



HIGH COURT BULLETIN

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[2020] HCAB 4 (17 June 2020)

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>Hocking v Director-General of the National Archives of Australia</i>	Administrative Law
<i>Pickett v Western Australia; Mead v Western Australia; Mead v Western Australia; Anthony v Western Australia; TSM (A Child) v Western Australia</i>	Criminal Law
<i>Cumberland v The Queen</i>	Criminal Practice
<i>Binsaris v Northern Territory of Australia; Webster v Northern Territory of Australia; O'Shea v Northern Territory of Australia; Austral v Northern Territory of Australia</i>	Tort

3: Cases Reserved

Case	Title
<u>Minister for Immigration and Border Protection v CED16 & Anor</u>	Migration Law
<u>Lewis v The Australian Capital Territory</u>	Tort
<u>State of Queensland v The Estate of the Late Jennifer Leanne Masson</u>	Tort
<u>Berry & Anor v CCL Secure Pty Ltd</u>	Trade Practices

4: Original Jurisdiction5: Section 40 Removal6: Special Leave Granted

Case	Title
<u>Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v AAM17 & Anor</u>	Administrative Law
<u>Oakey Coal Action Alliance Inc v New Acland Coal Pty Ltd & Ors</u>	Administrative Law
<u>Bell v The Queen</u>	Criminal Law
<u>Peniamina v The Queen</u>	Criminal Law
<u>Minister for Home Affairs v DUA16 & Anor; Minister for Home Affairs v CHK16 & Anor</u>	Migration Law
<u>Minister for Immigration and Border Protection v Makasa</u>	Migration Law

7: Cases Not Proceeding or Vacated

Case	Title
<u><i>UD v The Queen</i></u>	Constitutional Law

8: Special Leave Refused

2: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the April 2020 sittings.

Administrative Law

Hocking v Director-General of the National Archives of Australia
S262/2019: [\[2020\] HCA 19](#)

Judgment delivered: 29 May 2020

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

Catchwords:

Administrative law (Cth) – Judicial review – Archives – Access to records – Where Governor-General engaged in correspondence with Her Majesty the Queen – Where correspondence described as personal and confidential – Where Official Secretary to Governor-General kept correspondence and made arrangement to deposit correspondence with predecessor organisation to National Archives of Australia ("Archives") – Where correspondence deposited by Official Secretary on instructions of former Governor-General after his retirement – Where *Archives Act 1983* (Cth) subsequently enacted – Where s 31 of *Archives Act* provides that Commonwealth records within care of Archives must be made available for public access when within "open access period" – Where s 3(1) defines "Commonwealth record" as including "record that is the property of the Commonwealth or of a Commonwealth institution" – Where "Commonwealth institution" defined as including "the official establishment of the Governor-General" – Whether correspondence property of Commonwealth or of official establishment of Governor-General – Whether "property" within context of *Archives Act* connoted relationship involving holding of rights corresponding to ownership or possession at common law or connoted existence of legally endorsed concentration of power to control custody of record.

Words and phrases – "administration", "archival resources of the Commonwealth", "Archives", "body politic", "care and management", "Commonwealth institution", "Commonwealth record", "comprehensive expression", "convention", "correspondence", "created or received officially and kept institutionally", "Crown in right of the Commonwealth", "custody", "functional unit of government", "Governor-General", "kept by reason of", "lawful power of control", "legally endorsed concentration of power", "management", "official establishment of the Governor-General", "Official Secretary", "ownership", "personal

and confidential", "personal records", "possession", "private and confidential", "property", "property of the Commonwealth or of a Commonwealth institution", "public access", "record", "right to exclude others", "the Commonwealth".

Constitution – covering cl 3, 4, s 2, Ch II.

Archives Act 1983 (Cth) – ss 2A, 3, 3C, 5, 6, 62, 64, 70, Pt V.

Governor-General Act 1974 (Cth) – s 6.

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

Held: Appeal allowed.

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Criminal Law

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

[P45/2019](#); [P46/2019](#); [P47/2019](#); [P48/2019](#); [P49/2019](#); [\[2020\] HCA 20](#)

Judgment delivered: 29 May 2020

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

Catchwords:

Criminal law – Parties to offences – Where group of eight males assaulted victim – Where group included appellants and a youth aged 11 years ("PM") – Where one member of group stabbed victim causing death – Where appellants charged with murder under Criminal Code (WA) – Where Crown alleged seven males who did not stab victim deemed to have taken part in committing offence under s 7(b), s 7(c) or s 8 of Criminal Code – Where ss 7(b), 7(c) and 8 of Criminal Code operated when "an offence is committed" – Where reasonably possible that PM inflicted fatal stab wound – Where PM could not be criminally responsible for acts unless he had capacity to know he ought not to do act under s 29 of Criminal Code – Where prosecution adduced no evidence to establish capacity – Where trial judge declined to direct jury that they could not convict appellants of murder unless satisfied beyond reasonable doubt PM did not cause death – Where appellants convicted of murder – Whether trial judge erred in declining to direct jury that they could not convict appellants of murder unless satisfied that PM did not cause death – Whether "offence" committed for purposes of

ss 7(b), 7(c) and 8 where failure to prove criminal responsibility of person who may have done act constituting offence.

Words and phrases – "accessorial criminal liability", "an offence is committed", "authorised or justified or excused by law", "commission of an offence", "common law antecedents", "construction of the Code", "criminally responsible", "enabler or aider", "excuse", "justification", "liable to punishment", "offence", "participants in the offence", "parties to the offence", "party to an unlawful common purpose", "principal offender", "unlawful killing".

Criminal Code (WA) – Chs V, XXVI; ss 1, 2, 7, 8, 29, 36, 268, 277, 279.

Appealed from WASC (CCA): [\[2019\] WASCA 79](#); (2019) 54 WAR 418

Held: Appeals dismissed.

