

Friday, 12 July 2024

Weekly Immigration Law Review

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A Weekly Bulletin listing Decisions of Superior Courts of Australia covering immigration

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Executive Summary (One Minute Read)

Ross v Minister for Immigration, Citizenship and Multicultural Affairs (FCA) - Tribunal failed to consider the impact of a visa cancellation on an employer's business

Tabuarua v Minister for Immigration, Citizenship and Multicultural Affairs (FCA) - Tribunal denied procedural fairness by not giving opportunity to comment on why failure to disclose traffic history was false or misleading

HABEAS CANEM

The scent on the breeze





Summaries With Link (Five Minute Read)

Ross v Minister for Immigration, Citizenship and Multicultural Affairs [2024] FCA 734

Federal Court of Australia

Meagher J

Migration - Special Category (Temporary) visa - visa cancelled after criminal convictions - delegate refused to revoke cancellation - Administrative Appeals Tribunal affirmed - the Tribunal misunderstood its task with respect to Other Consideration 4 in Direction 99 (impact on Australian business interests) - the impact on the applicant's employer's business due to the employer's pressing need for people with the applicant's skills as a scaffolder clearly arose on the evidence before the Tribunal - application allowed.

[Ross](#)

[From Benchmark Friday, 12 July 2024]

Tabuarua v Minister for Immigration, Citizenship and Multicultural Affairs [2024] FCA 748

Federal Court of Australia

Rangiah J

Migration - visa cancelled after criminal convictions - delegate refused to revoke cancellation - Administrative Appeals Tribunal affirmed - Tribunal denied procedural fairness by finding the applicant had provided false or misleading information to the Department by failing to disclose his traffic history, without giving the applicant an opportunity to make submissions about why the Tribunal ought not find that his failure to disclose his traffic history did not involve the provision of false or misleading information - application allowed.

[Tabuarua](#)

[From Benchmark Friday, 12 July 2024]

Benchmark

INTERNATIONAL LAW

Executive Summary and (One Minute Read)

Moody v Netchoice (SCOTUS) - Lower court decisions upholding State statutes prohibiting social media companies from moderating content posted by third parties were reversed for failure to conduct proper First Amendment analysis

Summaries With Link (Five Minute Read)

Moody v Netchoice 603 US ____ (2024)

Supreme Court of the United States

The States of Florida and Texas enacted legislation that prohibited internet platforms from moderating third-party content based on content. The Supreme Court found serious First Amendment implications that the lower courts failed to properly consider. The cases were remanded to the courts below. The Court cited to *Miami Herald Publishing Co v Tornillo*, 418 US 241 (1974), where it was held that a Florida statute requiring newspapers to offer a right of reply violated the First Amendment because it consisted of compelled speech. Compelled speech can violate the First Amendment as much as suppression of speech. The Court said that government cannot meddle in speech by claiming that it is improving the marketplace of ideas. Here, the Court concluded that states were not likely to succeed in prohibiting the platforms from enforcing the platforms' own content moderation rules. The Court said that the States' attempt to better balance the mix of viewpoints on the internet by restricting content moderation amounted to an interference with speech decisions made by the private platforms. The Court added that a State cannot prohibit speech to rebalance the speech market. Inasmuch as the content moderation practices amounted to speech decisions by the platforms, the government was not free to enact laws that infringed those private speech rights.

[Moody](#)



Poem for Friday

Iceland

By Jonas Hallgrímsson (1807-1845)

Charming and fair is the land,
and snow-white the peaks of the jokuls [glaciers],
Cloudless and blue is the sky,
the ocean is shimmering bright,
But high on the lave fields, where
still Osar river is flowing
Down into Almannagorge,
Althing no longer is held,
Now Snorri's booth serves as a sheepfold,
the ling upon Logberg the sacred
Is blue with berries every year,
for children's and ravens' delight.
Oh, ye juvenile host
and full-grown manhood of Iceland!
Thus is our forefathers' fame
forgotten and dormant withal.

Jonas Hallgrímsson was born in Iceland on 16 November, 1807. He is a revered figure in Icelandic literature, writing in the Romantic style. His love of the Icelandic people and country side and pride in the national identity comes through his poetry. He was a promoter of the Icelandic Independence Movement. He was employed for a time by the sheriff of Reykjavik as a clerk. He studied law at the University of Copenhagen. He also worked as a defence lawyer. He founded the Icelandic periodical *Fjölfróðingurinn* first published in 1835. He died on 26 May 1845, after slipping on stairs and breaking his leg, the previous day. He died of blood poisoning aged 37 years. His birthday each year is recognised as the Day of the Icelandic Language.

Ég bið að heilsa, words by Jónas Hallgrímsson, composition by Ingi T. Lárusson
<https://www.youtube.com/watch?v=6OqbfGSJDUc>

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