



HIGH COURT BULLETIN

Produced by the Legal Research Officer,
High Court of Australia Library
[2018] HCAB 9 (19 November 2018)

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>Strickland (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Galloway (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Hodges (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Tucker (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors</i>	Criminal Law
<i>Comptroller General of Customs v Zappia</i>	Customs and Excise
<i>McPhillamy v The Queen</i>	Evidence
<i>SAS Trustee Corporation v Miles</i>	Superannuation and Pensions

3: Cases Reserved

Case	Title
<u>Rinehart & Anor v Hancock Prospecting Pty Ltd & Ors; Rinehart & Anor v Georgina Hope Rinehart (in her personal capacity and as trustee of the Hope Margaret Hancock Trust and as trustee of the HFMF Trust) & Ors</u>	Arbitration
<u>Director of Public Prosecutions Reference No 1 of 2017</u>	Criminal Law
<u>The Republic of Nauru v WET040</u>	Migration
<u>TTY167 v Republic of Nauru</u>	Migration
<u>KN (deceased) and Others on behalf of the Tjiwarl and Tjiwarl#2 Native Title Claim Groups v State of Western Australia & Ors</u>	Native Title
<u>Tjungarrayi & Ors v State of Western Australia & Ors</u>	Native Title
<u>Parkes Shire Council v South West Helicopters Pty Limited</u>	Tort

4: Original Jurisdiction

Case	Title
<u>Glencore International AG & Ors v Commissioner of Taxation of the Commonwealth of Australia & Ors</u>	Constitutional Law

5: Section 40 Removal

6: Special Leave Granted

Case	Title
<u>OKS v The State of Western Australia</u>	Criminal Law
<u>Lee v Lee & Ors; Hsu v RACQ Insurance Limited; Lee v RACQ Insurance Limited</u>	Insurance Law

7: Cases Not Proceeding or Vacated

2: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the November 2018 sittings.

Criminal Law

Strickland (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Galloway (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Hodges (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Tucker (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors

[M168/2017](#); [M174/2017](#); [M176/2017](#); [M175/2017](#): [2018] HCA 53

Judgment delivered: 8 November 2018

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

Catchwords:

Criminal practice – Abuse of process – Where Australian Crime Commission ("ACC") received information concerning allegations that company involved in criminal activity – Where allegations referred to Australian Federal Police ("AFP") – Where appellants declined to participate in cautioned record of interview with AFP – Where appellants compulsorily examined by ACC – Where examiner aware that appellants were suspects who may be charged with an offence – Where examiner permitted AFP officers to watch examinations from nearby room without disclosing their presence to appellants – Where examiner permitted dissemination of examination material to AFP and Commonwealth Director of Public Prosecutions – Where appellants subsequently charged with Commonwealth and Victorian offences – Where appellants sought permanent stay of prosecutions for abuse of process – Where primary judge permanently stayed prosecutions – Where Court of Appeal of Supreme Court of Victoria allowed appeals from orders of primary judge – Whether ACC conducted special investigation under *Australian Crime Commission Act 2002* (Cth) – Whether examinations unlawful – Whether prosecution derived forensic advantage from examinations – Whether appellants suffered forensic disadvantage as result of examinations – Whether examinations unlawful infringement upon appellants' right to silence – Whether examiner's conduct reckless – Whether permanent stay necessary to prevent administration of justice falling into disrepute.

Words and phrases – "abuse of process", "administration of justice", "coercive powers", "compulsive powers", "compulsory

examination", "derivative use", "direct use", "dissemination of examination product", "fair trial", "forensic advantage", "forensic choice", "forensic disadvantage", "illegally obtained evidence", "improper purpose", "integrity of the court", "locked in", "may be charged", "non-publication directions", "permanent stay", "prejudice", "prosecution brief", "prosecutorial team", "reckless", "right to silence", "special investigation", "suspect", "trial directions", "unlawfully obtained evidence".

Australian Crime Commission Act 2002 (Cth) – ss 7C, 46A, Pt II Div 2.

Appealed from VSC (CA): [\[2017\] VSCA 120](#)

Held: Appeals allowed

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Customs and Excise

Comptroller General of Customs v Zappia

S91/2018: [\[2018\] HCA 54](#)

Judgment delivered: 14 November 2018

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

Catchwords:

Customs and excise – Customs control – Dutiable goods – Possession, custody or control of dutiable goods – Where company held warehouse licence under *Customs Act 1901* (Cth) – Where dutiable goods stolen from company's warehouse before goods entered for home consumption – Where respondent employed by company as general manager and warehouse manager – Where s 35A(1) of *Customs Act* relevantly provided that a person who "has, or has been entrusted with, the possession, custody or control" of dutiable goods subject to customs control and who fails to keep goods safely shall, on demand by Collector, pay amount equal to customs duty which would have been payable if goods had been entered for home consumption on day of demand – Where respondent served with demand by Collector under s 35A(1) – Where respondent applied to Administrative Appeals Tribunal for review of Collector's demand – Where Tribunal found respondent directed what was to happen to goods on day-to-day basis – Whether respondent was person who "has, or has been entrusted with, the possession, custody or control" of dutiable goods subject to customs control.

Words and phrases – "authority to deal with", "Collector", "customs control", "dutiabale goods", "employee", "fails to keep the goods safely", "has, or has been entrusted with", "home consumption", "management or control", "operational control", "owner", "possession, custody or control", "power or authority", "warehouse licence".

Customs Act 1901 (Cth) – ss 30, 35A, 36, 37, Pt V.

