



HIGH COURT BULLETIN

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[2019] HCAB 4 (8 July 2019)

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

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1: SUMMARY OF NEW ENTRIES

2: Cases Handed Down

Case	Title
<i>Frugtniet v Australian Securities and Investments Commission</i>	Administrative Law
<i>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</i>	Arbitration
<i>Parkes Shire Council v South West Helicopters Pty Limited</i>	Aviation Law
<i>Spence v State of Queensland</i>	Constitutional Law

3: Cases Reserved

Case	Title
<i>Palmer & Ors v Australian Electoral Commission & Ors</i>	Constitutional Law

<i>Mann & Anor v Paterson Constructions Pty Ltd</i>	Contract Law
<i>Connective Services Pty Ltd & Anor v Slea Pty Ltd & Ors</i>	Corporations Law
<i>Bell Lawyers Pty Ltd v Pentelow & Anor</i>	Costs
<i>Love v Commonwealth of Australia; Thoms v Commonwealth of Australia</i>	Migration Law

4: Original Jurisdiction

5: Section 40 Removal

6: Special Leave Granted

Case	Title
<i>BMW Australia Ltd v Brewster & Anor</i>	Constitutional Law
<i>Westpac Banking Corporation & Anor v Lenthall & Ors</i>	Constitutional Law
<i>Australian Securities and Investments Commission v King & Anor</i>	Corporations Law
<i>DG v The Queen; ZK v The Queen</i>	Evidence
<i>The Queen v Guode</i>	Criminal Law
<i>CNY17 v Minister for Immigration and Border Protection & Anor</i>	Migration Law
<i>BHP Billiton Limited (now named BHP Group Limited) v Commissioner of Taxation</i>	Taxation
<i>Commissioner of State Revenue v Rojoda Pty Ltd</i>	Taxation
<i>Comptroller-General of Customs v Pharm-A-Care Laboratories Pty Ltd</i>	Taxation

7: Cases Not Proceeding or Vacated

2: CASES HANDED DOWN

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

Administrative Law

Frugtniet v Australian Securities and Investments Commission

M136/2018: [\[2019\] HCA 16](#)

Judgment delivered: 15 May 2019

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

Catchwords:

Administrative law (Cth) – Administrative Appeals Tribunal – Nature and scope of review – Where appellant's convictions spent under Pt VIIC of *Crimes Act 1914* (Cth) – Where Div 3 of Pt VIIC of *Crimes Act* prohibited Australian Securities and Investments Commission ("ASIC") from taking into consideration spent convictions in deciding to make banning order – Where review of decision of ASIC by Administrative Appeals Tribunal – Where s 85ZZH(c) of *Crimes Act* provided that Div 3 of Pt VIIC does not apply to Commonwealth tribunal – Whether Administrative Appeals Tribunal entitled to take into consideration on review spent convictions which ASIC was prohibited from taking into consideration.

Words and phrases – "banning order", "fit and proper person", "function of the original decision-maker", "review", "spent conviction", "stand in the shoes of the decision-maker".

Administrative Appeals Tribunal Act 1975 (Cth) – ss 25, 43.

Crimes Act 1914 (Cth) – Pt VIIC, ss 85ZM, 85ZV, 85ZW, 85ZZH(c).

National Consumer Credit Protection Act 2009 (Cth) – ss 80, 327.

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

Held: Appeal allowed; respondent to pay costs of appellant in this Court

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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](#): [2019] HCA 13

Judgment delivered: 8 May 2019

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

Catchwords:

Contract – Construction – Dispute resolution clause – Arbitration – Where arbitral clause in deeds provided for confidential arbitration in event of any dispute "under this deed" – Where deeds came into existence against background of claims and threats of litigation made publicly by one party to deeds against others – Where deeds contained releases, acknowledgments and covenants not to sue, and promises not to make further claims – Where deeds contained assurances they were entered into without undue influence or duress – Where appellants brought proceedings alleging breaches of equitable and contractual duties against other parties to deeds – Where appellants asserted they were not bound by deeds because their assent procured by misconduct of other parties to deeds ("validity claims") – Where respondents sought orders that matter be referred to arbitration and proceedings be dismissed or permanently stayed – Whether validity claims subject to arbitral clause.

Arbitration – Parties – Where s 8(1) of *Commercial Arbitration Act 2010* (NSW) ("NSW Act") provided that court before which action is brought in matter which is subject of arbitration agreement must in certain circumstances refer parties to arbitration – Where s 2(1) of NSW Act defined "party" to include any person claiming "through or under" party to arbitration agreement – Where trustees and beneficiaries party to arbitration agreement – Where beneficiaries alleged breaches of trust against trustees and knowing receipt against third party companies as assignees of trust property – Where third party companies asserted beneficial entitlement of trustees to property as essential element of defence – Where third party companies sought order that claims against them be referred to arbitration pursuant to s 8(1) of NSW Act – Whether third party companies claiming "through or under" party to arbitration agreement.

