

Joanna Davidson

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Education

Harvard Law School, LLM, 2007

Menzies Scholarship to Harvard
Landon H. Gammon Fellowship for academic excellence

University of NSW, BA (Hons), LLB, 2003

Dean's Certificate for Placement of 3rd in the Order of Merit at Graduation
(graduating class of 294), 2003

The Michael Pandelis Award for the Most Significant Contribution to the Life of the
Law School at the University of New South Wales, 2002

First Class Honours in Politics and International Relations, 2000

Bar Admissions

Barrister, New South Wales, January 2012

Attorney and Counsellor-at-Law in the State of New York and the United States District Court for
the Southern District of New York, 2008

Professional Background

Barrister, Sixth Floor Selborne Wentworth Chambers

May 2014 – present

Select matters:

High Court

- *Private R v Coven* S272 of 2019 (ongoing, led by S Donaghue QC, defence power)
- *Minogue v Victoria* (2019) 93 ALJR 1031 (led by M Sexton SC, Ch III)
- *Doctors for Refugees v Commonwealth* M100 of 2016 (led by S Donaghue QC and P Herzfeld, implied freedom)
- *Brown v Tasmania* (2017) 261 CLR 328 (led by S Pritchard SC, implied freedom)
- *Knight v Victoria* (2017) 261 CLR 306 (led by M Sexton SC, *Kable* doctrine)
- *Minister for Immigration and Border Protection v SZSSJ* (2016) 259 CLR 180 (led by S Lloyd SC, procedural fairness, jurisdiction of Federal Circuit Court)
- *North Australian Aboriginal Justice Agency Ltd v Northern Territory* (2015) 256 CLR 569 (led by S Pritchard SC, Ch III)
- *Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail* (2015) 256 CLR 171 (led by M Sexton SC, corporations power)
- *Kuczborski v Queensland* (2014) 254 CLR 51 (led by M Sexton SC, *Kable* doctrine)

Federal Court

- *Attorney General (Cth) v Ogawa* QUD 455/2019 (ongoing appeal, led by M Sexton SC, prerogative of mercy)
- *Volkswagen AG v ACCC* NSD 12/2020 (ongoing appeal, led by Jeremy Kirk SC, competition law)

- *TX Australia v ACCC* NSD 330/2020 (ongoing, led by S Balafoutis SC, judicial review, statutory construction)
- *CMU16 v Minister for Immigration and Border Protection* [2020] FCAFC 104 (led by C Lenehan SC)
- *Secretary, Department of Education and Training v Simpson Networks Pty Ltd* [2019] FCAFC 239 (led by G Kennett SC, judicial review)
- *ASIC v Vocation Ltd (in liq)* (2019) 371 ALR 155; *ASIC v Vocation Ltd (in liq) (No 2)* (led by J Halley SC and A Mitchelmore, continuous disclosure and directors' duties)
- *CLM18 v Minister for Home Affairs* [2019] FCAFC 170 (led by Stephen Lloyd SC)
- *Malek Fabd Islamic School Ltd v Minister for Education and Training* (2018) 260 FCR 212 (Full Court, led by R Lancaster SC, statutory construction; appeal from AAT)
- *Malek Fabd Islamic School Ltd v Minister for Education and Training (No 2)* [2017] FCA 1377 (led by R Lancaster SC, judicial review)
- *Whitby Land Company v Federal Commissioner of Taxation* (2017) ATC 20-605 (led by S Lloyd SC and M O'Meara, tentative or provisional nature of assessments; taxation of trusts)
- *Babington v Commonwealth* (2016) 240 FCR 95 (Full Court, legislative competence of NSW with respect to fisheries, led by M Sexton SC)
- *SZWAJ v Minister for Immigration and Border Protection* [2016] FCA 1173 (led by S Lloyd SC, appeal from Federal Circuit Court)
- *Technical and Further Education Commission v Pykett* [2015] FCAFC 42 (led by M Sexton SC and M Easton, *Melbourne Corporation* principle)

Multiple appeals from the Federal Circuit Court and AAT in migration matters, 2016 – present