Appealed from FCA (FC): [\[2017\] FCAFC 147](#); (2017) 254 FCR 363

Held: Appeal allowed

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Evidence

McPhillamy v The Queen

S121/2018: [\[2018\] HCA 52](#)

Reasons published: 8 November 2018

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

Catchwords:

Evidence – Criminal trial – Sexual offences – Tendency evidence – Admissibility – Where appellant acolyte and complainant altar boy – Where appellant alleged to have followed complainant into church's public bathroom and committed offences – Where evidence that appellant, while working as an assistant housemaster, sexually offended against homesick boarding students who sought out appellant in private bedroom led as tendency evidence – Where tendency expressed as appellant having sexual interest in young teenage boys under his supervision and to act on that interest – Where tendency evidence of acts occurring ten years before offences charged – Where no evidence other than complainant's evidence that appellant had offended again in ten year period – Where tendency evidence unchallenged in cross-examination – Whether tendency evidence possessed significant probative value.

Words and phrases – "sexual interest", "significant probative value", "tendency evidence", "tendency expressed at a high level of generality", "tendency to act in a particular way", "tendency to have a particular state of mind".

Evidence Act 1995 (NSW) – ss 97, 101.

Appealed from NSW (CA): [\[2017\] NSWCCA 130](#)

Held: Appeal allowed

Orders made on 9 August 2018 allowing the appeal.

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Superannuation and Pensions

SAS Trustee Corporation v Miles

S260/2017: [\[2018\] HCA 55](#)

Judgment delivered: 14 November 2018

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

Catchwords:

Superannuation and pensions – Police pension – Disabled member of police force – Entitlement to additional allowance – Where respondent certified by appellant as incapable of personally exercising functions of police officer due to specified infirmities determined by Commissioner of Police to have been caused by being hurt on duty – Where respondent received annual superannuation allowance as disabled member of police force – Where s 10(1A)(b)(ii) of *Police Regulation (Superannuation) Act 1906* (NSW) provided that annual superannuation allowance might increase by additional amount commensurate with member's incapacity for work outside police force – Where respondent sought additional amount by reason of supervening infirmity increasing respondent's incapacity for work outside police force – Where supervening infirmity increasing respondent's incapacity for work outside police force not subject of certification by appellant or determination by Commissioner of Police – Whether respondent entitled to additional amount of annual superannuation allowance.

Statutes – Interpretation – Principles – Context – Cognate terms – Choice between textually available constructions – Where cognate terms "incapable", "incapacity" and "totally incapacitated" appearing in Act – Where alternative textual constructions as to whether infirmity increasing incapacity for work outside police force required to be caused by being hurt on duty – Whether cognate terms to be construed as bearing same meaning.

Words and phrases – "additional amount", "annual superannuation allowance", "certified", "commensurate", "disabled member of the police force", "hurt on duty", "incapable of personally exercising the functions of a police officer", "incapacity for work outside the police force", "infirmity of body or mind", "member of the police force", "specified infirmity", "supervening infirmity or incapacity".

Police Regulation (Superannuation) Act 1906 (NSW) – ss 1, 1A, 3, 4, 5, 5A, 7, 8, 10, 10B, 14, 21.

Superannuation Administration Act 1996 (NSW) – s 57.

Appealed from NSWSC (CA): [\[2017\] NSWCA 86](#)

Held: Appeal allowed

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3: CASES RESERVED

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

Arbitration

Rinehart & Anor v Hancock Prospecting Pty Ltd & Ors; Rinehart & Anor v Georgina Hope Rinehart (in her personal capacity and as trustee of the Hope Margaret Hancock Trust and as trustee of the HFMF Trust) & Ors

S143/2018; S144/2018: [\[2018\] HCATrans 234](#); [\[2018\] HCATrans 236](#)

Date heard: 13 and 14 November 2018

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

Catchwords:

Arbitration – Arbitration agreements – Interpretation – Where parties entered into series of deeds containing arbitration agreements – Where primary judge ordered trial of question whether arbitration agreements in deeds null and void, inoperative or incapable of being performed – Where Full Court stayed proceeding and referred parties to arbitration – Whether Full Court erred in concluding arbitration clauses expressed to cover disputes “under” agreement extended to disputes concerning the validity of the deeds or provisions thereof.

Appealed from FCA (FC): [\[2017\] FCAFC 170](#); (2017) 257 FCR 442; (2017) 350 ALR 658; and [\[2017\] FCAFC 208](#)

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Constitutional Law

Clubb v Edwards & Anor

M46/2018: [\[2018\] HCATrans 206](#); [\[2018\] HCATrans 208](#); [\[2018\] HCATrans 210](#)

Date heard: 9, 10 and 11 October 2018

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

Catchwords:

Constitutional law – Implied freedom of political communication – *Public Health and Wellbeing Act 2008* (Vic) s 185D – Where s 185D prohibits engaging in “prohibited behaviour” within “safe access zone” – Where “prohibited behaviour” defined to include “communicating by any means in relation to abortions in a manner that is able to be seen or heard by a person accessing, or attempting to access, or leaving premises at which abortions are provided and is reasonably likely to cause distress or anxiety” – Where appellant convicted of charge under s 185D in Magistrates’ Court – Whether 185D impermissibly burdens implied freedom of political communication.

Removed from Supreme Court of Victoria into High Court under s 40 of Judiciary Act 1903 (Cth) on 23 March 2018

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Preston v Avery & Anor

H2/2018: [\[2018\] HCATrans 206](#); [\[2018\] HCATrans 208](#); [\[2018\] HCATrans 210](#)

Date heard: 9, 10 and 11 October 2018

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

Catchwords:

Constitutional law – Implied freedom of political communication – *Reproductive Health (Access to Termination) Act 2013* (Tas) s 9(2) – Where s 9(2) prohibits protest in relation to terminations that is able to be seen or heard by person accessing or attempting to access premises at which terminations provided – Where appellant convicted in Hobart Court of Petty Sessions of contraventions of s 9(2) – Whether s 9(2) impermissibly burdens implied freedom of political communication.

