



## AAT Bulletin

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The *AAT Bulletin* is a weekly publication containing a list of recent AAT decisions and information relating to appeals against AAT decisions. The Bulletin occasionally includes information on legislative changes that affect the AAT and other important developments.

It is recommended that the Bulletin be read on-line. This has the advantage of allowing the reader to use hyperlinks to access the full text of cases and other internet sites mentioned in the Bulletin.

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Enquiries regarding this publication may be directed to [aatweb@aat.gov.au](mailto:aatweb@aat.gov.au).

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## AAT Recent Decisions

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This section of the Bulletin provides information about decisions recently published by the AAT. Only AAT decisions that have been published on [AustLII](#) have been included. Full copies of the decisions can be accessed through the hyperlinks provided below.

### Compensation

[Davie and Comcare](#) [2014] AATA 1; 16/1/2014; The Hon RJ Groom, Deputy President

Commonwealth employee – Whether medications prescribed for compensable back injury caused sensorineural hearing loss and tinnitus – Relevance of Statement of Principles in claims under *Safety Rehabilitation and Compensation Act 1988* – Comparative evidentiary value of various research studies and reports of general application and specifically focused expert medical evidence – Burden and standard of proof – Decision affirmed

[Winchester and Comcare](#) [2014] AATA 15; 15/1/2014; Senior Member RM Creyke

Commonwealth employee – Psychiatric injury – Whether condition is an ailment – Whether contributed to by employment to a significant degree – Whether not compensable because due to reasonable administrative action conducted in a reasonable manner – Decision under review affirmed

### Immigration and Citizenship

[ABCD and Minister for Immigration and Border Protection](#) [2014] AATA 18; 7/1/2014; Senior Member S Penglis

Evidence establishes that an Australian citizen is one of the Applicant's parents – Decision under review set aside – Turns on its own facts – Decision set aside and remitted

[Aldagul and Minister for Immigration and Border Protection](#) [2014] AATA 13; 7/1/2014; Senior Member S Penglis

Evidence establishes that notwithstanding past convictions for breaching violence restraining orders and bail conditions, the Applicant is of "good character" – Decision under review set aside – Turns on its own facts

[Lavigne and Minister for Immigration and Border Protection](#) [2014] AATA 12; 14/1/2014; Senior Member JF Toohey

General residence requirement – Whether applicant a permanent resident at time of Minister's decision – Whether any discretion to grant the application – Decision under review affirmed

[SQNR and Minister for Immigration and Border Protection](#) [2014] AATA 16; 15/1/2014; Senior Member J Handley

Applicant convicted of multiple sex offences – Substantial criminal record – Victim an infant and related – Offending occurred over 18 months – Offending contemplated by paragraph 6.3(2) of the Principles in Direction 55 – Applicant has not had treatment as recommended to him – Risk of reoffending assessed as moderate – Risk of future harm unacceptable – Decision affirmed

## Practice and Procedure

[Soames and Secretary, Department of Social Services](#) [2013] AATA 945; 23/12/2013; Senior Member AK Britton

Whether application is frivolous or vexatious — Claim for social security benefits — Similar application has been decided by the Tribunal on three previous occasions — Appeal from previous Tribunal decision dismissed by the Federal Court — Whether there is any new evidence — Application of section 42B of the *Administrative Appeals Tribunal Act 1975* — Whether an order should be made preventing the Applicant making a subsequent application to the Tribunal – Application dismissed

## Social Security

[Evans and Secretary, Department of Social Services](#) [2013] AATA 944; 23/12/2013; Senior Member AK Britton

Debt — Reparation order — Whether Tribunal has power to waive or write off debt

[Luca and Secretary, Department of Social Services](#) [2014] AATA 14; 8/1/2014; Ms K Hogan, Member

Disability Support Pension – Whether to increase applicant’s rate of Disability Support Pension – Circumstances of financial hardship – Whether certain assets were unrealisable – Decision set aside and remitted

## Taxation

[Mahaffy and Tax Practitioners Board](#) [2014] AATA 17; 8/1/2014; Mr S Walsh, Member

Renewal of registration as a tax agent refused – Application for refusal decision to be stayed – Fit and proper person – Bankruptcy – Bad behaviour – Related court proceedings – Balance of interests – Desirability of securing the effectiveness of the hearing – Stay granted subject to conditions

## Veterans' Affairs

[TXBZ and Repatriation Commission](#) [2014] AATA 19; 16/1/2014; Senior Member S Penglis

Veteran claims to suffer from post-traumatic stress disorder as a result of repeated sexual assaults during the course of the Applicant’s operational service – Evidence does not establish that the Applicant suffers from post-traumatic stress disorder – Tribunal is satisfied beyond reasonable doubt that, on the evidence, the alleged assaults did not occur – Reviewable decision affirmed – Turns on its own facts

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## Appeals

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This section of the Bulletin provides information about appeals against AAT decisions that have been lodged or finalised. Only appeals in relation to AAT decisions that have been published on [AustLII](#) have been included. Full copies of the decisions can be accessed through the hyperlinks provided below.

### Appeals lodged

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| CASE NAME   | AAT REFERENCE                   |
|---|---------------------------------|
| <b>Von Stieglitz v Comcare</b>                    | <a href="#">[2013] AATA 908</a> |
| <b>Commissioner of Taxation v Swanbat Pty Ltd</b> | <a href="#">[2013] AATA 891</a> |
| <b>Szajna v Australian Postal Corporation</b>     | <a href="#">[2013] AATA 898</a> |

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### Appeals finalised

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| CASE NAME             | AAT REFERENCE | COURT REFERENCE |
|-----------------------|---------------|-----------------|
| <b>None finalised</b> |               |                 |

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