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Criminal Practice

Cumberland v The Queen

D23/2019: [\[2020\] HCA 21](#)

Date of publication of reasons: 3 June 2020.

Coram: Bell, Gageler, Nettle JJ

Catchwords:

Criminal practice – Appeal – Crown appeal against sentence – Where appellant sentenced on pleas of guilty to six offences arising out of course of commercial dealing in cannabis plant material and MDMA – Where prosecution appealed against sentence on ground of manifest inadequacy – Where three-member Bench of Court of Criminal Appeal ("CCA") heard appeal and announced intention to allow appeal but referred relevant question of statutory construction to five-member Bench – Where eleven months after initial hearing, CCA delivered judgment of five-member Bench, then immediately re-constituted to deliver judgment of three-member Bench, allowing appeal and re-sentencing to increased term of imprisonment – Where appellant not given opportunity to place material before CCA as to progress in custody, nor make submissions on re-sentence or dismissal of appeal in exercise of "residual discretion" – Whether CCA failed to accord appellant procedural fairness in conduct of hearing of appeal against sentence – Whether CCA erred in determining to allow appeal against sentence when all circumstances relevant to exercise of "residual discretion" not yet known – Whether matter should be remitted to

CCA for re-sentencing of appellant.

Words and phrases – "aggregate sentence", "Crown appeal against sentence", "delay in the appeal process", "discretionary factors against allowing the Crown appeal", "imminence of the offender's release", "manifestly inadequate", "procedural fairness", "proper exercise of discretion", "re-sentencing exercise", "residual discretion".

Criminal Code (NT) – s 414(1)(c).

Appealed from NT (CCA): [\[2019\] NTCCA 13](#); (2019) 344 FLR 227

Appealed from NT (CCA): [\[2019\] NTCCA 14](#)

Held: Appeal allowed.

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Tort

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](#): [\[2020\] HCA 22](#)

Judgment delivered: 3 June 2020

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

Catchwords:

Tort – Battery – Statutory authorisation – Where CS gas (form of tear gas) used by prison officer in youth detention centre – Where prison officer called to assist at youth detention centre – Where detainees exposed to CS gas claimed damages for battery – Where device used to deploy CS gas prohibited weapon under Weapons Control Act (NT) – Whether deployment of CS gas by prison officer in youth detention centre lawful – Whether prison officer acting in course of duties as prison officer such that exemption for prescribed persons in s 12(2) of Weapons Control Act applied – Whether authorised by delegation of powers of superintendent of youth detention centre under s 157(2) of Youth Justice Act (NT) – Whether authorised by prison officer having powers of police officer under s 9 of Prisons (Correctional Services) Act (NT).

Words and phrases – "acting in the course of his or her duties", "battery", "bodily integrity", "breach of the peace", "bystander", "collateral damage", "detainees", "emergency situation", "ensure the safe custody and protection", "maintain discipline", "maintain order", "necessary or convenient", "police officer", "positive

authority", "prescribed person", "prison officer", "prisoner", "prohibited weapon", "superintendent", "tortious liability", "use of force that is reasonably necessary", "youth detention centre".

Prisons (Correctional Services) Act (NT) – ss 9, 62(2).

Weapons Control Act (NT) – ss 6, 12.

Youth Justice Act (NT) – ss 151(3), 152(1), 153, 154, 157(2), 159, 160.

Appealed from NTSC (CA): [\[2019\] NTCA 1](#); (2019) 170 NTR 11; (2019) 343 FLR 41

Held: Appeals allowed with costs.

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3: CASES RESERVED

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

Criminal Law

Nguyen v The Queen; Singh v The Queen

D15/2019; D16/2019: [\[2020\] HCATrans 29](#)

Date heard: 17 March 2020

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

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.

D15/2019 appealed from NTSC (FC): [\[2019\] NTSC 37](#); (2019) 345 FLR 40

D16/2019 appealed from NTSC (CCA): [\[2019\] NTCCA 8](#); (2019) 344 FLR 137; (2019) 277 A Crim R 35

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Migration Law

Minister for Immigration and Border Protection v CED16 & Anor

S347/2019: [\[2020\] HCATrans 78](#)

Date heard: 9 June 2020

Coram: Gageler, Keane, Nettle, Gordon, Edelman JJ

Catchwords:

Migration law – Protection visa – Where first respondent’s application for Safe Haven Enterprise Visa (Class XE Subclass 790) refused and Minister for Immigration and Border Protection (“Minister”) purported to certify that disclosure of information in Identity Assessment Form could form basis for claim of Public Interest Immunity by Crown – Whether certificate issued by Minister purportedly pursuant to s 473GB(5) of *Migration Act 1958* (Cth) comprised ‘new information’ as defined in s 473DC(1) of Act – Whether Immigration Assessment Authority (“IAA”) required to turn its mind, or show that it had turned its mind, to whether it was required to give particulars of information in certificate itself to first respondent pursuant to s 473DE(1) of Act.

Appealed from FCA: [\[2018\] FCA 1451](#); (2019) 265 FCR 115

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Tort

Lewis v The Australian Capital Territory

C14/2019: [\[2020\] HCATrans 67](#)

Date determined: 2 June 2020

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

Catchwords:

Tort – False imprisonment – Compensatory damages – Vindictory damages – Principle of inevitability – Where offender sentenced to 12 months’ imprisonment to be served by periodic detention – Where Sentence Administration Board (“Board”) cancelled periodic detention without giving offender opportunity to decide whether to attend before Board – Where offender arrested and imprisoned for 82 days – Where Board’s decision a nullity and imprisonment held to be unlawful – Where offender awarded nominal damages of \$1 – Whether offender would have been lawfully imprisoned if had not been unlawfully imprisoned and therefore not entitled to substantial compensatory damages – Whether entitled to vindictory damages.