Removed from Supreme Court of Tasmania into High Court under s 40 of Judiciary Act 1903 (Cth) on 23 March 2018

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Work Health Authority v Outback Ballooning Pty Ltd & Anor

D4/2018: [\[2018\] HCATrans 144](#); [\[2018\] HCATrans 146](#)

Date heard: 14 and 15 August 2018

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

Catchwords:

Constitutional law – Inconsistency – *Work Health and Safety (National Uniform Legislation) Act 2011* (NT) – Where hot air balloon passenger died from injuries suffered as result of scarf being sucked into inflation fan – Where appellant alleged first respondent breached s 32 of Act – Where magistrate dismissed complaint on basis *Air Navigation Act 1920* (Cth), *Civil Aviation Act 1988* (Cth) and other Commonwealth regulation covered field of safety of air navigation – Where Supreme Court quashed magistrate’s decision – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in concluding federal civil aviation legislation excluded operation of *Work Health and Safety (National Uniform Legislation) Act 2011* (NT).

Appealed from NTSC (CA): [\[2017\] NTCA 7](#); (2017) 326 FLR 1

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Corporations Law

Australian Securities & Investments Commission v Lewski & Anor; *Australian Securities & Investments Commission v Wooldridge & Anor*; *Australian Securities & Investments Commission v Butler & Anor*; *Australian Securities & Investments Commission v Jaques & Anor*; *Australian Securities & Investments Commission v Clarke & Anor*

[M79/2018](#); [M80/2018](#); [M81/2018](#); [M82/2018](#); [M83/2018](#); [\[2018\] HCATrans 213](#); [\[2018\] HCATrans 214](#)

Date heard: 17 and 18 October 2018

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

Catchwords:

Corporations – Managed investment schemes – Third party transactions – *Corporations Act 2001* (Cth) ss 208, 209, 601FC, 601FD, 601GC – Where directors resolved to lodge deed purporting to amend constitution to authorise payment of fee to responsible entity – Where appellant brought civil penalty proceedings for contraventions of Act against responsible entity and directors – Where trial judge concluded directors breached duties in resolving to lodge deed and authorising payment of fee – Where Full Court allowed appeals – Whether Full Court erred in concluding deed purporting to amend constitution valid until set aside by Court – Whether Full Court erred in concluding deed binding on responsible

entity – Whether Full Court erred in failing to find directors involved in contravention of s 208 by authorising payment of fee to responsible entity.

Appealed from FCA (FC): [\[2017\] FCAFC 171](#); (2017) 352 ALR 64; (2017) 126 ACSR 1

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Criminal Law

Director of Public Prosecutions Reference No 1 of 2017

M129/2018: [\[2018\] HCATrans 227](#)

Date heard: 6 November 2018

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

Catchwords:

Criminal law – Trial by jury – *Prasad* direction – Where accused charged with murder – Where counsel for accused sought *Prasad* direction on basis prosecution case not strong insofar as prosecution required to prove beyond reasonable doubt accused not acting in self-defence – Where trial judge gave *Prasad* direction – Where jury returned verdicts of not guilty of murder or manslaughter – Where Director of Public Prosecutions referred point of law to Court of Appeal under s 308 of *Criminal Procedure Act 2009* (Vic) – Where Court of Appeal determined giving of *Prasad* direction not contrary to law – Where majority of Court of Appeal determined direction may continue to be administered to jury in criminal trial – Whether Court of Appeal erred in determining giving of *Prasad* direction not contrary to law – Whether majority of Court of Appeal erred in determining *Prasad* direction may continue to be administered to jury in criminal trial.

Appealed from VSC (CA): [\[2018\] VSCA 69](#)

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Grajewski v Director of Public Prosecutions (NSW)

S141/2018: [\[2018\] HCATrans 211](#)

Date heard: 12 October 2018

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

Catchwords:

Criminal law – Destroy or damage property – *Crimes Act 1900* (NSW) s 195(1) – Meaning of “damage” – Where appellant climbed machine causing operator to shut down machine – Where appellant convicted of intentionally or recklessly damaging property contrary to s 195(1)(a) – Where District Court dismissed appeal and referred question whether facts can support finding of guilt to Court of Criminal Appeal – Where Court of Criminal Appeal answered “yes” – Whether Court of Criminal Appeal erred in concluding “damage” can be established where no physical derangement of property – Whether Court of Criminal Appeal erred in concluding temporary physical interference with functionality of property may constitute “damage” for purpose of s 195.

Appealed from NSWSC (CA): [\[2017\] NSWCCA 251](#)

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Interpretation

Commissioner of Taxation for the Commonwealth of Australia v Tomaras & Ors

B9/2018: [\[2018\] HCATrans 143](#)

Date heard: 10 August 2018

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

Catchwords:

Interpretation – Crown immunity – *Family Law Act 1975* (Cth) s 90AE – Presumption that statutory provisions expressed in general terms do not bind Crown – Where wife commenced proceedings against husband seeking alteration of property interests including order under s 90AE substituting husband for wife in respect of indebtedness to Commissioner – Where Full Family Court held s 90AE conferred power to make order – Whether Full Family Court erred in concluding presumption Crown not bound by statute did not apply in construction of s 90AE – If yes, whether Full Family Court erred in concluding presumption would have been rebutted – Whether Full Family Court erred in failing to conclude neither Commissioner nor Commonwealth “creditor” or “third party” for purposes of s 90AE.

