



Use your allusion¹

Literary allusion in judicial decision-making²

By Farid Assaf SC

An inconvenient disturbance

In a remote farmhouse in southwest England in October 1797, the enigmatic Romantic poet, Samuel Taylor Coleridge, in a state of opium-induced reverie, penned his proto-surrealist³ 'vision in a dream', *Kubla Khan*. Notwithstanding being interrupted by the now proverbial person from Porlock, Coleridge masterfully articulated his vision of decadence and architectural splendour – a 'pleasure-dome' in legendary Xanadu sitting atop the sacred river Alph, decreed by no less than Genghis Khan's grandson, a formidable emperor in his own right. Hedonistic, sensual and even Freudian⁴ themes permeate the poem throughout, and it would perhaps surprise Coleridge that its opening couplet⁵ would provide inspiration to an Australian Federal Court judge nearly 200 years later when preparing a judgment concerning mundane allegations of misleading and deceptive statements in the context of a prospectus for a unit trust. In *Famel Pty Ltd & Anor v Burswood Management Ltd & Ors*⁶ French J (as his Honour then was) invoked Coleridge to illustrate the 'less splendid vision, but equally powerful inspiration' which led to the construction in 1985 of Perth's own pleasure-dome, the Burswood Resort Complex. In a 2013 address to the New South Wales Bar Constitutional & Administrative Law Branch Annual Dinner,⁷ French CJ appeared to accept academic criticism of his Honour's allusion to *Kubla Khan*, that while being marginally relevant and of 'sound aesthetic provenance' it failed to 'add useful information to the judicial narrative of the facts or even rhetorical weight to the legal argument'.⁸

In fairness to French J, his Honour's reliance upon Coleridge was a modest attempt at lifting the 'quotidian' tedium of the judicial task.⁹ Nonetheless, that attempt, however well-meaning, provides a trivial example of the kinds of pitfalls sometimes associated with judicial use of literary allusion. At the other end of the spectrum, unwise deployment of literary allusion in judgment writing can produce accusations of judicial insensitivity or worse, ruin careers. An example of the latter type of denouement



is Lord Atkin's allusion to Lewis Carroll's *Through the Looking Glass* in his dissenting judgment in the war-time case of *Liversidge v Anderson*.¹⁰ His Lordship's dissent was penned in response to the proposition that an order in which the Secretary of State recites that he has reasonable cause to believe a person 'to be of hostile associations' was sufficient to render the decision unreviewable.¹¹ The offending passage of the dissenting judgment read thus:

I know of only one authority which might justify the suggested method of construction. 'When I use a word,' Humpty Dumpty said in rather a scornful tone, 'it means just what I choose it to mean, neither more nor less.' 'The question is,' said Alice, 'whether you can make words mean different things.' 'The question is,' said Humpty Dumpty, 'which is to be master—that's all.' After all this long discussion, the question is whether the words 'If a man has' can mean 'If a man thinks he has.' I am of opinion that they cannot, and that the case should be decided accordingly.

Lord Atkin's fellow Law Lords were not amused at the not so veiled attempt at ridicule. Writing extra-curially in 2001, Kirby J explains that as a consequence, his Law Lord colleagues 'cut him dead at subsequent encounters'¹² or, to use English parlance, his Lordship was sent to Coventry.¹³ The then senior Law Lord, Viscount Maugham (brother of Somerset) even went so far as to write a letter of complaint to the editor of *The Times*.

For present purposes it is not proposed to focus on literary allusions in judicial writing received negatively. Rather, this article seeks to explore the use of literary allusion in judgments to support substantive legal positions. In so doing, I seek to illustrate the occasions in which literary citation has been appropriately implemented in the judicial context and provide examples from various courts across Australia. It is contended that while such deployment can be a high-risk exercise¹⁴ there are nonetheless potential practical benefits for the judicial writer, not to mention the collateral aesthetic delight which may flow to consumers of such writing.