Appealed from ACTSC (CA): [\[2019\] ACTCA 16](#)

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State of Queensland v The Estate of the Late Jennifer Leanne Masson

B63/2019: [\[2020\] HCATrans 80](#)

Date heard: 11 June 2020

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

Catchwords:

Tort – Negligence – Where appellant suffered severe asthma attack – Where ambulance officer treated appellant initially with salbutamol and later with adrenaline – Where appellant suffered hypoxic brain damage and died without regaining consciousness 13 years later – Where ambulance officer’s manual instructed officer to “consider adrenaline”, not salbutamol – Whether Court of Appeal erred in overturning trial judge’s conclusions that ambulance officer had considered administration of adrenaline in accordance with manual, and that responsible body of opinion in medical profession supported administration of salbutamol – Whether Court of Appeal erred in holding that ambulance officer immediately rejected use of adrenaline because he misunderstood guideline, and that following responsible body of medical opinion would nonetheless involve failure to take reasonable care because manual referred to adrenaline.

Appealed from QSC (CA): [\[2019\] QCA 80](#)

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Trade Practices

Berry & Anor v CCL Secure Pty Ltd

S315/2019: [\[2020\] HCATrans 69](#)

Date heard: 3 June 2020

Coram: Bell, Gageler, Keane, Nettle, Edelman JJ

Catchwords:

Trade practices – Misleading and deceptive conduct and fraud – Measuring damages – Where misleading, deceptive and fraudulent conduct used to obtain signature terminating Agency Agreement – Whether damages to be assessed pursuant to s 82 of *Trade Practices Act 1974* (Cth) – Whether person guilty of misleading and deceptive conduct and fraud cannot be heard to say that lawful means were available for inflicting same harm – Whether, for purposes of reducing damages, respondent failed to discharge onus of proving possibility or probability of lawful means being used to end Agency Agreement.

Appealed from FCA (FC): [\[2019\] FCAFC 81](#)

Appealed from FCA (FC): [\[2019\] FCAFC 92](#)

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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

Private R v Cowen & Anor

S272/2019: [\[2020\] HCATrans 23](#)

Date referred: 3 March 2020 – *application for constitutional or other writ.*

Catchwords:

Constitutional law – Where member of defence forces charged with assault occasioning bodily harm pursuant to s 24 of *Crimes Act 1900* (ACT) as purportedly applied to defence members and defence civilians by s 61(3) of *Defence Force Discipline Act 1982* (Cth) – Where person charged objected to jurisdiction of Defence Force Magistrate to hear and determine charge on basis that prosecution could not reasonably be regarded as substantially serving purpose of maintaining or enforcing service discipline – Where objection to jurisdiction dismissed – Whether writ of prohibition should issue to prohibit Defence Force Magistrate from hearing and determining charge – Whether certain provisions of *Defence Force Discipline Act 1982* (Cth), insofar as they purport to confer jurisdiction on “service tribunal” to hear and determine charge against “defence member” for offence against *Crimes Act 1900* (ACT) solely on basis of person’s status as “defence member”, are beyond Commonwealth legislative power in circumstances where alleged offence committed in Australia but not on “service land” or “service property”, where persons involved were off duty, in time of peace and civil order, and where civil courts said to be reasonably available.

Application for writ of prohibition referred to Full Court on 3 March 2020.

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5: SECTION 40 REMOVAL

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

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6: SPECIAL LEAVE GRANTED

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

Administrative Law

CXXXVIII v Commonwealth of Australia & Ors

A30/2019: [\[2019\] HCATrans 206](#)

Date heard: 18 October 2019 – *Special leave granted.*

Catchwords:

Administrative law – Criminal investigation – Where summonses and notices to produce issued pursuant to determinations made by Board of Australian Criminal Intelligence Commission under *Australian Crime Commission Act 2002* (Cth) (“Act”) – Whether first and second determinations validly made within scope of power in s 7C of Act – Whether second summons to appear before Examiner and second notice to produce validly issued pursuant to determinations – Whether second notice to attend and produce valid and not in excess of power in s 21A of Act – Whether Board of Commission can validly make determination which creates as a “special investigation” an “investigation” yet to be identified or undertaken.

Appealed from FCA (FC): [\[2019\] FCAFC 54](#); (2019) 266 FCR 339; (2019) 366 ALR 436; (2019) 164 ALD 33

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Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v AAM17 & Anor

P62/2019: [\[2020\] HCATrans 66](#)

Date heard: 29 May 2020 – *Special leave granted.*

Catchwords:

Administrative law – Procedural fairness – Where first respondent unsuccessfully applied for protection visa and where Administrative Appeals Tribunal affirmed refusal decision – Where first respondent sought judicial review of Tribunal’s decision in Federal Circuit Court (“FCC”) – Where first respondent appeared in person before FCC with assistance of translator – Where at conclusion of hearing FCC made orders dismissing application and gave ex tempore reasons –

Where reasons for judgment published two months later after first respondent had instituted appeal to Federal Court – Where Federal Court allowed appeal on basis that first respondent denied procedural fairness by FCC and that there had therefore been no real exercise of judicial power in the circumstances – Where Federal Court considered that FCC’s review of Tribunal’s decision otherwise unaffected by error warranting appellate attention – Whether requirement of procedural fairness, either generally or in relation to courts, includes duty to provide reasons – If yes, whether such requirement extends to requiring reasons to be provided in particular manner and/or time – What is appropriate form of order for court conducting appeal by way of rehearing to make in circumstances where appellate court finds court below denied appellant procedural fairness and also considers decision under appeal correct.

Appealed from FCA: [\[2019\] FCA 1951](#)

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Northern Land Council & Anor v Quall & Anor

D21/2019: [\[2019\] HCATrans 232](#)

Date heard: 15 November 2019 – *Special leave granted.*

Catchwords:

Administrative law – Delegation of statutory functions and powers – Administrative necessity – Statutory interpretation – Where proceedings at first instance challenged certification of application to register Kenbi Indigenous Land Use Agreement on ground that it had been done without “delegated authority” – Where Full Court held Pt 11 of *Native Title Act 1993* (Cth) evinced intention that certification functions could not be delegated – Whether Northern Land Council had power to delegate its certification functions under s 203BE(1)(b) of *Native Title Act 1993* (Cth) to its Chief Executive Officer.