Appealed from Fam CA (FC): [\[2017\] FamCAFC 216](#); (2017) 327 FLR 228; (2017) 106 ATR 878

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Williams v Wreck Bay Aboriginal Community Council & Anor
C5/2018: [\[2018\] HCATrans 183](#)

Date heard: 12 September 2018

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

Catchwords:

Interpretation – Concurrent operation – Where Council leased property to appellant under residential tenancy agreement – Where appellant commenced proceedings in ACT Civil and Administrative Tribunal seeking orders for repairs and compensation – Where Tribunal referred questions of law to Supreme Court for determination – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in concluding ACT laws retain subordinate status when applied to Jervis Bay Territory by force of s 4A of *Jervis Bay Territory Acceptance Act 1915* (Cth) – Whether Court of Appeal erred in concluding ss 8 and 9 of *Residential Tenancies Act 1997* (ACT) not capable of operating concurrently with *Aboriginal Land Grant (Jervis Bay Territory) Act 1986* (Cth) such that ss 8 and 9 do not apply to “Aboriginal Land” for purposes of s 46 of *Aboriginal Land Grant (Jervis Bay Territory) Act*.

Appealed from ACT (CA): [\[2017\] ACTCA 46](#); (2017) 12 ACTLR 207; (2017) 326 FLR 58; (2017) 230 LGERA 1

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Migration

BEG15 v Minister for Immigration and Border Protection & Anor
S135/2018: [\[2018\] HCATrans 177](#)

Date heard: 10 September 2018

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

Catchwords:

Migration – Jurisdictional error – *Migration Act 1958* (Cth) s 438 – Where appellant applied for protection visa – Where application refused by delegate – Where appellant applied to Refugee Review Tribunal for review of decision – Where delegate issued certificate under s 438(1)(a) that disclosure of certain information would be contrary to public interest – Where certificate invalid – Where Tribunal did not inform appellant of certificate or disclose information to appellant – Where Tribunal affirmed delegate’s

decision – Where Federal Circuit Court dismissed application for judicial review – Where Full Federal Court dismissed appeal – Whether Full Court erred in failing to find Tribunal fell into jurisdictional error in acting on invalid certificate – Whether Full Court erred in failing to find not open to primary judge to withhold relief where decision affected by jurisdictional error – Whether necessary for applicant to show denial of procedural fairness in addition to invalidity of certificate.

Appealed from FCA (FC): [\[2017\] FCAFC 198](#); (2017) 253 FCR 36

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CQZ15 v Minister for Immigration and Border Protection & Anor
M75/2018: [\[2018\] HCATrans 177](#)

Date heard: 10 September 2018

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

Catchwords:

Migration – Jurisdictional error – *Migration Act 1958* (Cth) s 438 – Where appellant applied for protection visa – Where application refused by delegate – Where appellant applied to Administrative Appeals Tribunal for review of decision – Where delegate issued certificate under s 438(1)(a) that disclosure of certain information would be contrary to public interest – Where certificate invalid – Where delegate issued further certificate – Where Tribunal did not inform appellant of certificates or disclose information to appellant – Where Tribunal affirmed delegate’s decision – Where Federal Circuit Court concluded Tribunal fell into jurisdictional error in acting upon invalid certificate and failing to disclose existence of certificates to appellant – Where Full Federal Court allowed appeal – Whether Full Court erred in departing from *Minister for Immigration and Border Protection v Singh* (2016) 244 FCR 305 by failing to find Tribunal fell into jurisdictional error in not disclosing certificates – Whether Full Court erred in failing to find not open to primary judge to withhold relief where decision affected by jurisdictional error.

Appealed from FCA (FC): [\[2017\] FCAFC 194](#); (2017) 253 FCR 1

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Minister for Immigration and Border Protection v SZMTA & Anor
S36/2018: [\[2018\] HCATrans 177](#)

Date heard: 10 September 2018

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

Catchwords:

Migration – Procedural fairness – *Migration Act 1958* (Cth) s 438(2) – Where first respondent applied for Protection (Class XA) visa – Where application refused by delegate – Where first respondent applied to Administrative Appeals Tribunal for review of decision – Where delegate notified Tribunal s 438(2)(a) applied to certain documents because given in confidence to Minister or Department – Where Tribunal did not inform first respondent of notification – Where copies of documents previously provided to first respondent – Where Federal Circuit Court dismissed application for judicial review – Where Federal Court allowed appeal on basis Tribunal denied first respondent procedural fairness – Whether Federal Court erred in relying on possibility Tribunal may not have had regard to certain information because of notification under s 438(2) in finding Tribunal denied first respondent procedural fairness – Whether Federal Court erred in holding Tribunal denied first respondent procedural fairness in circumstances where documents in possession of first respondent prior to Tribunal hearing.

Appealed from FCA: [\[2017\] FCA 1055](#); (2017) 255 FCR 215

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The Republic of Nauru v WET040

M154/2017: [\[2018\] HCATrans 230](#)

Date heard: 7 November 2018

Coram: Gageler, Nettle and Edelman JJ

Catchwords:

Migration – *Nauru (High Court Appeals) Act 1976* (Cth) – *Refugees Convention Act 2012* (Nr) – Where respondent applied to Nauru for refugee status determination under Act – Where Secretary of Nauru Department of Justice and Border Control determined respondent not refugee and not entitled to complementary protection – Where Refugee Status Review Tribunal affirmed Secretary’s determination – Where Supreme Court of Nauru allowed appeal on basis Tribunal erred in law in finding certain of respondent’s allegations or conjectures “implausible” – Whether Supreme Court erred in concluding Tribunal erred in law in making findings of implausibility.

Appealed from Supreme Court of Nauru: [\[2017\] NRSC 79](#)

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TTY167 v Republic of Nauru
[S46/2018: \[2018\] HCATrans 231](#)

Date heard: 7 November 2018

Coram: Gageler, Nettle and Edelman JJ

Catchwords:

Migration – *Nauru (High Court Appeals) Act 1976* (Cth) – *Refugees Convention Act 2012* (Nr) – Where appellant applied to Nauru for refugee status determination under Act – Where Secretary of Nauru Department of Justice and Border Control determined appellant not refugee and not entitled to complementary protection – Where appellant applied for review by Refugee Status Review Tribunal – Where appellant did not appear at hearing scheduled by Tribunal – Where Tribunal affirmed Secretary’s determination – Where Supreme Court of Nauru dismissed appeal – Whether Supreme Court erred in failing to find Tribunal erred in law or acted unreasonably in exercising powers under s 41(1) of *Refugees Convention Act* to decide application after appellant failed to attend hearing.