Words and phrases – "arbitral clause", "arbitration agreement", "claiming through or under a party", "confidential processes of dispute resolution", "context and purpose of deed", "dispute under this deed", "party", "privity of contract".

Commercial Arbitration Act 2010 (NSW) – ss 2, 8.

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

Held: Appeals dismissed with costs; third party companies' cross-appeal treated as instituted and heard instanter and allowed; stay ordered; first and second respondents pay appellants' costs of appeal, subject to Mulga Downs Investments Pty Ltd paying costs related to question of whether it is party to arbitration agreement

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Aviation Law

Parkes Shire Council v South West Helicopters Pty Limited

S140/2018: [\[2019\] HCA 14](#)

Judgment delivered: 8 May 2019

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

Catchwords:

Aviation – Carriage of passengers by air – Accident – Carrier's liability – Where respondent engaged by appellant to carry out survey using helicopter – Where passenger aboard helicopter killed in crash – Where Pt IV of *Civil Aviation (Carriers' Liability) Act 1959* (Cth) applied – Where s 28 provided that carrier liable for damage sustained by reason of death of passenger – Where s 35(2) substituted liability under s 28 for any civil liability of carrier under any other law in respect of death of passenger – Where s 34 imposes time limit on availability of right of action created by s 28 – Where widow, daughter and son of passenger brought claims in tort against appellant and respondent for damages for negligently inflicted psychiatric harm resulting from death of passenger – Where claims brought outside time limit prescribed by s 34 – Whether claims precluded by Act.

Words and phrases – "any civil liability of the carrier under any other law", "by reason of the death of the passenger", "claim", "damage sustained", "Hague Protocol", "in respect of the death of the passenger", "Montreal Protocol No 4", "negligently inflicted psychiatric harm", "tort", "Warsaw Convention".

Civil Aviation (Carriers' Liability) Act 1959 (Cth) – ss 28, 34, 35(2), 37.

Appealed from NSWSC (CA): [\[2017\] NSWCA 312](#); (2017) 356 ALR 63; (2017) 327 FLR 110

Held: Appeal dismissed; appellant pay respondent's costs

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Constitutional Law

Spence v State of Queensland

B35/2018: [\[2019\] HCA 15](#)

Judgment delivered: 15 May 2019

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

Catchwords:

Constitutional law (Cth) – Powers of Commonwealth Parliament – Federal elections – Severance – Where s 51(xxxvi) in application to ss 10 and 31 of Constitution conferred legislative power on Commonwealth Parliament with respect to federal elections – Where Commonwealth Parliament enacted s 302CA within Div 3A of Pt XX of *Commonwealth Electoral Act 1918* (Cth) – Where s 302CA relevantly conferred authority on person to make, and on "political entity" to receive and retain, gift not prohibited by Div 3A provided that gift or part of it was "required to be, or may be" used for certain purposes relating to federal elections – Where s 302CA provided for displacement of such authority in circumstances including where State or Territory electoral law required gift or part of it to be kept or identified separately to be used only for purpose of State, Territory or local government election – Whether Commonwealth legislative power with respect to federal elections exclusive or concurrent – Whether s 302CA within scope of Commonwealth legislative power with respect to federal elections – Whether possible to sever s 302CA to preserve part of its operation within scope of Commonwealth legislative power.

Constitutional law (Cth) – Inconsistency between Commonwealth and State laws – Gifts to political parties – Where Queensland Parliament passed amendments to *Electoral Act 1992* (Qld) and *Local Government Electoral Act 2011* (Qld) prohibiting property developers from making gifts to political parties that endorse and promote candidates for election to Legislative Assembly and local government councils – Whether Queensland amendments inconsistent with s 302CA or framework of Pt XX of *Commonwealth Electoral Act* – Whether s 302CA invalid for infringing principle in *University of Wollongong v Metwally* (1984) 158 CLR 447; [1984] HCA 74.

Constitutional law (Cth) – Implied freedom of communication about governmental and political matters – Where amendments to *Electoral Act 1992* (Qld) substantially replicated provisions in *Election Funding, Expenditure and Disclosures Act 1981* (NSW)

upheld in *McCloy v New South Wales* (2015) 257 CLR 178; [2015] HCA 34 – Whether amendments invalid for infringing implied freedom.

Constitutional law (Cth) – Relationship between Commonwealth and States – Doctrine of inter-governmental immunities – Whether implication expounded in *Melbourne Corporation v The Commonwealth* (1947) 74 CLR 31; [1947] HCA 26 operates reciprocally to protect States and Commonwealth from impermissible interference by law of one polity with operations of government in another – Whether s 302CA invalid for contravening Melbourne Corporation principle – Whether Queensland amendments invalid for contravening Melbourne Corporation principle.

