	Minister for Immigration and Border Protection & Anor (S165/2019)	Federal Court of Australia [2019] FCA 654	Application Dismissed [2019] HCASL 267
6.	FEZ17	Minister for Home Affairs & Anor (S181/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 76	Application Dismissed [2019] HCASL 268
7.	EFP17	Minister for Immigration and Border Protection & Anor (S182/2019)	Federal Court of Australia [2019] FCA 690	Application Dismissed [2019] HCASL 269
8.	EDY17	Minister for Home Affairs & Anor (S183/2019)	Federal Court of Australia [2019] FCA 707	Application Dismissed [2019] HCASL 270
9.	BJW17	Minister for Home Affairs & Anor (S193/2019)	Federal Court of Australia [2019] FCA 813	Application Dismissed [2019] HCASL 271
10.	Ali	Minister for Home Affairs & Anor (S205/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 93	Application Dismissed [2019] HCASL 272
11.	WZAVM	Minister for Immigration and Border Protection & Anor (S211/2019)	Federal Court of Australia [2019] FCA 839	Application Dismissed [2019] HCASL 273
12.	BCQ17	Minister for Immigration and Border Protection & Anor (S215/2019)	Federal Court of Australia [2019] FCA 889	Application Dismissed [2019] HCASL 274
13.	Duarte & Anor	Morse (S213/2019)	Full Court of the Family Court of Australia	Application Dismissed [2019] HCASL 275
14.	BCY17	Minister for Immigration and Border Protection & Anor (S226/2019)	Federal Court of Australia [2019] FCA 948	Application Dismissed [2019] HCASL 276
15.	Kowalski	Mitsubishi Motors Australia Staff Superannuation Pty Ltd & Anor (A12/2019)	Supreme Court of South Australia (Full Court) [2018] SASCF 44	Application Dismissed [2019] HCASL 277
16.	Hunjan	Minister for Home Affairs & Anor (B38/2019)	Federal Court of Australia [2019] FCA 732	Application Dismissed [2019] HCASL 278

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
17.	Feiteiro	Feiteiro (M68/2019)	Family Court of Australia	Application Dismissed [2019] HCASL 279
18.	BJW16	Minister for Home Affairs & Anor (M89/2019)	Federal Court of Australia [2019] FCA 930	Application Dismissed [2019] HCASL 280
19.	Kwiatkowska & Ors	Minister for Home Affairs & Anor (P19/2019)	Federal Court of Australia [2019] FCA 388	Application Dismissed [2019] HCASL 281
20.	EUW17	Minister for Immigration and Border Protection & Anor (P33/2019)	Federal Court of Australia [2019] FCA 744	Application Dismissed [2019] HCASL 282
21.	BLA16	Minister for Home Affairs & Ors (S179/2019)	Federal Court of Australia [2019] FCA 748	Application Dismissed [2019] HCASL 283
22.	DKH17	Minister for Home Affairs & Anor (S186/2019)	Federal Court of Australia [2019] FCA 737	Application Dismissed [2019] HCASL 284
23.	EJB17	Minister for Immigration and Border Protection & Anor (S188/2019)	Federal Court of Australia [2019] FCA 742	Application Dismissed [2019] HCASL 285
24.	DEU17	Minister for Home Affairs & Anor (S191/2019)	Federal Court of Australia [2019] FCA 770	Application Dismissed [2019] HCASL 286
25.	AXL17 & Ors	Minister for Immigration and Border Protection & Anor (S198/2019)	Federal Court of Australia [2019] FCA 778	Application Dismissed [2019] HCASL 287
26.	EDM17	Minister for Immigration and Border Protection & Anor (S206/2019)	Federal Court of Australia [2019] FCA 821	Application Dismissed [2019] HCASL 288
27.	Boutros	Minister for Immigration and Border Protection (S212/2019)	Federal Court of Australia [2019] FCA 851	Application Dismissed [2019] HCASL 289
28.	FJW17	Minister for Home Affairs & Anor (S221/2019)	Federal Court of Australia [2019] FCA 881	Application Dismissed [2019] HCASL 290
29.	Fairmont Group Pty Ltd	Moreton Bay Regional Council (B32/2019)	Supreme Court of Queensland (Court of Appeal) [2019] QCA 81	Application Dismissed with costs [2019] HCASL 291
30.	Paite	State of Tasmania (H2/2019)	Supreme Court of Tasmania (Court of Criminal Appeal) [2019] TASCCA 5	Application Dismissed [2019] HCASL 292
31.	Australian Investment and Development Pty Ltd	Commissioner of State Revenue (M63/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 69	Application Dismissed with costs [2019] HCASL 293
32.	Naikar	Minister for Immigration and Border Protection & Anor (M66/2019)	Federal Court of Australia [2019] FCA 502	Application Dismissed with costs [2019] HCASL 294
33.	Dalby Bio-Refinery Limited	Allianz Australia Insurance Limited & Ors (M82/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 85	Application Dismissed with costs [2019] HCASL 295