NSW Court of Appeal and Court of Criminal Appeal

- *Jones v State of NSW* (ongoing, led by D Kell SC, appeal in relation to continuing detention order)
- *Forrest v Director of Public Prosecutions (NSW)* No. 2019/363801 (reserved, unled, judicial review)
- *Randren House Pty Ltd v Water Administration Ministerial Corporation* [2020] NSWCA 14 (unled, appeal from Land and Environment Court, judicial review, water management)
- *El Saeidy v Director of Public Prosecutions (NSW)* [2019] NSWCA 289 (unled, judicial review)
- *Lazarus v Kane* [2019] NSWCA 194 (unled, judicial review, challenge to issue of warrants)
- *Armand-Iskak v Attorney-General of New South Wales* [2019] NSWCA 145 (unled, judicial review)
- *Lazarus v Director of Public Prosecutions (NSW)* [2019] NSWCA 125 (unled, judicial review)
- *Lewis v Sergeant Riley* [2017] NSWCA 272 (led by D Kell SC, statutory construction and appellate jurisdiction)
- *4Nature v Centennial Springvale Inc* (2017) 224 LGERA 301 (led by N Williams SC, statutory construction)
- *Hamilton v New South Wales* [2017] NSWCA 112 (led by N Williams SC, privilege)
- *GAR v Attorney General (NSW)* [2017] NSWCA 47 (unled, bias, substantive judgment seeking judicial review of application for inquiry into conviction reserved)
- *Lazarus v Independent Commission Against Corruption* (2017) 341 ALR 483 (led by D Kell SC, Ch III, *Kable* doctrine)
- *Macdonald v The Queen; Maitland v The Queen* (2016) 93 NSWLR 736 (led by N Williams SC, criminal procedure; accusatorial principle)
- *Obeid v The Queen* (2016) 91 NSWLR 226 (led by P Neil SC and S Beckett, exclusive jurisdiction of Parliament; misconduct in public office)
- *AQO v Minister for Finance and Services* (2016) 93 NSWLR 46 (unled, privacy; statutory construction)
- *Buttrose v Attorney General for NSW* (2015) 324 ALR 562 (led by N Adams SC, judicial review of Supreme Court decision on application for inquiry into sentence)

Supreme Court of NSW (2020 cases only)

- *Selkirk v Director of Public Prosecutions (NSW)* No 2019/404199 (reserved, unled, appeal under Crimes (Appeal and Review) Act 2001, claim of right)
- *State of NSW v Davis* [2020] NSWSC 754 (unled, high risk offender orders)
- *State of NSW v Aslett* [2020] NSWSC 692 (unled, high risk offender orders)
- *King v Attorney General for NSW* [2020] NSWSC 629 (unled, charitable trusts, cy-pres scheme)
- *State of NSW v Guilder (No 3)* [2020] NSWSC 209 (led by D Kell SC, costs)

Land and Environment Court

- *Upper Hunter Sustainable Industries Association Inc v MACH Energy Australia Pty Ltd (No 2)* [2017] NSWLEC 87 (led by J Kirk SC, lapse of development consent)
- *Secretary, Department of Planning and Environment v Charbon Coal Pty Ltd* [2016] NSWLEC 106 (unled, sentencing for disturbance of Aboriginal cultural heritage site)
- *Southern Highlands Coal Action Group Pty Ltd v Hume Coal Pty Ltd* (2015) 209 LGERA 347 (led by S Lloyd SC, judicial review of consent to coal exploration licence)

NSW Coroner's Court

- *Inquest into the death of Gavin Ellis* (ongoing, Counsel Assisting the Coroner (unled))
- *Inquest into the death of Xavier Burke*, findings handed down 25 July 2019, Counsel Assisting the Coroner (unled)
- *Inquest into the death of Paigh Bartholomew*, findings handed down 25 July 2017, Counsel Assisting the Coroner (unled)

Special Commission of Inquiry into the Ruby Princess

Briefed (led by R Higgins SC) to draft voluntary statement on behalf of the Commonwealth