Appealed from Supreme Court of Nauru: [\[2018\] NRSC 4](#)

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Native Title

KN (deceased) and Others on behalf of the Tjiwarl and Tjiwarl#2 Native Title Claim Groups v State of Western Australia & Ors
[P38/2018: \[2018\] HCATrans 233](#)

Date heard: 8 November 2018

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

Catchwords:

Native title – Extinguishment – Exploration licence – *Native Title Act 1993* (Cth) s 47B – Where unallocated Crown land subject to exploration licence granted under *Mining Act 1978* (WA) – Where native title determination application filed in respect of land – Where primary judge concluded s 47B applied because exploration licence not “lease” within meaning of s 47B(1)(b)(i) – Where Federal Court allowed appeal – Whether Federal Court erred in concluding exploration licence is “lease” within meaning of s 47B(1)(b)(i).

Appealed from FCA (FC): [\[2018\] FCAFC 8](#); (2018) 351 ALR 491

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Northern Territory of Australia v Mr A Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples & Anor; Commonwealth of Australia v Mr A Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples & Anor; Mr A Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples v Northern Territory of Australia & Anor

[D1/2018](#); [D2/2018](#); [D3/2018](#): [\[2018\] HCATrans 174](#); [\[2018\] HCATrans 175](#); [\[2018\] HCATrans 176](#)

Date heard: 4, 5 and 6 September 2018

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

Catchwords:

Native title – Extinguishment – Compensation for extinguishment – *Native Title Act 1993* (Cth) – Where claim brought against Commonwealth and Northern Territory for extinguishment of non-exclusive native title rights and interests in Timber Creek – Where primary judge awarded claim group compensation for economic value of extinguished rights, interest, and solatium for loss or impairment of rights and interests – Where Full Court held primary judge erred in assessing value of extinguished rights and concluded value of rights was 65% of value of freehold title – Whether Full Court’s assessment of economic value of rights erroneous or manifestly excessive in light of restrictions and limitations on rights – Whether Full Court erred in failing to find primary judge erred in awarding interest as part of compensation under s 51(1) of Act and not as interest on compensation – Whether Full Court erred in assessing interest by reference to 65% of value of freehold title – Whether Full Court erred in failing to find primary judge erred in assessing compensation for non-economic loss – Whether Full Court erred in failing to find primary judge’s assessment of compensation for non-economic loss manifestly excessive – Whether Full Court erred in finding commercial agreements entered into by claimants containing solatium-type payments irrelevant to assessment of compensation.

Appealed from FCA (FC): [\[2017\] FCAFC 106](#); (2017) 256 FCR 478; (2017) 346 ALR 247

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Tjungarrayi & Ors v State of Western Australia & Ors
P37/2018: [\[2018\] HCATrans 233](#)

Date heard: 8 November 2018

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

Catchwords:

Native title – Extinguishment – Petroleum exploration permits – *Native Title Act 1993* (Cth) s 47B – Where land subject to petroleum exploration permits granted under *Petroleum and Geothermal Energy Resources Act 1967* (WA) – Where native title determination application filed in respect of land – Where primary judge concluded s 47B applied because petroleum exploration permits not “leases” within meaning of s 47B(1)(b)(i) – Where Federal Court allowed appeal – Whether Federal Court erred in concluding petroleum exploration permits “leases” within meaning of s 47B(1)(b)(i).

Appealed from FCA (FC): [\[2018\] FCAFC 35](#)

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Stamp Duty

Commissioner of State Revenue v Placer Dome Inc
P6/2018: [\[2018\] HCATrans 119](#)

Date heard: 18 June 2018

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

Catchwords:

Stamp duty – *Stamp Act 1921* (WA) s 76ATI – Assessment – Acquisition of shares – Where Commissioner assessed stamp duty payable for share acquisition on basis value of respondent’s land was value of all respondent’s property less value of “non-land assets” – Where Tribunal affirmed Commissioner’s decision – Where Court of Appeal allowed appeal on basis Tribunal failed to distinguish between value of respondent’s land and value of respondent’s business – Whether Court of Appeal erred in holding Tribunal erred in failing to apply “conventional *Spencer* principles” in valuing land – Whether Court of Appeal erred in concluding evidence supported finding respondent’s business had material goodwill.

Appealed from WASC (CA): [\[2017\] WASCA 165](#); (2017) 106 ATR 511

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Tort

Parkes Shire Council v South West Helicopters Pty Limited

S140/2018: [\[2018\] HCATrans 237](#)

Date heard: 14 November 2018

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

Catchwords:

Tort – Negligence – Psychiatric injury – Where Council engaged South West Helicopters to provide helicopter and pilot for aerial survey – Where Council employees died in helicopter crash – Where relatives brought proceedings in negligence for nervous shock against Council and South West Helicopters under *Compensation to Relatives Act 1897* (NSW) – Where primary judge upheld claim – Where majority of Court of Appeal allowed appeal on basis any liability South West Helicopters might have had under *Compensation to Relatives Act* or general law excluded by *Civil Aviation (Carriers' Liability) Act 1959* (Cth) – Whether majority of Court of Appeal erred in construction of s 35 of *Civil Aviation (Carriers' Liability) Act* – Whether majority of Court of Appeal erred in failing to conclude claims against carriers brought by non-passengers following death of passenger not regulated by s 35.