Appealed from FCA (FC): [\[2019\] FCAFC 77](#); (2019) 268 FCR 228; (2019) 367 ALR 216; (2019) 164 ALD 63

Appealed from FCA (FC): [\[2019\] FCAFC 101](#)

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Oakey Coal Action Alliance Inc v New Acland Coal Pty Ltd & Ors

B64/2019: [\[2020\] HCATrans 73](#)

Date heard: 5 June 2020 – *Special leave granted on limited grounds.*

Catchwords:

Administrative law – Apprehended bias – Relief – Jurisdiction of inferior courts – Where first respondent applied for two mining leases and to amend existing environmental authority – Where appellant lodged objections to applications – Where Land Court of Queensland rejected applications – Where first respondent sought judicial review of Land Court’s decision, urging grounds that included apprehended bias and errors in relation to groundwater issues – Where Queensland Supreme Court rejected bias grounds but accepted groundwater grounds and remitted issues relating to groundwater to Land Court for redetermination, holding that Land Court bound by original findings and conclusions on questions other than groundwater issues – Where appellant appealed against remittal orders and first respondent cross-appealed on apprehended bias issue – Where Land Court, differently constituted, proceeded with hearing in accordance with remittal orders despite pending appeal, and recommended that applications should be approved – Where Court of Appeal subsequently dismissed appeal on groundwater issues but allowed cross-appeal on apprehended bias – Where despite allowing cross-appeal and making declaration that Land Court’s original decision affected by want of procedural fairness, Court of Appeal did not set aside remittal orders – Whether in circumstances where reviewing court concludes decision of inferior court affected by reasonable apprehension of bias, reviewing court can refuse to set aside decision below and order new trial either at all, in the absence of exceptional circumstances, or on the basis of futility – Whether order of superior court requiring inferior court to proceed in certain way can augment jurisdiction of inferior court so as to validate decision of inferior court that would otherwise be nullity.

Appealed from QSC (CA): [\[2019\] QCA 184](#)

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Civil Procedure

Wigmans v AMP Limited & Ors

S67/2020: [\[2020\] HCATrans 52](#)

Date heard: 17 April 2020 – *Special leave granted.*

Catchwords:

Civil procedure – Representative proceedings – Where multiple representative proceedings on foot against respondent in single forum – Where each plaintiff sought stay of proceedings commenced by other plaintiffs – Where primary judge applied

multifactorial analysis to determine which proceeding should progress – Where NSW Court of Appeal dismissed appeal from primary judge’s decision – Whether Pt 10 of *Civil Procedure Act 2005* (NSW) authorised approach taken by primary judge – Whether permissible for court faced with multiple open class actions conducted on basis of different funding models and with different incentives, disincentives and risk profiles to assume, without findings in evidence, that different proceedings equally likely to achieve possible settlement or judgment outcome within range of possible outcomes.

Appealed from NSWSC (CA): [\[2019\] NSWCA 243](#); (2019) 373 ALR 323

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Corporations

Westpac Securities Administration Ltd & Anor v Australian Securities and Investments Commission

S69/2020: [\[2020\] HCATrans 57](#)

Date heard: 24 April 2020 – *Special leave granted.*

Catchwords:

Corporations – Financial product advice – *Corporations Act 2001* (Cth) s 766B(3)(b) – Distinction between personal advice and general advice – Where bank customers received letters or emails highlighting benefits of consolidating superannuation and offering to conduct free search to identify superannuation accounts that customers may have held with other providers – Where representative of bank then called customers, providing them with any relevant search results and offering to roll over superannuation accounts into their account with bank – Where Full Court of Federal Court held that bank provided financial product advice (within meaning of s 766B(1) of *Corporations Act*) to customers – Whether that financial product advice was personal advice – Whether objective limb of definition of “personal advice” in s 766B(3)(b) depends on whether reasonable person might expect that advice provider had *in fact* considered recipient’s personal circumstances or that advice provider *should* have considered those circumstances – Whether consideration of recipient’s personal circumstances (within meaning of s 766B(3)(b)) requires advice provider to engage with and evaluate those circumstances in formulating advice – Extent to which a recipient’s “objectives, financial situation and needs” must be considered by advice provider for advice to be personal advice.

Appealed from FCA (FC): [\[2019\] FCAFC 187](#); (2019) 373 ALR 455; (2019) 141 ACSR 1

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Criminal Law

Bell v The Queen

H4/2019: [\[2020\] HCATrans 77](#)

Date determined: 5 June 2020 – *Special leave granted.*

Catchwords:

Criminal law – Defences – Honest and reasonable mistake – Where applicant charged with one count of rape and one count of supply of controlled drug to child – Where trial judge left defence of honest and reasonable mistake as to age in relation to rape charge – Where counsel for applicant requested similar direction in respect of supply charge – Where trial judge refused to make such direction on basis that defence of honest and reasonable mistake as to age would not relieve applicant of criminal responsibility with respect to supply charge – Where jury convicted applicant of supply charge but could not reach verdict on rape or alternative charge of sexual intercourse with person under age of 17 – Where at retrial of sexual offence jury found applicant not guilty of rape but convicted on alternative charge – Where Court of Criminal Appeal upheld trial judge’s decision that defence of honest and reasonable mistake as to age not available in relation to supply charge – Whether defence of honest and reasonable mistake of fact only available where its successful use would lead to defendant not being guilty of any crime.