Federal Circuit Court

More than 30 unled applications for judicial review from decisions of the AAT, RRT and delegates of the Minister

Lecturer, Administrative Law, University of NSW

July 2009 – March 2019

Centre Fellow, Gilbert and Tobin Centre of Public Law

2015 – present

Counsel Assisting the NSW Solicitor General and Crown Advocate January 2012 – April 2014

Select matters (as counsel):

High Court

- *Lee v R* (2014) 88 ALJR 656 (criminal law, led by Natalie Adams SC and Helen Roberts)
- *Magaming v R* (2013) 87 ALJR 1060 (constitutional law, led by Michael Sexton SC)
- *Lee v NSW Crime Commission* (2013) 87 ALJR 1082 (statutory interpretation; constitutional law, led by Michael Sexton SC and Natalie Adams SC)
- *State of NSW v Kable* (2013) 87 ALJR 737 (constitutional law, federal jurisdiction, tort, led by Michael Sexton SC and Mark Leeming SC)

NSW Court of Appeal

- *Director of Public Prosecutions v Khoury* (2014) 306 ALR 86 (judicial review (bench of 5), construction of *Mental Health (Forensic Provisions) Act* 1990, led by Natalie Adams SC)
- *Lodhi v Attorney General of NSW* [2013] NSWCA 433 (availability of judicial review; led by Natalie Adams SC)

- *Petroulias v The Hon Justice McClellan* (2013) 306 ALR 210 (availability of judicial review of decision of Supreme Court judge, jury irregularities; led by Natalie Adams SC)
- *Jenkins v Director of Public Prosecutions* [2013] NSWCA 406 (judicial review, availability of prerogative relief; led by Natalie Adams SC)
- *Patsalis v Attorney General for NSW* (2013) 303 ALR 568 (appellate and supervisory jurisdiction in respect of applications for post-conviction inquiries; led by Natalie Adams SC)
- *Prott v Munro* [2013] NSWCA 241 (construction of the *Crimes (Forensic Procedures) Act* 2000; led by Natalie Adams SC)
- *Re McDermott* (2013) 303 ALR 143 (application of *Crimes (Appeal and Review) Act* 2001, 1947 murder conviction; led by Natalie Adams SC)

NSW Court of Criminal Appeal

- *R v Burton* [2013] NSWCCA 335 (assessment of probative value for the purposes of s 137 of the *Evidence Act* 1995; led by Natalie Adams SC)
- *Kaddour v R* [2013] NSWCCA 243 (availability of certificate pursuant to s 128 of the *Evidence Act* 1995; led by Natalie Adams SC) (special leave refused 16 May 2014)
- *Fairfax Digital Aust and NZ Pty Ltd v District Court of NSW* (2012) 83 NSWLR 52 (construction of *Court Suppression and Non-Publication Orders Act* 2010; implied freedom of political communication; led by Michael Sexton SC SG and Anna Mitchelmore)

Senior Solicitor and Solicitor, Crown Solicitor's Office March 2009 – December 2011
 Administrative and Constitutional Law practice groups
 Solicitor Assisting the Special Commission of Inquiry into the NSW Crime Commission, September – November 2011

Associate, Debevoise & Plimpton LLP, New York September 2007 – February 2009
 Litigation group; acted in antitrust, commercial, white collar crime and regulatory litigation

Solicitor, Mallesons Stephen Jaques February 2005 – August 2006
 Intellectual Property and Technology Litigation group

Research Director/Tipstaff to Chief Justice JJ Spigelman AC, Supreme Court of NSW
 January 2003 – December 2004

Select publications and papers

“Substantive Fairness: a case for reconsidering the breach between English and Australian Law” in M Groves and G Weeks (eds), *Legitimate Expectations in the Common Law World* (2017)

The Laws of Australia, Subtitle 2.4 *Judicial Review of Administrative Action* (updating author)

“*Magaming v The Queen*: The Constitution, Judicial Process and Sentencing” (Paper delivered at Gilbert + Tobin Centre Constitutional Law Conference, February 2014)