Words and phrases – "bare attempt to limit or exclude State power", "concurrent power", "electoral expenditure", "electoral matter", "exclusive power", "federal elections", "federalism", "immunity from State laws", "incidental", "inconsistency", "inter-governmental immunities", "political entity", "political party", "required to be, or may be, used for the purposes of incurring electoral expenditure, or creating or communicating electoral matter", "severance", "State elections", "structural implication", "sufficient connection".

Constitution – ss 7, 9, 10, 29, 31, 51(xxxvi), (xxxix), 109.

Acts Interpretation Act 1901 (Cth) – ss 13, 15A, 15AD.

Commonwealth Electoral Act 1918 (Cth) – ss 4AA, 302CA, Pt XX.

Election Funding, Expenditure and Disclosures Act 1981 (NSW), Pt 6, Div 4A.

Electoral Act 1992 (Qld) – Pt 11, Div 8, Subdiv 4.

Local Government Electoral Act 2011 (Qld) – Pt 6, Div 1A.

Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018 (Qld) – Pts 3, 5.

Special case

Held: Questions answered on 17 April 2019

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3: CASES RESERVED

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

Constitutional Law

Comcare v Banerji

C12/2018: [\[2019\] HCATrans 50](#); [\[2019\] HCATrans 51](#)

Date heard: 20, 21 March 2019

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

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 into High Court under s 40 of Judiciary Act 1903 (Cth) on 12 September 2018

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

S256/2018: [\[2019\] HCATrans 82](#)

Date heard: 17 April 2019

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

Catchwords:

Constitutional law – Constitution s 75(iii) – Where defendants obtained documents held by overseas 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 – Whether common law of Australia confers on privilege holder actionable right to restrain use by third party of privileged communication – Whether defendants entitled and/or obliged to retain and use communications under *Income Tax Assessment Act 1936* (Cth) s 166.

Referred to Full Court on 5 November 2018

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Palmer & Ors v Australian Electoral Commission & Ors

B19/2019: [\[2019\] HCATrans 87](#); [\[2019\] HCATrans 88](#)

Date heard: 6, 7 May 2019 – orders pronounced, reasons to be published at a later date

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

Catchwords:

Constitutional law – Federal election – Where each plaintiff endorsed by United Australia Party as candidate in House of Representatives or Senate for purpose of 2019 federal election – Whether the exercise by any/all defendants of their powers under *Commonwealth Electoral Act 1918* (Cth) is constrained by a statutory limitation preventing publication or release to a nationwide audience, at a time when any poll remains open in Australia, of the identity of the two candidates selected by the Commission for each Electoral Division or of results of the indicative two-candidate-preferred count – Whether there is a constitutional limitation to similar effect by reason of the mandate for direct and popular choice contained in ss 7 and 24 of the Constitution (Cth).

Referred to Full Court on 5 April 2019

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Plaintiff M47/2018 v Minister for Home Affairs & Anor

M47/2018: [\[2019\] HCATrans 9](#)

Date heard: 13 February 2019 – questions answered, reasons to be published at a later date

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

Catchwords:

Constitutional law – Constitution Ch III – Detention – Immigration detention – Where plaintiff arrived in Australia in 2010 – Where plaintiff detained under ss 189 and 196 of *Migration Act 1958* (Cth) – Where plaintiff claims he has no right, or entitlement to obtain right, to enter or reside in any country – Whether ss 189 and 196 of Act authorise detention of plaintiff – If yes, whether ss 189 and 196 of Act beyond legislative power of Commonwealth insofar as they apply to plaintiff.

Questions answered

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Consumer Law

Australian Securities and Investments Commission v Kobelt

A32/2018: [\[2018\] HCATrans 252](#)

Date heard: 4 December 2018

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

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 – Whether Full Court gave due weight to special disadvantage or vulnerability of customers and gave undue weight to voluntary entry into agreements.

Appealed from FCA (FC): [\[2018\] FCAFC 18](#); (2018) 352 ALR 689

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Contract Law

Mann & Anor v Paterson Constructions Pty Ltd

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

Date heard: 14 May 2019

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

Catchwords:

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

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

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Corporations Law

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

M137/2018: [\[2019\] HCATrans 6](#)

Date heard: 5 February 2019

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

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) 354 ALR 789; (2018) 124 ACSR 246; (2018) 330 FLR 149

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Connective Services Pty Ltd & Anor v Slea Pty Ltd & Ors
M203/2018: [\[2019\] HCATrans 98](#)

Date heard: 15 May 2019

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

Catchwords:

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

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

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Costs

Bell Lawyers Pty Ltd v Pentelow & Anor

S352/2018: [\[2019\] HCATrans 91](#)