Appealed from QCA: [\[2019\] TASCCA 19](#)

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GBF v The Queen

B18/2020: [\[2020\] HCATrans 47](#)

Date determined: 15 April 2020 – *Special leave granted.*

Catchwords:

Criminal law – Right to silence – Presumption of innocence – Where trial judge said to jury that lack of sworn evidence from appellant contradicting complainant’s evidence might “make it easier” to assess complainant’s credibility – Where appellant subsequently

convicted – Where Queensland Court of Appeal held that trial judge’s statement was error but did not occasion miscarriage of justice where no redirection sought and where other contrary directions given – Whether statement to jury that undermines right to silence and presumption of innocence can be held to not amount to miscarriage of justice.

Appealed from QCA: [\[2019\] QCA 4](#)

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Peniamina v The Queen

B78/2019: [\[2020\] HCATrans 75](#)

Date determined: 5 June 2020 – *Special leave granted.*

Catchwords:

Criminal law – Defences – Provocation – *Criminal Code* (Qld) s 304 – Where applicant charged with murdering his wife – Where applicant pleaded not guilty to murder but guilty to manslaughter on basis of provocation – Where applicant bore onus of proving provocation – Where jury convicted applicant of murder – Where Court of Appeal held by majority that jury had not been misdirected as to provocation and dismissed applicant’s appeal against conviction – Whether operation of s 304(3)(c) confined to provocative conduct identified by applicant as causing loss of self-control, or whether jury may also consider other conduct.

Appealed from QCA: [\[2019\] QCA 273](#)

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The Queen v Abdirahman-Khalif

A5/2020: [\[2020\] HCATrans 38](#)

Date heard: 20 March 2020 – *Special leave granted.*

Catchwords:

Criminal law – Terrorism – Where respondent charged with offence of membership of terrorist organisation contrary to s 102.3(1) of *Criminal Code* (Cth) – Where respondent convicted at trial – Where respondent successfully appealed against conviction – Whether prosecution must adduce evidence of terrorist organisation’s admission practices in order to prove that accused person has taken steps to become member of that organisation – Whether majority of CCA erred in construing “organisation” for purposes of Div 102 of *Criminal Code* (Cth).

Appealed from SASC (CCA): [\[2019\] SASCF 133](#)

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Employment Law

Mondelez Australia Pty Ltd v AMWU & Ors; Minister for Jobs and Industrial Relations v AMWU & Ors

M160/2019; M165/2019: [\[2019\] HCATrans 250](#)

Date determined: 13 December 2019 – *Special leave granted.*

Catchwords:

Employment law – Where Mondelez operates food manufacturing plants – Where certain employees work in 12-hour shifts – Where entitlement to paid personal/carer’s leave under Enterprise Agreement – Where Mondelez deducts 12 hours from accrued paid personal/carer’s leave balance when such leave taken for single 12-hour shift – Whether majority of Full Court erred by holding that "day" in s 96(1) of *Fair Work Act 2009* (Cth) means "the portion of a 24 hour period that would otherwise be allotted to work" rather than an average working day calculated as employee’s average daily ordinary hours of work based on standard five-day working week – Whether Full Court erred in construing s 96(1) as entitling national system employees (other than casuals) to paid personal/carer’s leave equivalent to 10 ‘working’ days (of whatever duration would have been worked on day in question) per year of service.

Appealed from FCA (FC): [\[2019\] FCAFC 138](#); (2019) 289 IR 29

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Evidence

Roy v O’Neill

D2/2020: [\[2020\] HCATrans 43](#)

Date heard: 20 March 2020 – *Special leave granted.*

Catchwords:

Evidence – Admissibility of evidence obtained in course of “pro-active” policing of compliance with Domestic Violence Order – Whether common law recognises implied license permitting all

people, including police, to attend upon unobstructed private property as far as front door and to knock on front door for purpose of lawful communication, such licence only being excluded where attendee otherwise has unlawful purpose – How to ascertain existence and scope of any implied licence at common law in favour of person who attends on unobstructed private property only so far as front door – Nature of relationship between common law doctrines of implied licence and police powers to prevent breach of peace.

Appealed from NTSC (CA): [\[2019\] NTCA 8](#); (2019) 345 FLR 29

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Family Law

Clayton v Bant

B21/2020: [\[2020\] HCATrans 50](#)

Date heard: 17 April 2020 – *Special leave granted*.

Catchwords:

Family law – Foreign divorce – *Res judicata* – Where respondent obtained fault-based divorce from Dubai court with orders that appellant repay him marriage dowry – Where appellant sought orders in Australia concerning property interests and spousal maintenance under *Family Law Act 1975* (Cth) – Whether foreign divorce precluded prosecution of those proceedings on basis that Dubai court finally determined relevant causes of action between the parties.

Appealed from FamCA (FC): [\[2019\] FamCAFC 200](#); (2019) 60 Fam LR 152

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Hsiao v Fazarri

M137/2019: [\[2019\] HCATrans 196](#)

Date determined: 10 October 2019 – *Special leave granted*.

Catchwords:

Family law – Property proceedings – Order under s 79 of *Family Law Act 1975* (Cth) – Where agreement between parties intended to apply to property settlement proceedings but does not fall within Pt VIIIA or Div 4 of Pt VIIIAB of Act – Whether circumstances in

which additional 40% legal interest in property obtained and Deed of Gift were distractions in disposition of Full Court appeal – Whether admission of further evidence would have produced different result in Full Court and would not be against interests of justice – Whether trial judge failed to take Deed of Gift into account in making property settlement order – Whether finding of contributions failed to take into account legal interest in property prior to marriage.

Appealed from FamCA (FC): [\[2019\] FamCAFC 37](#)

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Intellectual Property

Calidad Pty Ltd & Ors v Seiko Epson Corporation & Anor
S329/2019: [\[2019\] HCATrans 225](#)

Date heard: 15 November 2019 – *Special leave granted.*

Catchwords:

Intellectual property – Patents – Implied licence – Where Calidad imports and sells printer cartridges modified by third party – Where Seiko Epson claims its two patents infringed by Calidad’s conduct – Whether Full Court erred in finding infringement – Whether modifications made to printer cartridges resulted in making of "new" printer cartridges embodying invention as claimed in claim 1 of each patent – Whether Full Court erred in failing to have regard to substance of invention claimed in claim 1 of each patent or to direct attention to whether modifications constituted material changes to claimed features of invention – Whether conduct was within scope of any implied licence arising upon unrestricted first sale by patentee of printer cartridges or otherwise involved permissible repair or modification of those printer cartridges – Whether patentee’s rights under s 13 of *Patents Act 1990* (Cth) exhausted in respect of printer cartridges at time of first sale.

