



Mungo Bovey QC (Scot.)

2000

Qualifications

LL.B. (Glasgow)

Areas of Practice

Human Rights and Immigration.

Notable Cases

Party represented in italics Successful cases in bold

- HCA High Court of Justiciary Appeal Court (appellate criminal jurisdiction exercised by three judges unless otherwise stated)
- IH Inner House of the Court of Session (three judges exercising civil jurisdiction);
- JC Justiciary Cases (Criminal section of SC)
- OH Outer House of the Court of Session (single judge exercising civil jurisdiction);
- SC Session Cases (where JC are also found)
- SCCR Scottish Criminal Case Reports
- SLT Scots Law Times
- SSHD Secretary of State for the Home Department

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Case name	Reported	Court	Comment
Secretary of State for Social Security v M	1999 SC 235 1999 SLT 1046;	IH	Appeal from pension appeal tribunal on link between AIDS and military service
Mitre Pensions v <i>Pensions Ombudsman</i>	[2000] OPLR 349	IH	Case on maladministration of occupational pension
Starrs v Ruxton	2000 JC 208; 2000 SLT 42; 1999 SCCR 1052; [2000] HRLR 191; [2000] UKHRR 78; 8 BHRC 1	HCA	Article 6 challenge to independence and impartiality of temporary sheriffs
<i>Clancy v Caird</i>	2000 SC 441;	IH	ECHR

	2000 SLT 546; 2000 SCLR 526; [2000] HRLR 557; [2000] UKHRR 509		challenge to independence/ impartiality of temporary Court of Session judges
<i>Ruxton v Borland</i>	2000 JC 475; 2000 SLT 612; 2000 SCCR 484	HCA	5 Judges case on point at which trial starts
<i>Buchanan v McLean</i>	2000 SLT 928; 2000 SCCR 682; [2000] UKHRR 598	HCA	Article 6 challenge to fixed fees scheme for summary criminal cases
<i>Buchanan v McLean</i>	2002 SC(PC) 1; 2001 SLT 780; 2001 SCCR 475; [2001] 1 WLR 2425; [2001] HRLR 51; [2001] UKHRR 793; (2001) 98(28) LSG 44; (2001) 145 SJLB 158;	PC	High Court upheld
<i>Millar v Dickson</i>	2000 SLT 1111	HCA	Validity of convictions by temporary sheriffs pre Starrs
<i>Millar v Dickson</i>	2002 SC(PC) 30; 2001 SLT 988; 2001 SCCR 741; [2001] HRLR 59; [2001] UKHRR 999	PC	High Court overturned on waiver
<i>Robertson v Fife Council</i>	2001 SLT 708; 2000 SC 849	IH	Validity of anti- avoidance provisions on nursing care finance OH upheld
<i>Robertson v Fife Council</i>	2002 SC (HL) 145; 2002 SLT 951; (2002) 5 CCL Rep 543; 2002 Hous LR 78; (2002) 68 BMLR 229	HL	1 st instance and Inner House overturned on appeal
<i>Keenan v Aberdeen Slating</i>	2000 SLT 1259	IH	Contractual dispute
<i>BBC Scotland v Souster</i>	2001 SC 458; 2001 SLT 265;	IH	Anti-English discrimination

	2001 IRLR 150		covered by Race Relations Act
TV A & Dundee Council	2001 SCLR 647	Sh Princ	ECHR access to Court case on Children's Hearings
Docherty v City of Edinburgh Council	2001 SLT 291	IH	Legitimate expectation licensing case
<i>Kacaj v SSHD</i>	[2001] INLR 354	IAT	Interaction of ECHR and refugee convention
Kacaj v SSHD		CA	IAT overturned on merits
Wales & anor v HMA	2001 SCCR 633	HCA	Circumstances in which Crown can cite defence experts
HM Advocate v R	2001 SLT 1336	HC	Remedy for delay
HM Advocate v R	2002 SLT 834; 2002 SCCR 697	HCA	1 st instance upheld on appeal
HM Advocate v R	[2004] 1 AC 462 [2003] 2 WLR 317; 2003 SC (PC) 12; 2003 SLT 4; 2003 SCCR; [2003] UKHRR 1	PC	<i>Ultra vires</i> of prosecutor for prosecution to continue after reasonable time [bench of 9 Judges assembled in HL to consider consequences of this case for England]
Stewart v Perth & Kinross Council	2003 SC 551; 2003 SLT; [2003] SLLP 12	IH	Licensing condition <i>ultra vires</i>
Stewart v Perth & Kinross Council	2004 SC (HL) 71; 2004 SLT 383;	HL	Appeal unsuccessful
<i>Reid v Napier</i>	2002 SLT 1229	HCA	Article 8 case on probation condition
<i>McDonald v PF Elgin</i>	2003 SLT 467; 2003 SCCR 311	HCA	ECHR: whether 22 hour curfew amounted to detention
Charanjit Singh v SSHD	2004 SC 416	IH	pre 1997 part time adjudicator not independent and impartial at common law 1 st instance upheld on appeal
<i>Riach v Scottish Ministers</i>	2002 SLT 1296	IH	ECHR JR on education and discrimination