Date heard: 9 May 2019

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

Catchwords:

Costs – *Chorley* exception – *London Scottish Benefit Society v Chorley* (1884) 13 QBD 872 – Where first respondent is barrister – Where first respondent commenced proceedings against appellant – Where Supreme Court entered judgment for first respondent and ordered appellant to pay first respondent’s costs – Where first respondent sought to recover costs for work performed by her in addition to costs and disbursements of solicitors and counsel – Where costs assessor and review panel disallowed costs for work performed by first respondent – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in concluding first respondent entitled to recover costs for time spent in conduct of proceedings – Whether Court of Appeal erred in concluding *Chorley* exception applied in circumstances where first respondent had retained solicitors and counsel – Whether Court of Appeal erred in determining s 98 of *Civil Procedure Act 2005* (NSW) permitted application of *Chorley* exception.

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

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The Northern Territory of Australia v Sangare

D11/2018: [\[2019\] HCATrans 68](#)

Date heard: 11 April 2019

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

Catchwords:

Costs – Discretion to award costs – Impecuniosity – Where Department of Infrastructure offered employment to respondent – Where respondent sought support for skilled migration visa application from Minister for Infrastructure – Where Departmental officers provided briefing to Minister – Where respondent alleged briefing contained defamatory material fabricated by Department – Where respondent commenced proceedings seeking damages for publication of defamatory statements in briefing – Where Supreme

Court dismissed claim – Where Court of Appeal dismissed respondent’s appeal – Where Court of Appeal declined to award appellant costs because respondent impecunious – Whether Court of Appeal erred in refusing to award costs because respondent unlikely to be able to pay any costs awarded against him.

Appealed from NTSC (CA): [\[2018\] NTCA 10](#)

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Family Law

Masson v Parsons & Ors

S6/2019: [\[2019\] HCATrans 79](#); [\[2019\] HCATrans 81](#)

Date heard: 16 and 17 April 2019

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

Catchwords:

Family law – Parentage – Artificial insemination – Where appellant and first respondent conceived child using artificial insemination – Where appellant listed on child’s birth certificate as father – Where primary judge found appellant was “parent” for purpose of *Family Law Act 1975* (Cth) because provided genetic material for purpose of fathering child he expected to parent – Where Full Court allowed appeal on basis s 79 of *Judiciary Act 1903* (Cth) picked up s 14(2) of *Status of Children Act 1996* (NSW) which operated to determine appellant not “parent” – Whether Full Court erred in concluding s 14(2) of *Status of Children Act* operated to determine appellant not “parent” for purpose of *Family Law Act* – Whether Full Court erred in concluding s 60H of *Family Law Act* exhaustively defines parents of child for purpose of *Family Law Act*.

Appealed from FamCA (FC): [\[2018\] FamCAFC 115](#); (2018) 334 FLR 381

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Insurance Law

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

B61/2018; B62/2018; B63/2018: [\[2019\] HCATrans 67](#)

Date heard: 10 April 2019

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

Catchwords:

Insurance law – Motor vehicles – Personal injury – Where appellant injured in motor vehicle collision – Where appellant 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: [\[2019\] HCATrans 8](#)

Date heard: 12 February 2019

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

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](#); (2018) 259 FCR 354; (2018) 74 AAR 78; (2018) 359 ALR 427; (2018) 161 ALD 258

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Migration Law

Love v Commonwealth of Australia; Thoms v Commonwealth of Australia

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

Date heard: 8 May 2019

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

Catchwords:

Migration law – Where Love born in Papua New Guinea to Australian father – Where Love identifies as descendant of the Kamilaroi tribe – Where Love has five Australian children – Where Love was sentenced for an offence of assault occasioning bodily harm against s 339 of the *Criminal Code 1899* (Qld) and sentenced to imprisonment of 12 months – Where Love’s Class BF Transitional (permanent) Visa cancelled under s 501(3A) of the *Migration Act 1958* (Cth) – Where Love detained under s 189 of *Migration Act 1958* (Cth) on suspicion of being an “unlawful non-citizen” – Where cancellation of Love’s visa revoked under s 501CA(4) of the *Migration Act* and Love released from immigration detention – Where Thoms born in New Zealand to Australian mother – Where Thoms identifies as member of Gunggari People – Where Thoms has one Australian child – Where Thoms sentenced to imprisonment of 18 months for assault occasioning bodily harm contrary to ss 339(1) and 47(9) of the *Criminal Code* – Where Thoms’ Subclass 444 Special Category (temporary) Visa cancelled under s 501(3A) of the *Migration Act* – Where Thoms was and remains detained purportedly under s 189 of the *Migration Act* on suspicion of being an “unlawful non-citizen” – Whether each of Love and/or Thoms an “alien” within the meaning of s 51(xix) of the *Constitution* (Cth).