Appealed from FCA (FC): [\[2019\] FCAFC 115](#); (2019) 370 ALR 563; (2019) 142 IPR 381

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Migration Law

ABT17 v Minister for Immigration and Border Protection & Anor
M140/2019: [\[2019\] HCATrans 207](#)

Date heard: 18 October 2019 – *Special leave granted on limited grounds.*

Catchwords:

Migration law – Protection visa – Where delegate accepted as plausible that applicant had been sexually tortured – Where such claim not accepted by Immigration Assessment Authority (“IAA”) – Whether IAA decision tainted by jurisdictional error due to failure to exercise discretion under s 473DC of *Migration Act 1958* (Cth) to invite applicant to give new information in form of interview – Whether failure of IAA to exercise its s 473DC discretion was material to decision and constituted jurisdictional error.

Appealed from FCA: [\[2019\] FCA 613](#)

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Applicant S270/2019 v Minister for Immigration and Border Protection

S47/2020: [\[2020\] HCATrans 44](#)

Date heard: 20 March 2020 – *Special leave granted on limited grounds.*

Catchwords:

Migration law – Non-refoulement – Where appellant’s visa was cancelled on character grounds pursuant to s 501(3A) of *Migration Act 1958* (Cth) – Where appellant sought to have cancellation decision revoked pursuant to s 501CA(4) of Act – Whether Minister for Immigration and Border Protection, when determining whether to exercise power under s 501CA(4) to revoke decision to cancel visa made pursuant to s 501(3A), must consider whether person seeking revocation is owed non-refoulement obligations by Australia.

Appealed from FCA (FC).

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AUS17 v Minister for Immigration and Border Protection & Anor

S71/2020: [\[2020\] HCATrans 55](#)

Date heard: 24 April 2020 – *Special leave granted on limited ground.*

Catchwords:

Migration law – *Migration Act 1958* (Cth) s 473DD – Circumstances in which Immigration Assessment Authority (“IAA”) can consider

new information when reviewing a fast track reviewable decision – Where appellant applied for Safe Haven Enterprise Visa and application refused by Minister’s delegate – Where appellant’s representative supplied IAA with further materials including letter of support by third party written after date of delegate’s decision – Where IAA considered that new information in letter could have been provided to the delegate, and so concluded, on basis of s 473DD(b)(i), that exceptional circumstances did not exist such that it could consider new information in letter – Whether failure to satisfy condition in s 473DD(b)(i) sufficient basis for IAA to conclude exceptional circumstances did not exist within meaning of s 473DD(a) where s 473DD(b)(ii) satisfied.

Appealed from FCA: [\[2019\] FCA 1686](#); (2019) 167 ALD 313

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DVO16 v Minister for Immigration and Border Protection & Anor
S66/2020: [\[2020\] HCATrans 51](#)

Date heard: 17 April 2020 – *Special leave granted.*

Catchwords:

Migration law – Fast track review process – *Migration Act 1958* (Cth) Pt 7AA – Where appellant applied for temporary protection visa – Where Minister’s delegate conducted interview with appellant – Where translation errors and omissions occurred in interview – Where Minister’s delegate refused application – Where, relying on material obtained in interview, Immigration Assessment Authority (“IAA”) reviewed delegate’s decision – Where IAA affirmed delegate’s decision – Whether, in circumstances where material translation error occurred in delegate’s interview and IAA relies on material obtained in interview in reviewing delegate’s decision under Pt 7AA, IAA needs to have actual or constructive knowledge of translation error for jurisdictional error to arise.

Appealed from FCA (FC): [\[2019\] FCAFC 157](#)

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Minister for Home Affairs & Anor v FRX17 as Litigation Representative for FRM17; Minister for Home Affairs & Anor v Marie Theresa Arthur as Litigation Representative for BXD18; Minister for Home Affairs & Anor v DJA18 as Litigation Representative for DIZ18; Minister for Home Affairs & Ors v DLZ18 & Anor

M29/2020; M28/2020; M30/2020; M27/2020: [\[2020\] HCATrans 39](#)

Date heard: 20 March 2020 – *Special leave granted.*

Catchwords:

Migration law – Regional processing – Jurisdiction of Federal Court of Australia – Where respondents commenced proceedings against Commonwealth – Where s 494AB of *Migration Act 1958* (Cth) barred certain proceedings relating to “transitory persons” from being instituted or continued in any court other than High Court – Whether proceedings were, for purposes of s 494AB(1)(ca), proceedings “relating to the performance or exercise of a function” under s 198AHA(2) in relation to a transitory person – Whether proceedings were, for purposes of s 494AB(1)(a), proceedings relating to exercise of powers under s 198B of Act – Whether proceedings were, for purposes of s 494AB(1)(d), proceedings relating to removal of a transitory person from Australia under the Act.

Appealed from FCA (FC): [\[2019\] FCAFC 148](#)

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Minister for Home Affairs v DUA16 & Anor; Minister for Home Affairs v CHK16 & Anor

M4/2020; M5/2020: [\[2020\] HCATrans 64](#)

Date heard: 29 May 2020 – *Special leave granted.*

Catchwords:

Migration law – Third party fraud – Where migration agent (“Agent”) acting for each of respondents provided “submissions” to Immigration Assessment Authority (“IAA”) on their behalf – Where “submissions” pro forma and contained information that did not relate to respondents – Where there was no evidence that respondents had asked Agent to make particular “submissions” to IAA, nor evidence that either respondent wanted to provide “new information” to IAA – Where Full Court of Federal Court held that Agent engaged in fraudulent conduct and dismissed appeal from decision of Federal Circuit Court to quash IAA’s decisions in respondents’ cases on ground that they were stultified by Agent’s fraud – Whether Agent’s fraudulent conduct in how respondents’ cases put to IAA stultified, disabled, or subverted IAA’s review of Minister’s delegate’s decision – Status and significance of “submissions” in assessing effect of fraudulent conduct on IAA’s review processes.