Appealed from NSW (CA): [\[2017\] NSWCA 312](#); (2017) 327 FLR 110

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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

Glencore International AG & Ors v Commissioner of Taxation of the Commonwealth of Australia & Ors

[S256/2018](#): *Demurrer*

Catchwords:

Constitutional law – Constitution s 75(iii) – Where defendants obtained documents held by law practice – Where plaintiffs claim documents created by law practice for sole or dominant purpose of providing legal advice to plaintiffs – Whether documents subject to legal professional privilege – Whether plaintiffs entitled to injunction under *Judiciary Act 1903* (Cth) s 31 or s 32 restraining defendants and any other officer of Australian Taxation Office from relying upon, referring to or making use of documents.

Referred to Full Court on 5 November 2018

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Unions NSW & Ors v State of New South Wales

[S204/2018](#): *Special Case*

Catchwords:

Constitutional law – Implied freedom of political communication – Where plaintiffs assert intention to incur electoral expenditure during capped State expenditure period within meaning of *Electoral Funding Act 2018* (NSW) – Where ss 29(1) and 35 of Act cap electoral expenditure by third-party campaigners – Whether s 29(10) and/or s 35 invalid because impermissibly burden implied freedom of political communication.

Referred to Full Court on 23 October 2018

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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

Comcare v Banerji

C12/2018: *Removed into High Court under s 40 of Judiciary Act 1903 (Cth) on 12 September 2018*

Catchwords:

Constitutional law – Implied freedom of political communication – Where employee of Department of Immigration and Citizenship used Twitter account to post anonymous “tweets” critical of Department – Where Department terminated employment under s 15 of *Public Service Act 1999* (Cth) on basis employee used social media in breach of ss 13(1), 13(7) and 13(11) of Australian Public Service Code of Conduct – Where employee submitted claim for compensation under s 14 of *Safety, Compensation and Rehabilitation Act 1988* (Cth) on basis termination led to psychological condition – Where Comcare rejected claim – Where Administrative Appeals Tribunal set aside decision on basis termination infringed implied freedom of political communication so termination not “reasonable administrative action taken in a reasonable manner” within meaning of s 5A of *Safety, Compensation and Rehabilitation Act* – Whether ss 13(11) and 15 of *Public Service Act* incompatible with implied freedom of political communication – Whether Tribunal erred in failing to find decision to terminate employment constituted “reasonable administrative action taken in a reasonable manner”.

Removed from Federal 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.

Consumer Law

Australian Securities and Investments Commission v Kobelt

A32/2018: [\[2018\] HCATrans 153](#)

Date heard: 17 August 2018 – *Special leave granted.*

Catchwords:

Consumer law – *Australian Securities and Investments Act 2001* (Cth) s 12CB, 12CC – Unconscionable conduct – Where respondent operated general store in remote town – Where respondent provided credit to indigenous customers – Where primary judge held respondent contravened s 12CB(1) by engaging in system of unconscionable conduct in connection with supply of financial services to customers – Where Full Federal Court allowed appeal – Whether Full Federal Court erred in construction and application of ss 12CB and 12CC.

Appealed from FCA (FC): [\[2018\] FCAFC 18](#)

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Frugtniet v Australian Securities & Investments Commission

M136/2018: [\[2018\] HCATrans 155](#)

Date heard: 17 August 2018 – *Special leave granted.*

Catchwords:

Consumer law – Banning orders – *National Consumer Credit Protection Act 2009* (Cth) s 80 – *Crimes Act 1914* (Cth) s 85ZZH – Where Commission made banning order under s 80 on basis appellant not “fit and proper person to engage in credit activities” – Where Administrative Appeals Tribunal affirmed Commission’s order – Where primary judge and Full Federal Court dismissed appeals – Whether Full Federal Court erred in holding Tribunal not prevented by *Crimes Act* from considering “spent convictions”.

Appealed from FCA (FC): [\[2017\] FCAFC 162](#); (2017) 255 FCR 96

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Corporations

Carter Holt Harvey Woodproducts Australia Pty Ltd v Commonwealth of Australia & Ors

M137/2018: [\[2018\] HCATrans 156](#)

Date heard: 17 August 2018 – *Special leave granted.*

Catchwords:

Corporations – Trustee corporations – *Corporations Act 2001* (Cth) s 433(2) – Where creditors resolved to wind up corporate trustee – Where receivers sought directions – Where primary judge held receivers justified in proceeding on basis receivership surplus properly characterised as trust property and s 433 did not apply to surplus – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in concluding “property of the company” in s 433(2) included not only trustee’s right of indemnity but also underlying trust assets to which trustee company could have recourse – Whether Court of Appeal erred in concluding corporate trustee’s right of indemnity from trust assets was “property comprised in or subject to a circulating security interest” for purposes of s 433(2).

Appealed from VSC (CA): [\[2018\] VSCA 41](#); (2018) 54 VR 230; (2018) 330 FLR 149; (2018) 354 ALR 789; (2018) 124 ACSR 246

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Criminal Law

OKS v The State of Western Australia

P25/2018: [\[2018\] HCATrans 242](#)

Date heard: 16 November 2018 – *Special leave granted.*

Catchwords:

Criminal law – Jury directions – Application of proviso – *Criminal Appeals Act 2004* (WA) s 30(4) – Where appellant charged with four counts of indecently dealing with child – Where appellant acquitted of all but one count – Where trial judge directed jury not to reason all complainant’s evidence dishonest and cannot be relied upon on basis complainant told or admitted she told lie – Where Court of Appeal found direction erroneous but dismissed appeal on basis no substantial miscarriage of justice occurred – Whether the

Court of Appeal erred in applying proviso and failing to quash the appellant's conviction.