Referred to Full Court on 5 March 2019

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Procedure

Brisbane City Council v Amos

[B47/2018](#): [\[2019\] HCATrans 66](#)

Date heard: 9 April 2019

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

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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4: ORIGINAL JURISDICTION

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

Administrative Law

Taylor v Attorney-General of the Commonwealth

[M36/2018](#): *Special Case*

Catchwords:

Administrative law – Judicial review – Where plaintiff lodged charge-sheet and summons at Magistrates’ Court against Aung Sun Suu Kyi (serving Foreign Minister of Myanmar) for a crime against humanity (deportation or forcible transfer of population) contrary to ss 268.11 and 268.115 of the *Criminal Code Act 1995* (Cth) – Where plaintiff sought defendant’s consent under s 268.121 of the *Criminal Code Act* to commence proceedings – Where consent refused – Whether the decision to refuse consent reviewable – Whether defendant misunderstood the law and committed jurisdictional error in refusing consent – Whether Aung Sun Suu Kyi immune from prosecution in Australia under customary international law – Whether defendant failed to afford plaintiff procedural fairness.

Referred to Full Court on 8 March 2019

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Constitutional Law

Minogue v State of Victoria

[M162/2018](#): *Special Case*

Catchwords:

Constitutional law – Parole – Where plaintiff convicted of murder of police officer – Where plaintiff sentenced to life imprisonment – Where non-parole period expired on 30 September 2016 – Where *Corrections Amendment (Parole) Act 2018* (Vic) inserted new ss 74AAA, 74AB and 127A into *Corrections Act 1986* (Vic) – Whether s 74AAA applies to plaintiff or to consideration of grant of parole to him – Whether ss 74AB and (if applicable) 74AAA substantively amount to cruel, inhuman or degrading treatment or punishment within meaning of Art 7 of International Covenant on

Civil and Political Rights – Whether provision(s) invalid as unconstitutional and/or beyond power of Victorian Parliament.

Referred to Full Court on 5 April 2019

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5: SECTION 40 REMOVAL

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

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6: SPECIAL LEAVE GRANTED

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

Constitutional Law

BMW Australia Ltd v Brewster & Anor

S102/2019: [\[2019\] HCATrans 94](#)

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

Catchwords:

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

Appealed from NSWSC (CA): [\[2019\] NSWCA 35](#)

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Westpac Banking Corporation & Anor v Lenthall & Ors

S105/2019: [\[2019\] HCATrans 95](#)

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

Catchwords:

Constitutional law – Separation of powers – Principle of legality – Acquisition on just terms – Where representative proceeding under Part IVA of *Federal Court of Australia Act 1976* (Cth) – Where primary judge determined making of common fund order appropriate to do justice in proceedings – Whether Full Court erred in holding that properly construed s 33ZF of *Federal Court of Australia Act 1976* (Cth) (“FCAA”) empowers court to make common fund order – Whether Full Court erred in holding that s 33ZF permitted creation of right in litigation funder to share of any settlement or judgment in favour of a group member – Whether

Full Court erred in holding principle of legality does not apply because common fund order "supports and fructifies" rather than diminishes rights of group members – Whether Full Court erred in holding as matter of construction and notwithstanding *Anthony Hordern* principle s33ZF supported making of common fund order – Whether Full Court erred in holding s 33ZF conferred judicial power or power incidental to the exercise of judicial power on court – Whether Full Court erred in holding neither s 33ZF nor common fund order resulted in acquisition of property for purposes of s 51(xxxi) of *Constitution* – Whether Full Court erred in holding if s 33ZF is law with respect to acquisition of property it is not invalid because appellants failed to demonstrate group members would not receive pecuniary equivalent of property acquired.

Appealed from FCA (FC): [\[2019\] FCAFC 34](#)

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Corporations Law

Australian Securities and Investments Commission v King & Anor
B4/2019: [\[2019\] HCATrans 104](#)

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

Catchwords:

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

Appealed from QSC (CA): [\[2018\] QCA 352](#)

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Criminal Law

De Silva v The Queen
B24/2019: [\[2019\] HCATrans 70](#)

Date heard: 12 April 2019 – *Special leave granted on limited grounds.*

Catchwords:

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

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

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Fennell v The Queen

B20/2019: [\[2019\] HCATrans 58](#)

Date heard: 22 March 2019 – *Special leave granted on limited grounds.*

Catchwords:

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

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

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HT v The Queen

S123/2019: [\[2019\] HCATrans 75](#)

Date heard: 12 April 2019 – *Special leave granted.*

Catchwords:

Criminal law – Procedural fairness – Public interest immunity – Where appellant pleaded guilty to five counts of obtaining money by

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

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

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Lordianto & Anor v Commissioner of the Australian Federal Police; Kalimuthu & Anor v Commissioner of the Australian Federal Police
S110/2019; P17/2019: [\[2019\] HCATrans 54](#)