Appealed from FCA (FC): [\[2019\] FCAFC 221](#)

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Minister for Immigration and Border Protection v Makasa

S36/2020: [\[2020\] HCATrans 81](#)

Date determined: 12 June 2020 – *Special leave granted.*

Catchwords:

Migration law – Visa cancellation – Character test – Substantial criminal record – Where Minister’s delegate cancelled respondent’s visa on character grounds – Where Administrative Appeals Tribunal (“AAT”) set aside delegate’s decision and decided not to cancel visa – Where Minister subsequently personally purported to cancel respondent’s visa – Whether the Minister can re-exercise discretion conferred by s 501(2) of *Migration Act 1958* (Cth) to cancel person’s visa where AAT has previously set aside Minister’s delegate’s earlier decision to cancel visa under s 501(2) – If yes, whether Minister can rely on same offences (going to whether person has substantial criminal record for purposes of character test) to enliven discretion in s 501(2) as AAT relied upon when reviewing delegate’s decision.

Appealed from FCA (FC): [\[2020\] FCAFC 22](#); (2020) 376 ALR 191

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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

B56/2019: [\[2019\] HCATrans 188](#)

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

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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Real Property

Deguisa & Anor v Lynn & Ors

A4/2020: [\[2020\] HCATrans 37](#)

Date heard: 20 March 2020 – *Special leave granted*.

Catchwords:

Real property – Torrens title – Restrictive covenants – Where appellants registered proprietors of Lot 3 and have planning development approval to demolish house on Lot 3, subdivide lot, and build two single story dwellings – Where respondents executors of estate of Mrs Fielder who was party to original Memorandum of Encumbrance containing restrictive covenants subject of proceedings – Where third respondent owns two properties near Lot 3 – Where respondents contended that Lot 3 and 53 other lots were created from earlier subdivision and sold in accordance with building scheme such that restrictive covenants are enforceable to prevent appellants from developing Lot 3 as they wish to – Whether there exists “governing principle” to effect that what is “notified” to prospective purchaser by vendor’s certificate of title is everything that would have come to their knowledge if prudent conveyancer had made such searches as ought reasonably to have been made based on what appears on certificate of title – Whether approach taken by majority of Full Court of Supreme Court of South Australia in decision under appeal to ascertaining whether subsequent purchaser of Torrens system land is bound by restrictive covenant conflicts with approach taken in *Burke v Yurilla* (1991) 56 SASR 382 – Whether purchaser of land under Torrens system obliged to search other titles for evidence of land being subject of building scheme if note is made on encumbrance form that the “encumbrance forms portion of a common building scheme” but where land or lots involved in building scheme not indicated.

Appealed from SASC (FC): [\[2019\] SASFC 107](#)

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7: CASES NOT PROCEEDING OR VACATED

Constitutional Law

UD v The Queen

C7/2020: [\[2020\] HCATrans 59](#); [\[2020\] HCATrans 61](#)

Dates heard: 30 April 2020; 28 May 2020

Catchwords:

Constitutional law – Powers of courts – Powers of Legislative Assembly of Australian Capital Territory – Trial by jury – Where applicant charged with offences against *Criminal Code 2002* (ACT) – Where judge of ACT Supreme Court ordered that applicant’s trial be heard by judge alone pursuant to s 68BA of *Supreme Court Act 1933* (ACT) – Whether s 68BA invalid because incompatible with constitutional limitation derived from *Kable v Director of Public Prosecutions (NSW)* (1996) 189 CLR 51 – Whether s 68BA beyond power of ACT Legislative Assembly under s 22 of *Australian Capital Territory (Self-Government) Act 1988* (Cth) – Whether s 68BA beyond power of ACT Legislative Assembly by reason of s 48A of *Australian Capital Territory (Self-Government) Act 1988* (Cth) – Whether s 68BA invalid by reason of s 80 of *Constitution*.

On 30 April 2020, orders made removing into High Court part of cause pending in Supreme Court of Australian Capital Territory. On 28 May 2020, orders of 30 April 2020 revoked.

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8: SPECIAL LEAVE REFUSED

Publication of Reasons: 13 May 2020 (Canberra and Brisbane)

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Austin	Dwyer (M10/2020)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 296	Applications dismissed [2020] HCASL 122
	Austin	Dobbs & Anor (M11/2020)		
	Austin	Dobbs & Anor (M12/2020)		
	Austin	Dwyer & Anor (M13/2020)		
	Austin	Dobbs (M14/2020)		
2.	SZRAX	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (S18/2020)	Federal Court of Australia [2020] FCA 49	Application dismissed [2020] HCASL 123
3.	Visual Building Construction Pty Ltd	Armitstead & Anor (S349/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 280	Application dismissed with costs [2020] HCASL 124

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Publication of Reasons: 20 May 2020 (Sydney)

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Jackson	The State of Western Australia (P14/2020)	Supreme Court of Western Australia (Court of Appeal) [2018] WASCA 223	Application dismissed [2020] HCASL 125
2.	FHK18	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (S37/2020)	Federal Court of Australia [2020] FCA 156	Application dismissed [2020] HCASL 126
3.	Quadri & Anor	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (S42/2020)	Federal Court of Australia [2020] FCA 246	Application dismissed [2020] HCASL127

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29 May 2020: Brisbane (and by video-link)