Appealed from WASC (CA): [\[2018\] WASCA 48](#); (2018) 52 WAR 482

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McKell v The Queen

S223/2018: [\[2018\] HCATrans 151](#)

Date heard: 17 August 2018 – *Special leave granted.*

Catchwords:

Criminal law – Trial by jury – Summing up – Where appellant intercepted two consignments between arrival in Sydney and transfer to freight forwarding agency – Where second consignment contained prohibited drug – Where appellant charged with importing commercial quantity of prohibited drug, conspiring to import commercial quantity of prohibited drug and dealing with proceeds of crime – Where appellant tried before jury – Where trial judge commented on evidence in summing up – Where appellant convicted of charges – Where majority of Court of Appeal dismissed appeal against convictions – Whether majority of Court of Appeal erred in failing to find trial judge's summing up unbalanced and caused miscarriage of justice.

Appealed from NSWSC (CA): [\[2017\] NSWCCA 291](#)

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Insurance Law

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

B31/2018; B33/2018; B34/2018: [\[2018\] HCATrans 241](#)

Date heard: 16 November 2018 – *Special leave granted.*

Catchwords:

Insurance law – Motor vehicles – Personal injury – Where appellant injured in motor vehicle collision – Where appellant alleged injuries caused by negligence of father – Where appellant gave evidence father driving vehicle at time of collision – Where appellant's blood located on driver airbag – Where pathologist gave evidence relating to possible source of blood – Where mechanical engineer gave evidence relating to seatbelts and airbag design – Where trial judge

concluded appellant driving vehicle – Where Court of Appeal dismissed appeal – Whether Court of Appeal failed to give adequate reasons by failing to address aspects of mechanical engineer’s evidence and inferences arising from evidence – Whether Court of Appeal erred by failing to conclude trial judge misused advantage as trial judge – Whether finding appellant was driver contrary to compelling inferences from uncontroverted evidence.

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

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Interpretation

Victorian Building Authority v Andriotis

M134/2018: [\[2018\] HCATrans 154](#)

Date heard: 17 August 2018 – *Special leave granted.*

Catchwords:

Interpretation – *Mutual Recognition Act 1999* (Cth) s 17, 20 – Where respondent registered in New South Wales as waterproofing technician – Where respondent applied to appellant for registration under *Building Act 1993* (Vic) – Where appellant refused to grant registration because respondent not of “good character” as required by s 170(1)(c) of *Building Act* – Where Administrative Appeals Tribunal affirmed decision – Where Full Federal Court allowed appeal – Whether Full Federal Court erred in holding appellant required by s 20(2) to register respondent for equivalent occupation under *Building Act* notwithstanding appellant found respondent not of good character – Whether Full Federal Court erred in holding exception to mutual recognition principle in s 17(2) of *Mutual Recognition Act* does not quality “entitlement” to be registered under s 20(1) – Whether Full Court erred in holding “good character” requirement in *Building Act* not law regulating “manner” of carrying out occupation within meaning of s 17(2) of *Mutual Recognition Act*.

Appealed from FCA (FC): [\[2018\] FCAFC 24](#)

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Procedure

Brisbane City Council v Amos

B47/2018: [\[2018\] HCATrans 186](#)

Date heard: 14 September 2018 – *Special leave granted.*

Catchwords:

Procedure – Limitation periods – *Limitation of Actions Act 1974* (Qld) – Where Council commenced proceeding against respondent for overdue rates and charges – Where primary judge gave judgment for Council – Where majority of Court of Appeal allowed appeal on basis part of claim beyond 6 year limitation period in s 10(1)(d) of Act – Whether majority erred in holding proceeding falls within both ss 10(1)(d) and 26(1) of Act and inconsistency should be resolved by applying shorter limitation period in s 10(1)(d).

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

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7: CASES NOT PROCEEDING OR VACATED

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8: SPECIAL LEAVE REFUSED

Publication of Reasons: 7 November 2018

No.	Applicant	Respondent	Court appealed from	Result
1.	Kowalski	Mitsubishi Motors Australia Staff Superannuation Pty Ltd & Anor (A25/2018)	Supreme Court of South Australia Full Court [2018] SASCFC 44	Application dismissed [2018] HCASL 325
2.	Kowalski	Mitsubishi Motors Australia Limited (A26/2018)	Supreme Court of South Australia Full Court [2018] SASCFC 63	Application dismissed [2018] HCASL 326
3.	AQU17	Minister for Immigration and Border Protection & Anor (M114/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 111	Application dismissed [2018] HCASL 327
4.	Iftikhar	Minister for Immigration and Border Protection & Anor (S224/2018)	Federal Court of Australia [2018] FCA 1197	Application dismissed [2018] HCASL 328
5.	Pun & Anor	Minister for Home Affairs & Anor (S231/2018)	Federal Court of Australia [2018] FCA 1190	Application dismissed [2018] HCASL 329
6.	ECH17	Minister for Immigration and Border Protection & Anor (S240/2018)	Federal Court of Australia [2018] FCA 1222	Application dismissed [2018] HCASL 330
7.	DDQ17	Minister for Immigration and Border Protection & Anor (S244/2018)	Federal Court of Australia [2018] FCA 1223	Application dismissed [2018] HCASL 331
8.	EDK17	Minister for Immigration and Border Protection & Anor (S247/2018)	Federal Court of Australia [2018] FCA 1258	Application dismissed [2018] HCASL 332
9.	BFL16	Minister for Immigration and Border Protection & Anor (S250/2018)	Federal Court of Australia [2018] FCA 1356	Application dismissed [2018] HCASL 333
10.	AYY17	Minister for Immigration and Border Protection & Anor (B36/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 89	Application dismissed with costs [2018] HCASL 334
11.	Mensink	Stephen Parbery and Michael Andrew Owen in their capacity as liquidators of Queensland Nickel Pty Ltd (in liquidation) (ACN 009 842 068) (B37/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 101	Application dismissed with costs [2018] HCASL 335
12.	Niehus	The Queen (D7/2018)	Supreme Court of the Northern Territory (Court of Criminal Appeal) [2018] NTCCA 10	Application dismissed [2018] HCASL 336