Date heard: 22 March 2019 – *Special leave granted.*

Catchwords:

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

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

P17/2019 Appealed from WASC (CA): [\[2018\] WASCA 192](#)

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The Queen v A2; The Queen v Magennis; The Queen v Vaziri
S43/2019; S44/2019; S45/2019: [\[2019\] HCATrans 16](#)

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

Catchwords:

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

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

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The Queen v Guode

M145/2018: [\[2019\] HCATrans 100](#)

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

Catchwords:

Criminal law – Sentencing — Manifest excess – Infanticide, murder and attempted murder — Where mother caused death of three children and attempted to kill fourth — Where mother pled guilty — Where mother had had traumatic life and suffered a major depressive disorder as consequence of giving birth to her youngest child — Whether mother suffering from post-traumatic stress disorder – Whether Court of Appeal erred in taking into account as relevant consideration in making its determination as to manifest excess fact that prosecution had accepted plea to infanticide in respect of Charge 1 on the indictment.

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

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Evidence

DG v The Queen; ZK v The Queen

S163/2019; S160/2019: [\[2019\] HCATrans 106](#)

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

Catchwords:

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

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

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Migration Law

BVD17 v Minister for Immigration and Border Protection & Anor
S46/2019: [\[2019\] HCATrans 13](#)

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

Catchwords:

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

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

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CNY17 v Minister for Immigration and Border Protection & Anor
M159/2018: [\[2019\] HCATrans 101](#)

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

Catchwords:

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

Appealed from FCA (FC): [\[2018\] FCAFC 159](#)

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Taxation

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

B8/2019: [\[2019\] HCATrans 93](#)

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

Catchwords:

Taxation – Where appellant is part of a dual-listed company arrangement with non-resident company – Where third company (BMAG) indirectly owned by appellant and non-resident company – Where BMAG derived income from sale of commodities purchased from non-resident company’s Australian subsidiaries – Whether non-resident company’s Australian subsidiaries were “associates” of BMAG within meaning of s 318 of *Income Tax Assessment Act 1936* (Cth) – Whether BMAG, appellant and/or the non-resident company were “sufficiently influenced” by appellant and/or the non-resident company within meaning of s 318(6) – Whether Full Court erred in concluding that a person or entity acts “in accordance with” directions, instructions or wishes of another entity for purposes of s 318(6)(b) if person or entity merely acts “in harmonious correspondence, agreement or conformity with” those directions, instructions or wishes – Whether Full Court should have found that, in order to act “in accordance with” directions, instructions or wishes of another entity for purposes of s 318(6)(b) a person or entity must treat that other entity’s directions, instructions or

wishes as themselves being a sufficient reason so to act – Whether Full Court erred in finding that at a minimum appellant and BHP Billiton Plc each acted "in accordance with" the "directions, instructions or wishes" of the other for the purposes of s 318(6)(b) – Whether Full Court should have concluded that such actions were not done "in accordance with" the "directions, instructions or wishes" of the other for the purposes of s 318(6)(b).

Appealed from FCA (FC): [\[2009\] FCAFC 4](#)

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Commissioner of State Revenue v Rojoda Pty Ltd

P1/2019: [\[2019\] HCATrans 103](#)

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

Catchwords:

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

Appealed from WASC (CA): [\[2018\] WASCA 224](#)

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

M52/2019: [\[2019\] HCATrans 48](#)

Date determined: 20 March 2019 – *Special leave granted.*

Catchwords:

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

of capital or of a capital nature, it was expenditure to which s 40-880(6) of *Income Tax Assessment Act* applied and accordingly a deduction was allowable to trustee in respect of expenditure under s 40-880(2).

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

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

S23/2019: [\[2019\] HCATrans 107](#)

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

Catchwords:

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

Appealed from FCA (FC): [\[2018\] FCAFC 237](#)

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Tort Law

State of New South Wales v Robinson

S119/2019: [\[2019\] HCATrans 76](#)

Date heard: 12 April 2019 – *Special leave granted.*

Catchwords:

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

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

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7: CASES NOT PROCEEDING OR VACATED

