

Friday, 13 December 2019

Weekly Immigration Law Review A Weekly Bulletin listing Decisions of Superior Courts of Australia covering immigration

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Executive Summary (1 minute read)

DBE17 (by his litigation guardian Marie Theresa Arthur) v Commonwealth of Australia (HCA) - migration law - representative proceedings - application by consent for remittal of matter to Federal Court of Australia - Court not precluded by s476B *Migration Act 1958* (Cth) (Migration Act) from remitting matter - proceeding not rendered 'incompetent in its present form' by s486B(4) Migration Act - consent order for remittal of matter granted

BQQ15 v Minister for Home Affairs (FCAFC) - migration law - refusal to grant protection visa - applicant sought extension of time to appeal against dismissal of judicial review application - whether adverse credibility findings legally unreasonable - application refused

CZY18 & Ors v Minister for Immigration & Anor (FCCA) - migration law - refusal to grant applicants protection visas - legal unreasonableness/irrationality - reliance upon inconsistencies - Authority erred in its dealing with consistency issue regarding applicants' accounts - jurisdictional error established

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Summaries With Link (Five Minute Read)

DBE17 (by his litigation guardian Marie Theresa Arthur) v Commonwealth of Australia [2019] HCA 47

High Court of Australia

Nettle J

Migration law - representative proceedings - plaintiff on own behalf and on behalf of each "Group Member", claimed damages for false imprisonment arising from 'allegedly unlawful detention' - application for order by consent that matter be remitted, pursuant to s44(2A) *Judiciary Act 1903* (Cth), to Federal Court of Australia - whether s476B Migration Act 1958 (Cth) (Migration Act) precluded Court from remitting matter - whether s486B(4) Migration Act rendered 'proceeding incompetent in its present form' - held: Court satisfied to order by consent that matter be remitted to Federal Court of Australia.

[DBE17](#)

[From Benchmark Friday, 13 December 2019]

BQQ15 v Minister for Home Affairs [2019] FCAFC 218

Full Court of the Federal Court of Australia

Yates, Wheelahan & O'Bryan JJ

Migration law - first respondent's delegate refused to grant applicant a protection visa - Administrative Appeals Tribunal affirmed delegate's decision - Federal Circuit Court dismissed judicial review application - applicant sought extension of time to appeal - applicant contended that Tribunal's reliance on 'adverse credibility findings' was 'legally unreasonable' - delay's length - 'explanation for delay' - appeal's merits - requirement of leave to raise new ground - prospects of success of appeal - interests of justice - rr36.03 & 36.05 *Federal Court Rules 2011* (Cth) - held: Court not satisfied to grant extension of time - application refused.

[BQQ15](#)

[From Benchmark Friday, 13 December 2019]

CZY18 & Ors v Minister for Immigration & Anor [2019] FCCA 2975

Federal Circuit Court of Australia

Judge Driver

Migration law - Minister's delegate refused to grant applicants protection visas - Immigration Assessment Authority affirmed delegate's decisions - applicants sought judicial review - whether Authority made 'irrational finding' regarding consistency between applicants' accounts concerning weapons cache's discovery - whether failure by Authority 'to consider corroborative evidence' - held: Authority erred 'in dealing with' consistency issue regarding applicants' accounts in respect of weapons cache's discovery - jurisdictional error established.

[CZY18](#)

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The Jumblies

By: Edward Lear

They went to sea in a Sieve, they did,
In a Sieve they went to sea:
In spite of all their friends could say,
On a winter's morn, on a stormy day,
In a Sieve they went to sea!
And when the Sieve turned round and round,
And every one cried, 'You'll all be drowned!'
They called aloud, 'Our Sieve ain't big,
But we don't care a button! we don't care a fig!
In a Sieve we'll go to sea!'
Far and few, far and few,
Are the lands where the Jumblies live;
Their heads are green, and their hands are blue,
And they went to sea in a Sieve.

II

They sailed away in a Sieve, they did,
In a Sieve they sailed so fast,
With only a beautiful pea-green veil
Tied with a riband by way of a sail,
To a small tobacco-pipe mast;
And every one said, who saw them go,
'O won't they be soon upset, you know!
For the sky is dark, and the voyage is long,
And happen what may, it's extremely wrong
In a Sieve to sail so fast!'
Far and few, far and few,
Are the lands where the Jumblies live;
Their heads are green, and their hands are blue,
And they went to sea in a Sieve.

III

The water it soon came in, it did,
The water it soon came in;
So to keep them dry, they wrapped their feet



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In a pinky paper all folded neat,
And they fastened it down with a pin.
And they passed the night in a crockery-jar,
And each of them said, 'How wise we are!
Though the sky be dark, and the voyage be long,
Yet we never can think we were rash or wrong,
While round in our Sieve we spin!
Far and few, far and few,
Are the lands where the Jumblies live;
Their heads are green, and their hands are blue,
And they went to sea in a Sieve.

IV

And all night long they sailed away;
And when the sun went down,
They whistled and warbled a moony song
To the echoing sound of a coppery gong,
In the shade of the mountains brown.
'O Timballo! How happy we are,
When we live in a sieve and a crockery-jar,
And all night long in the moonlight pale,
We sail away with a pea-green sail,
In the shade of the mountains brown!
Far and few, far and few,
Are the lands where the Jumblies live;
Their heads are green, and their hands are blue,
And they went to sea in a Sieve.

V

They sailed to the Western Sea, they did,
To a land all covered with trees,
And they bought an Owl, and a useful Cart,
And a pound of Rice, and a Cranberry Tart,
And a hive of silvery Bees.
And they bought a Pig, and some green Jack-daws,
And a lovely Monkey with lollipop paws,
And forty bottles of Ring-Bo-Ree,
And no end of Stilton Cheese.



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Far and few, far and few,
Are the lands where the Jumbles live;
Their heads are green, and their hands are blue,
And they went to sea in a Sieve.

VI

And in twenty years they all came back,
In twenty years or more,
And every one said, 'How tall they've grown!'
For they've been to the Lakes, and the Terrible Zone,
And the hills of the Chankly Bore;
And they drank their health, and gave them a feast
Of dumplings made of beautiful yeast;
And everyone said, 'If we only live,
We too will go to sea in a Sieve,—
To the hills of the Chankly Bore!'
Far and few, far and few,
Are the lands where the Jumbles live;
Their heads are green, and their hands are blue,
And they went to sea in a Sieve.

https://en.wikipedia.org/wiki/Edward_Lear

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