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	Republica Democratica De Timor Leste & Anor	Lighthouse Corporation Limited & Anor (M163/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 290	Application dismissed with costs [2020] HCATrans 63
2.	Fortescue Metals Group Ltd & Ors	Warrie & Ors (P57/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 177	Application dismissed with costs [2020] HCATrans 65

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5 June 2020: Sydney (and by video-link)

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	G Developments Pty Ltd & Anor	John Allen (as Trustee of the Bundamba Trust) & Ors (B2/2020)	Supreme Court of Queensland (Court of Appeal) [2019] QCA 287	Application dismissed with costs [2020] HCATrans 74
2.	CEF15 & Anor	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (C1/2020)	Federal Court of Australia [2019] FCA 2078	Application dismissed with costs [2020] HCATrans 76

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Publication of Reasons: 10 June 2020 (Canberra)

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	BDT18	Minister for Home Affairs & Anor (S286/2019)	Federal Court of Australia [2019] FCA 1393	Application dismissed with costs [2020] HCASL 128
2.	Melco Resorts & Entertainment Limited	Attorney General for NSW & Ors (S46/2020)	Supreme Court of New South Wales (Court of Appeal) [2020] NSWCA 40	Application dismissed with costs [2020] HCASL 129

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Publication of Reasons: 12 June 2020 (Melbourne)

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Donohue	The Queen (M23/2020)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 274	Application dismissed [2020] HCASL 130
2.	DHL16 & Anor	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (M25/2020)	Federal Court of Australia [2020] FCA 245	Application dismissed [2020] HCASL 131
3.	Rinaldi	The State of Western Australia (P13/2020)	Supreme Court of Western Australia (Court of Appeal) [2017] WASCA 48	Application dismissed [2020] HCASL 132
4.	CUF18 & Anor	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (P17/2020)	Federal Court of Australia [2020] FCA 144	Application dismissed [2020] HCASL 133
5.	Huggins	State of Western Australia (P18/2020)	Supreme Court of Western Australia (Court of Appeal) [2018] WASCSA 61	Application dismissed [2020] HCASL 134
6.	Clarke	South Eastern Sydney Local Health District & Anor (S22/2020)	Supreme Court of New South Wales (Court of Appeal) [2020] NSWCA 8	Application dismissed [2020] HCASL 135
7.	EDV16	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (S34/2020)	Federal Court of Australia [2020] FCA 186	Application dismissed [2020] HCASL 136
8.	In the matter of an Application by Akm Azmerul Haque for Leave to Appeal (S51/2020)		High Court of Australia [2020] HCATrans 025	Application dismissed [2020] HCASL 137
9.	EDS16	Minister for Immigration and Border Protection & Anor (A28/2019)	Federal Court of Australia [2019] FCA 1618	Application dismissed with costs [2020] HCASL 138
10.	Ezra Constructions Pty Ltd & Ors	Queensland Building and Construction Commission & Ors (B7/2020)	Supreme Court of Queensland (Court of Appeal) [2019] QCA 304	Application dismissed with costs [2020] HCASL 139

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
11.	Bosanac	The Commissioner of Taxation for the Commonwealth of Australia & Ors (P8/2020)	High Court of Australia [2019] HCA 41	Application dismissed with costs [2020] HCASL 140
12.	Bosanac	The Commissioner of Taxation for the Commonwealth of Australia & Ors (P9/2020)	High Court of Australia [2019] HCA 41	Summons dismissed with costs [2020] HCASL 140
13.	Attard	James Legal Pty Ltd & Anor (S14/2020)	Federal Court of Australia [2019] FCA 2130	Application dismissed with costs [2020] HCASL141
14.	Jackson	The Queen (S19/2020)	Supreme Court of New South Wales (Court of Criminal Appeal) [2020] NSWCCA 5	Application dismissed [2020] HCASL 142

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12 June 2020: Melbourne (and by video-link)

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	DDG17	Minister for Home Affairs & Anor (S309/2019)	Federal Court of Australia [2019] FCA 1608	Application dismissed [2020] HCATrans 82
2.	Alou	The Queen (S341/2019)	Supreme Court of New South Wales (Court of Criminal Appeal) [2019] NSWCCA 231	Application dismissed [2020] HCATrans 83
3.	Konann Pty Ltd	Casey City Council (in its capacity as collecting agency of the Cranbourne North Precinct Structure Plan - Development Contributions Plan) (M9/2020)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 316	Application dismissed with costs [2020] HCATrans 84
4.	Hamide	The Queen (S348/2019)	Supreme Court of New South Wales (Court of Criminal Appeal) [2019] NSWCCA 219	Application dismissed [2020] HCATrans 85
5.	Wiggins Island Coal Export Terminal Pty Ltd	New Hope Corporation Limited & Ors (S4/2020)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 316	Applications dismissed with costs [2020] HCATrans 86
	Northern Energy Corporation Limited (In Liquidation) & Anor	New Hope Corporation Limited & Ors (S5/2020)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 316	

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Publication of Reasons: 17 June 2020 (Brisbane)

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Ezekiel-Hart Ezekiel-Hart	Reis & Ors (C2/2020) Reis & Ors (C3/2020)	Supreme Court of the Australian Capital Territory [2019] ACTCA 31	Applications dismissed [2020] HCASL 143
2.	In the matter of an application by Solihin Millin for leave to appeal (M31/2020)		High Court of Australia [2020] HCA Trans 036	Application dismissed [2020] HCASL 144
3.	CEE17	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor (M34/2020)	Federal Court of Australia [2020] FCA 359	Application dismissed [2020] HCASL 145
4.	EHT17	Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (S41/2020)	Federal Court of Australia [2020] FCA 309	Application dismissed [2020] HCASL 146
5.	Charan & Anor	Commonwealth Bank of Australia & Ors (S50/2020)	Supreme Court of New South Wales (Court of Appeal) [2020] NSWCA 13	Application dismissed [2020] HCASL 147

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