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8: SPECIAL LEAVE REFUSED

Publication of Reasons: 8 May 2019

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Branch	Commissioner of Police (B12/2019)	Supreme Court of Queensland (Court of Appeal) [2019] QCA 19	Application dismissed [2019] HCASL 131
2.	CJM18	Minister for Home Affairs & Anor (D5/2019)	Federal Court of Australia [2019] FCA 193	Application dismissed [2019] HCASL 132
3.	Humphris & Anor	ConnectEast Nominee Company Pty Ltd & Anor (M25/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 3	Application dismissed [2019] HCASL 133
4.	Singh	Minister for Immigration and Border Protection & Anor (M32/2019)	Federal Court of Australia [2019] FCA 158	Application dismissed [2019] HCASL 134
5.	DSF17	Minister for Home Affairs & Anor (M40/2019)	Federal Court of Australia [2019] FCA 243	Application dismissed [2019] HCASL 135
6.	BSY16	Minister for Home Affairs & Anor (P14/2019)	Federal Court of Australia [2019] FCA 140	Application dismissed [2019] HCASL 136
7.	ALI15	Minister for Immigration and Border Protection & Anor (S307/2018)	Federal Court of Australia [2018] FCA 1758	Application dismissed [2019] HCASL 137
8.	McGinn	Cranbrook School (S32/2019)	Supreme Court of New South Wales (Court of Appeal) [2016] NSWCA 226	Application dismissed [2019] HCASL 138
9.	Kaur	Minister for Immigration and Border Protection & Anor (S48/2019)	Federal Court of Australia [2019] FCA 164	Application dismissed [2019] HCASL 139
10.	FOF17	Minister for Home Affairs & Anor (S55/2019)	Federal Court of Australia [2019] FCA 100	Application dismissed [2019] HCASL 140
11.	SZWCB	Minister for Immigration and Border Protection & Anor (S60/2019)	Federal Court of Australia [2019] FCA 139	Application dismissed [2019] HCASL 141
12.	DBR16	Minister for Home Affairs & Anor (S64/2019)	Federal Court of Australia [2019] FCA 101	Application dismissed [2019] HCASL 142

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
13.	DOP17	Minister for Immigration and Border Protection & Anor (S68/2019)	Federal Court of Australia [2019] FCA 129	Application dismissed [2019] HCASL 143
14.	ALJ17	Minister for Home Affairs & Anor (S76/2019)	Federal Court of Australia [2019] FCA 207	Application dismissed [2019] HCASL 144
15.	DNN17	Minister for Immigration and Border Protection & Anor (S91/2019)	Federal Court of Australia [2019] FCA 296	Application dismissed [2019] HCASL 145
16.	ACA18	Minister for Home Affairs & Anor (S92/2019)	Federal Court of Australia [2019] FCA 241	Application dismissed [2019] HCASL 146
17.	Romanov	Minister for Home Affairs & Anor (S95/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 13	Application dismissed [2019] HCASL 147
18.	CCK16	Minister for Immigration, Citizenship and Multicultural Affairs & Anor (M18/2019)	Federal Court of Australia [2018] FCA 1963	Application dismissed with costs [2019] HCASL 148

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Publication of Reasons: 14 May 2019

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Williams	IS Industry Fund Pty Ltd & Ors (B1/2019)	Full Court of the Federal Court of Australia [2018] FCAFC 219	Application dismissed [2019] HCASL 149
2.	BEL18 & Anor	Minister for Immigration, Citizenship and Multicultural Affairs & Anor (M12/2019)	Federal Court of Australia [2018] FCA 2103	Application dismissed with costs [2019] HCASL 150
3.	Muriniti & Anor	Lawcover Insurance Pty Limited (S13/2019)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 311	Application dismissed with costs [2019] HCASL 151

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Publication of Reasons: 15 May 2019

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Hundal	Minister for Immigration and Border Protection & Anor (A6/2019)	Federal Court of Australia [2019] FCA 142	Application Dismissed [2019] HCASL 152
2.	Singh	Minister for Home Affairs & Anor (B18/2019)	Federal Court of Australia [2019] FCA 379	Application Dismissed [2019] HCASL 153
3.	MZAGN	Minister for Home Affairs & Anor (M28/2019)	Federal Court of Australia [2019] FCA 146	Application Dismissed [2019] HCASL 154
4.	ASW17	Minister for Home Affairs & Anor (M46/2019)	Federal Court of Australia [2018] FCA 1815	Application Dismissed [2019] HCASL 155
5.	ECT17	Minister for Home Affairs & Anor (P63/2018)	Federal Court of Australia [2018] FCA 1711	Application Dismissed [2019] HCASL 156
6.	DPB16	Minister for Immigration and Border Protection & Anor (S38/2019)	Federal Court of Australia [2019] FCA 121	Application Dismissed [2019] HCASL 157
7.	SZKDL	Minister for Home Affairs & Anor (S40/2019)	Federal Court of Australia [2019] FCA 181	Application Dismissed [2019] HCASL 158
8.	Perera	Genworth Financial Mortgage Insurance Pty Limited (S54/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 10	Application Dismissed [2019] HCASL 159
9.	CEW16 & Anor	Minister for Immigration and Border Protection & Anor (S58/2019)	Federal Court of Australia [2019] FCA 224	Application Dismissed [2019] HCASL 160
10.	Nehrupandiyan	Minister for Immigration and Border Protection & Anor (S59/2019)	Federal Court of Australia [2019] FCA 123	Application Dismissed [2019] HCASL 161
11.	AGI18	Minister for Home Affairs & Anor (S67/2019)	Federal Court of Australia [2019] FCA 119	Application Dismissed [2019] HCASL 162
12.	Kumar	Minister for Immigration and Border Protection & Anor (S70/2019)	Federal Court of Australia [2019] FCA 162	Application Dismissed [2019] HCASL 163