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
13.	Aurora Construction Materials Pty Ltd (ACN 126 837 483) & Anor	De Luca (M112/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 165	Application dismissed with costs [2018] HCASL 337

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Publication of Reasons: 14 November 2018

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	
1.	CKJ17	Minister for Home Affairs & Anor (B41/2018)	Federal Court of Australia [2018] FCA 1284	Application dismissed [2018] HCASL 338
2.	Legal Practitioner	The Council of the Law Society of the ACT (C8/2018)	Supreme Court of the Australian Capital Territory (Court of Appeal) [2018] ACTCA 26	Application dismissed [2018] HCASL 339
3.	Legal Practitioner	The Council of the Law Society of the ACT (C9/2018)	Supreme Court of the Australian Capital Territory (Court of Appeal) [2018] ACTCA 19	Application dismissed [2018] HCASL 340
4.	ASD16	Minister for Immigration and Border Protection & Anor (M132/2018)	Federal Court of Australia [2018] FCA 1165	Application dismissed [2018] HCASL 341
5.	Lei	Lei & Ors (M139/2018)	Supreme Court of Victoria (Court of Appeal)	Application dismissed [2018] HCASL 342
6.	CJO15	Minister for Immigration and Border Protection & Anor (S228/2018)	Federal Court of Australia [2018] FCA 1338	Application dismissed [2018] HCASL 343
7.	Risha	Minister for Immigration and Border Protection & Anor (S238/2018)	Federal Court of Australia [2018] FCA 1342	Application dismissed [2018] HCASL 344
8.	Plaintiff S118/2018	Minister for Home Affairs & Ors (S239/2018)	High Court of Australia [2018] HCATrans 159	Application dismissed [2018] HCASL 345
9.	ALS16	Minister for Immigration and Border Protection & Anor (S248/2018)	Federal Court of Australia [2018] FCA 1290	Application dismissed [2018] HCASL 346
10.	DMU16	Minister for Immigration and Border Protection & Anor (S253/2018)	Federal Court of Australia [2018] FCA 1334	Application dismissed [2018] HCASL 347
11.	Haynes	St George Bank a division of Westpac Banking Corporation (A30/2018)	Full Court of the Supreme Court of South Australia [2018] SASCFC 51	Applications dismissed [2018] HCASL 348
	Haynes	Westpac Banking Corporation (A31/2018)	Full Court of the Supreme Court of South Australia [2018] SASCFC 51	
12.	AXB17	Minister for Immigration and Border Protection & Anor (B40/2018)	Federal Court of Australia [2018] FCA 1295	Application dismissed [2018] HCASL 349
13.	Crowther	Whitehorse City Council (M123/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 184	Application dismissed [2018] HCASL 350
14.	CTI16	Minister for Home Affairs & Anor (M140/2018)	Federal Court of Australia [2018] FCA 1164	Application dismissed [2018] HCASL 351

8: Special Leave Refused

15.	CZY16	Minister for Immigration and Border Protection & Anor (S227/2018)	Federal Court of Australia [2018] FCA 1171	Application dismissed [2018] HCASL 352
16.	Nasir & Anor	Minister for Home Affairs & Anor (S232/2018)	Federal Court of Australia [2018] FCA 1287	Application dismissed [2018] HCASL 353
17.	SZSHY & Ors	Minister for Immigration and Border Protection & Anor (S242/2018)	Federal Court of Australia [2018] FCA 1233	Application dismissed [2018] HCASL 354
18.	BDQ16	Honourable Justice Flick & Ors (S249/2018)	High Court of Australia [2018] HCATrans 116	Application dismissed [2018] HCASL 355
19.	DCD17	Minister for Immigration and Border Protection & Anor (S251/2018)	Federal Court of Australia [2018] FCA 1262	Application dismissed [2018] HCASL 356
20.	Adams	The Queen (S185/2018)	Supreme Court of New South Wales (Court of Criminal Appeal) [2017] NSWCCA 215	Application dismissed [2018] HCASL 357
21.	Miller	Lewis Securities Ltd (in liq) & Ors (S207/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 118 & [2018] NSWCA 159	Application dismissed with costs [2018] HCASL 358
22.	Carter	Lewis Securities Ltd (in liq) & Ors (S216/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 159 & [2018] NSWCA 118	Application dismissed with costs [2018] HCASL 359
23.	Arico	The Queen (M96/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 135	Application dismissed [2018] HCASL 360
24.	Mastronardo & Anor	Commonwealth Bank of Australia & Ors (S194/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 136	Application dismissed with costs [2018] HCASL 361
25.	Liristis	Commissioner of Corrective Services & Anor (S196/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 143	Application dismissed with costs [2018] HCASL 362
26.	BQL15	Minister for Immigration and Border Protection & Anor (S200/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 104	Application dismissed with costs [2018] HCASL 363
27.	Dickson	Commissioner of the Australian Federal Police (S225/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 169	Application dismissed [2018] HCASL 364

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16 November 2018: Sydney

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	Wilson	Bauer Media Pty Ltd & Anor (M103/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 154	Application refused with costs [2018] HCATrans 238
2.	Obeid & Ors	Lockley & Anor (S126/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 71	Application refused with costs [2018] HCATrans 239
3.	Chen	The Queen (S181/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCCA 106	Application refused [2018] HCATrans 240
4.	Manitowog Platinum Pty Ltd & Anor	WFI Insurance Ltd (P36/2018)	Supreme Court of Western Australia (Court of Appeal) [2018] WASCA 89	Application refused with costs [2018] HCATrans 243

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