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
34.	Hutchinson	State of New South Wales (S164/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 91	Application Dismissed with costs [2019] HCASL 296
35.	Fleming	Advertiser News Weekend Publishing Company Pty Ltd & Anor (A13/2019)	Supreme Court of South Australia (Full Court) [2016] SASCFC 109	Application Dismissed with costs [2019] HCASL 297
36.	Draguceanu	The Queen (B27/2019)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 242	Application Dismissed [2019] HCASL 298
37.	MA & J Tripodi Pty Ltd	Swan Hill Chemicals Pty Ltd (M54/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 46	Application Dismissed with costs [2019] HCASL 299
38.	Hunt	Minister for Home Affairs (P23/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 58	Application Dismissed with costs [2019] HCASL 300
39.	Bombara & Anor	Electricity Networks Corporation T/AS Western Power & Ors (P24/2019)	Supreme Court of Western Australia (Court of Appeal) [2019] WASCA 62	Application Dismissed with costs [2019] HCASL 301
40.	Davies & Anor	Lazer Safe Pty Ltd (P25/20 19)	Full Court of the Federal Court of Australia [2019] FCAFC 65	Application Dismissed with costs [2019] HCASL 302
41.	Greater Hume Shire Council	Weber (S149/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 74 & [2019] NSWCA 108	Application Dismissed with costs [2019] HCASL 303
42.	SZWAW	Minister for Immigration and Border Protection & Anor (S166/2019)	Federal Court of Australia [2019] FCA 710	Application Dismissed with costs [2019] HCASL 304
43.	Gomez	Justice Moshinsky & Ors (M41/2019)	High Court of Australia [2019] HCATrans 22	Application Dismissed [2019] HCASL 305
44.	Gomez	Justice Moshinsky & Ors (M71/2019)	High Court of Australia [2019] HCATrans 85	Application Dismissed [2019] HCASL 306
45.	Gomez	Judge Burchardt of the Federal Circuit Court of Australia & Ors (M85/2019)	High Court of Australia [2019] HCA Trans 116	Application Dismissed [2019] HCASL 307

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13 September 2019: Sydney

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	Commissioner of Taxation	Harding (B15/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 29	Application refused with costs [2019] HCATrans 191
2.	Goomboorian Transport Pty Ltd & Ors	Hanson & Anor (B22/2019)	Supreme Court of Queensland (Court of Appeal) [2019] QCA 41	Application refused with costs [2019] HCATrans 192
3.	Doyle	The Queen (B35/2019)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 303	Application refused [2019] HCATrans 187
4.	Scenic Tours Pty Ltd	Moore (S299/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 238	Application refused with costs [2019] HCATrans 189
5.	Resource Capital Fund IV L.P. & Anor	Commissioner of Taxation (S127/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 51	Application dismissed with costs [2019] HCATrans 190
6.	Resource Capital Fund V L.P. & Anor	Commissioner of Taxation (S128/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 51	Application dismissed with costs [2019] HCATrans 190

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