			(St Mary's EP School, Dunblane)
<i>Cannell v Scottish Ministers</i>	2003 SLT 554	IH	ECHR JR on wasted costs in planning context 1 st instance upheld on appeal
Queen ota SSHD & Hwez (for intrestd parties)	[2002] Imm AR 491; [2002] INLR 116	CA	Right to determination of asylum status where removal impossible
<i>Wright v Scottish Ministers</i>	2005 1 SC 453; 2005 SLT 613; 2006 SCLR 14	IH	challenge to proportionality of extradition where Scottish courts have concurrent jurisdiction
<i>Flynn & others v HM Advocate</i>	2003 JC 153 2003 SLT 954; 2003 SCCR 456	HCA	ECHR challenge to transitional arrangements for life prisoners in judicialising parole
<i>Flynn & others v HM Advocate</i>	2004 SC (PC) 1; 2004 SLT 863; 2004 SCCR 281	PC	Article 7 held to apply by majority; legitimate expectation also in play
<i>Flynn & others v HM Advocate</i>	2005 1 JC 271; 2004 SLT 1195; 2004 SCCR 702	HCA 5 judges	Periods to be served reduced in light of PC decision
<i>Du Plooy & others v HM Advocate</i>	2003 SLT 1237; 2003 SCCR 640	HCA	Case setting guidance for discount for pleading guilty
<i>Malik v SSHD</i>	2003 SC 509; 2003 SCLR 422	IH	Significance of outstanding warrants in asylum context
<i>Saber v SSHD</i>	2003 SLT 1409 [2004] INLR 222	IH	Correct approach for IAT to take to adjudicator's findings on evidence; meaning of "country" in asylum
<i>Higson v Doherty</i>	2004 SCCR 63	HCA	Appeal under Backing of Warrants (Republic of

			Ireland) Act 1965
Doherty petitioner	2004 SCCR 63	HCA	Petition to <i>nobile officium</i> setting aside part of outcome of earlier Appeal
<i>Tehrani v SSHD</i>	2004 SLT 461	IH	Whether Court of Session can review English immigration adjudicator
Armstrong v Dunlop's Judicial Factor	2004 SLT 295	IH	<i>Interim</i> interdict against sale of home by Judicial Factor
<i>M(M) v HM Advocate</i>	2004 SCCR 658	HC	challenge to "rape shield" legislation (s 275 1975 Act)
<i>Moir v HM Advocate</i>	2005 1 JC 102	HCA	Appeal from <i>M(M)</i> : challenge to "rape shield" legislation
HMA v Headrick	2005 SCCR 787	Sh Ct	Devolution issues incompetent in extradition; but accused discharged by reason of passage of time
Koca v SSHD	2005 1 SC 487; 2005 SLT 838; 2006 SCLR 427; [2005] INLR 506	OH IH	Adequacy of reasons in asylum claim by Turkish Kurd; requirements of fair hearing where Home Office not represented
D v SSHD	2005 1 SC 415	IH	Adequacy of reasons in asylum claim by Pakistani Christian; internal flight
<i>HMA v DS</i>	2006 JC 47; 2006 SLT 705; 2005 SCCR 655	HCA	challenge to rape shield legislation where accused has relevant convictions
CW (Deportation; Huang; Proportionality; Jamaica) [2005] UKIAT 110	[2005] Imm AR; [2006] INLR 10	IAT	Deportation set aside by reason of failure to identify

			legitimate aim being pursued in restricting article 8
Torabi v SSHD	2006 SLT 459	IH	Adequacy of reasons where penalty of stoning at stake if returned to Iran
<i>Goatley v HMA</i>	2006 SCCR 463	HCA	Prosecutor was "judicial authority" for purposes of issuing European Arrest Warrant
<i>La Torre v HMA</i>	2006 SCCR 503	HCA	Extradition not contrary to article 8 ECHR
<i>Calder v HMA</i>	2006 SCCR 609	HCA	US sentencing practices not a bar to extradition
Tehrani v SSHD [2006] UKHL 47	14 October 2006	HL	Court of Session can review English immigration adjudicator

Other cases

Name	Date	Court	Comment
<i>Shepherd v Scottish Ministers</i>	1 May 2001	OH	ECHR attempt to prevent foot & mouth slaughter
<i>Kenneth Richey</i>	Summer 2004	US Sixth Circuit Federal Court of Appeal	Drafted <i>amicus</i> brief on behalf of parliamentarians in death row case
<i>Duncan v Scottish Ministers</i>	20 July 2004	OH	<i>Interim</i> declarator competent against the Crown
HMA v DS	To be heard March 2007	JCPC	challenge to rape shield legislation
<i>Saber v SSHD</i>	To be allocated	HL	Appropriate remedy where appeal against IAT allowed; AG cross-appealing on non-state as source of protection

Societies

Immigration Lawyers Practice Association (ILPA).

Publications

Consulting Editor UKHRR since 2000.

Personal

- Door tenant at Tooks Chambers, London since start 2001
- Legal Assessor to discipline committee of the General Teaching Council for Scotland from 2001 to 2005
- Chairman of Human Rights Committee of Faculty of Advocates since 2005
- Member of the legal panel of the Mental Health Tribunal for Scotland since 2005.
- Chairman of triathlonscotland October 2004 to October 2006; Secretary for five years before that.
- In 2005 and 2006 I lectured on human rights as a Council of Europe expert in Kosovo (twice) Macedonia and Rostov-on-Don. The participants in the courses were judges, ombudsman staff and legal practitioners.