

Friday, 15 March 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)

Minister for Immigration and Border Protection v CPA16 (FCAFC) - migration law - Authority affirmed delegate's refusal to grant Temporary Protection (subclass 785) visa - Authority's decision quashed for failure to comply with s473CB(1) *Migration Act 1958* (Cth) - appeal dismissed

Ezegbe v Minister for Immigration and Border Protection (FCA) - migration law - cancellation of visa under s501(3A) *Migration Act 1958* (Cth) - erroneous failure to consider aspects of claim - Minister's decision quashed

Hamidy v Minister for Immigration and Border Protection (FCA) - migration law - cancellation of Refugee and Humanitarian (Migrant) (Class BA) (Subclass 200) visa under s501(3) *Migration Act 1958* (Cth) - Minister's decision quashed - injunctive relief refused

EWX17 v Minister for Immigration and Border Protection (FCA) - migration law - dismissal of application for extension of time to seek judicial review of decision of Immigration Assessment Authority - appeal dismissed

DEZ16 v Minister for Immigration and Border Protection (FCA) - migration law - refusal of Safe Haven Enterprise (subclass 790) - appeal dismissed

Summaries With Link (Five Minute Read)

Minister for Immigration and Border Protection v CPA16 [2019] FCAFC 40

Full Court of the Federal Court of Australia

Yates, Murphy & Moshinsky JJ

Migration law - appellant's delegate refused to grant first respondent a Temporary Protection (subclass 785) visa - 'common ground' first respondent had provided 'corroborative letter' to delegate - letter 'did not find its way' into 'Departmental file' - Secretary did not give letter to Immigration Assessment Authority as required by s473CB(1)(b) *Migration Act 1958* (Cth) - Immigration Assessment Authority affirmed delegate's decision - Federal Circuit Court quashed Authority's decision for non-compliance with s473CB(1) of the Act - appellant appealed - held: non-compliance with s473CB(1) of the Act constituted jurisdictional error - appeal dismissed.

[Minister](#)

[From Benchmark Friday, 15 March 2019]

Ezegbe v Minister for Immigration and Border Protection [2019] FCA 216

Federal Court of Australia

Perram J

Migration law - applicant held 'permanent visa' - applicant convicted of offence under s307.6(1) *Criminal Code* (Cth) - Minister's delegate cancelled applicant's visa under s501(3A) *Migration Act 1958* (Cth) - Assistant Minister refused to revoke decision - Court quashed Assistant Minister's decision and remitted matter - Minister refused to revoke decision - applicant sought to quash Minister's decision - whether failure to consider 'claims of harm' - held: Minister erroneously failed to consider aspects of claim which were unrelated to claims for protection visa - jurisdictional error established - Minister's decision quashed.

[Ezegbe](#)

[From Benchmark Friday, 15 March 2019]

Hamidy v Minister for Immigration and Border Protection [2019] FCA 221

Federal Court of Australia

Murphy J

Migration law - Minister cancelled applicant's Refugee and Humanitarian (Migrant) (Class BA) (Subclass 200) visa under s501(3) *Migration Act 1958* (Cth) on basis applicant did not pass "character test" - Minister considered it unnecessary to decide whether international non-refoulement obligations owed to applicant - applicant sought judicial review - Minister accepted he erred in erroneously considering 'protection claims would necessarily be considered' if applicant applied for protection visa - whether to withhold relief - *CR16 v Minister for Immigration and Border Protection* [2017] FCAFC 86 - held: Minister's decision quashed - injunctive relief refused.

[Hamidy](#)

[From Benchmark Friday, 15 March 2019]

EWX17 v Minister for Immigration and Border Protection [2019] FCA 235

Federal Court of Australia

Bromwich J

Migration law - applicant, under s477(2) *Migration Act 1958* (Cth), sought extension of time to seek judicial review of decision of Immigration Assessment Authority - Federal Circuit Court of Australia dismissed application - applicant sought judicial review - whether failure by primary judge to 'perform jurisdictional task' - whether erroneous failure to go 'beyond what was advanced' in application - held: grounds of appeal misconceived - appeal dismissed.

[EWX17](#)

[From Benchmark Friday, 15 March 2019]

DEZ16 v Minister for Immigration and Border Protection [2019] FCA 240

Federal Court of Australia

Flick J

Migration law - Minister's delegate refused to grant applicant Safe Haven Enterprise (subclass 790) - Immigration Assessment Authority affirmed delegate's decision - Federal Circuit Court of Australia dismissed application for judicial review - whether failure to consider 'full integers of the claim' - whether unreasonableness - whether denial of procedural fairness - whether to grant leave to rely on challenge not advanced before primary judge - whether erroneous assessment concerning whether applicant was 'supporter of the Liberation Tigers of Tamil Eelam' - held: appeal dismissed.

[DEZ16](#)

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Upon the Mountain's Distant Head

By: William Cullen Bryant

Upon the mountain's distant head,
With trackless snows for ever white,
Where all is still, and cold, and dead,
Late shines the day's departing light.

But far below those icy rocks,
The vales, in summer bloom arrayed,
Woods full of birds, and fields of flocks,
Are dim with mist and dark with shade.

'Tis thus, from warm and kindly hearts,
And eyes where generous meanings burn,
Earliest the light of life departs,
But lingers with the cold and stern.

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

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