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
13.	Rao & Ors	Minister for Immigration and Border Protection & Anor (S72/2019)	Federal Court of Australia [2019] FCA 199	Application Dismissed [2019] HCASL 164
14.	Kaur & Ors	Minister for Home Affairs & Anor (S96/2019)	Federal Court of Australia [2019] FCA 271	Application Dismissed [2019] HCASL 165
15.	Singh & Anor	Minister for Immigration and Border Protection & Anor (A7/2019)	Federal Court of Australia [2019] FCA 141	Application Dismissed [2019] HCASL 166
16.	Kowalski	Stanley & Partners & Anor (A8/2019)	Full Court of the Supreme Court of South Australia [2016] SASCFC 74	Application Dismissed [2019] HCASL 167
17.	ARW18	Minister for Home Affairs & Anor (B11/2019)	Federal Court of Australia [2019] FCA 259	Application Dismissed [2019] HCASL 168
18.	Schanker	The Queen (M38/2019)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 94	Application Dismissed [2019] HCASL 169
19.	Singh	Minister for Home Affairs & Anor (S33/2019)	Federal Court of Australia [2019] FCA 88	Application Dismissed [2019] HCASL 170
20.	DTL16	Minister for Home Affairs & Anor (S42/2019)	Federal Court of Australia [2019] FCA 125	Application Dismissed [2019] HCASL 171
21.	BVV16	Minister for Home Affairs & Anor (S47/2019)	Federal Court of Australia [2019] FCA 137	Application Dismissed [2019] HCASL 172
22.	Baig & Ors	Minister for Immigration and Border Protection & Anor (S66/2019)	Federal Court of Australia [2019] FCA 204	Application Dismissed [2019] HCASL 173
23.	EZF17	Minister for Home Affairs & Anor (S75/2019)	Federal Court of Australia [2019] FCA 236	Application Dismissed [2019] HCASL 174
24.	BCF17	Minister for Immigration and Border Protection & Anor (S77/2019)	Federal Court of Australia [2019] FCA 210	Application Dismissed [2019] HCASL 175
25.	AXX16	Minister for Home Affairs & Anor (S79/2019)	Federal Court of Australia [2019] FCA 190	Application Dismissed [2019] HCASL 176

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
26.	BFW16	Minister for Home Affairs & Anor (S80/2019)	Federal Court of Australia [2019] FCA 191	Application Dismissed [2019] HCASL 177
27.	BMK18	Minister for Home Affairs & Anor (S89/2019)	Federal Court of Australia [2019] FCA 189	Application Dismissed [2019] HCASL 178
28.	BCF16	Minister for Immigration and Border Protection & Anor (M20/2019)	Federal Court of Australia [2019] FCA 19	Application Dismissed with costs [2019] HCASL 179
29.	Fede	Walter Gray by his tutor New South Wales Trustee and Guardian (S10/2019)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 316	Application Dismissed with costs [2019] HCASL 180
30.	Fyna Projects Pty Ltd & Ors	Chief Commissioner of State Revenue (S20/2019)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 331	Application Dismissed with costs [2019] HCASL 181

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17 May 2019: Sydney

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	JBS Australia Pty Limited	Australian Meat Group Pty Ltd (B68/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 207	Application refused with costs [2019] HCATrans 105
2.	Moore	Scenic Tours Pty Ltd (S298/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 238	Stood over to a date to be fixed [2019] HCATrans 108
	Scenic Tours Pty Ltd	Moore (S299/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 238	Stood over to a date to be fixed [2019] HCATrans 108
3.	AMB15	Minister for Immigration and Border Protection & Anor (S359/2018)	Federal Court of Australia [2018] FCA 1928	Application refused with costs [2019] HCATrans 110
4.	Ulman & Ors	Live Group Pty Ltd & Anor (S21/2019)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 338	Application refused with costs [2019] HCATrans 109

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17 May 2019: Melbourne

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	Catanzariti	The Queen (A2/2019)	Supreme Court of South Australia (Court of Criminal Appeal) [2018] SASCFC125	Application refused [2019] HCATrans 99
2.	Australian Funding Partners Ltd	Botsman & Ors (M179/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 278	Application refused with costs [2019] HCATrans 102
3.	Oxanda Childcare Pty Ltd	MAAG Developments Pty Ltd (M188/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 289	Discontinued

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