Definitions and concepts

Simply put, a literary reference is a brief reference, explicit or indirect, to a literary work or passage.¹⁵ The allusion is typically used to invoke one or more associations of appropriate 'cultural material' with the author seeking to bring them to bear upon a present context.¹⁶ That is to say, an allusion is a literary device used to try and bring out or increase 'communion' with one's audience.¹⁷ Allusions are to be distinguished from mere quotations because quotations, simpliciter, invoke no particular context – a quotation is merely a 'saying' to apply to various contexts.¹⁸ Literary allusion is inherently culturally specific, requiring the reader to make certain unstated associations in order to have a correct and complete understanding of the point intended by the author.¹⁹ To that end, literary allusions rely on the rhetorical concept of 'anamnesis' or calling to mind past matters, specifically, a past author, from memory.²⁰

The basic pattern of legal reasoning in the common law world is reasoning by example or reasoning from case to case,²¹ a process which is part art, part science.²² French CJ has observed that the art of judging involves the deployment of experience and skills, some of them not consciously realised as they are exercised,²³ while the science of judging involves the ability to undertake the art of judging with an extended awareness of the process and the things that influence judicial decision-making.²⁴ The art of judicial reasoning inevitably calls on skills of narration and story-telling.²⁵ Kirby J explains that between judicial ideas, conveyed in words, sentences, and in literature, lies a symbiotic relationship.²⁶ In the case of judges, that relationship is inescapable for, ordinarily, they have been educated in literature.²⁷ For Kirby J, deft use of literature can help the judicial writer to express important ideas in ways better than they could muster unaided, with such literature

becoming part of the rhetoric of judicial exposition, explanation and persuasion.²⁸

An Aristotelian framework for evaluating the efficacy of literary allusion

It is not difficult to identify the parallels between law and literature. Both encourage the utilisation of imagery, language and ideas that come with creative writing of every kind.²⁹ Judges in their reasons are recounting human stories and by their narratives seek to evoke responses from their readers.³⁰ At its core, judicial writing is an exercise in the art of rhetoric.³¹ Through the use of literary allusion, an author can communicate information to her reader that may not be possible with a straightforward statement.³² In that regard it has been said that allusions have a 'perlocutionary effect on their audience' – that is, allusions impact the thoughts and feelings of the audience in a different way than may be achieved with straightforward statements.³³ Appropriate use of allusion in judgments may make them more persuasive or offer something for aesthetic consideration thereby forging a 'community', actively involving the audience in a way that straightforward statements do not.³⁴

Use of literary allusion adds value to persuasive writing, including judicial opinions, by invoking all three of Aristotle's rhetorical modes: logos, ethos and pathos.³⁵ Logos refers to the art of deductive, logical proof³⁶, pathos provides emotional appeal³⁷ and ethos refers to authority. Literary allusion invokes the power of logos by providing readers with concrete examples of abstract principles and with logical appeal by supporting the point with concrete 'authority'. Judges have historically called upon literature as authority in their opinions thereby invoking the logos function.³⁸ Such use of literary allusions is especially effective when the argument or point is difficult to explain in literal terms and can be explained more effectively and efficiently through a metaphoric analogy.³⁹ Literary allusion also invokes the power of pathos by endowing the logical machinery of the law with much-needed human context.⁴⁰ Further, use of literary allusion employs ethos on at least three levels: first, by invoking the authority of the author to the cited literature; secondly, by bestowing additional authority on that author by the very fact of legal citation and thirdly by enhancing the judge's image in the eyes of certain readers.⁴¹ Aristotle himself placed literary figures in the category of 'ancient witnesses'.⁴²

Effective allusions stand on their own without the need for commentary or explanation from the author to make them

clear.⁴³ The more obscure a literary allusion, the less likely it is to be effective.⁴⁴ To be effective, the allusion should appear natural, even simple.⁴⁵ Moreover, the allusion will ideally span cultures.⁴⁶ In addition to being an engaging way to attract the reader's attention, the use of literary allusions may also render the judgment more accessible to readers outside of the legal community as references are made to literary sources outside the narrowly confined and inbred world of legal precedent and terminology.⁴⁷ The use of literary allusions in judgments also tells us much about legal culture in general, and the relationship of the culture of the law to the general culture of the community.⁴⁸ Poets in particular are prime barometers of culture, voicing its dreams, visions, hopes, aspirations or despairs.⁴⁹ It is little wonder then that a substantial body of literary allusion utilised by judges comprises references to poetry.

The English literature academic Michael Meehan observes that depending on how they are used, literary allusions may at best add either useful information to the judicial narrative of the facts or even rhetorical weight to the legal argument, or to a lesser extent, and as mentioned above, be marginally relevant and of sound aesthetic provenance enhancing the texture of judicial prose.⁵⁰ At worst, use of literary allusion in judgment can be an irrelevant garniture, especially where the literary allusion looks more intently inwards to the writer's own personal culture rather than outwards towards the facts or the law at issue.⁵¹

William Blake and the law of negligence

One of the great progenitors of English Romanticism, the mystic poet William Blake was considered by Coleridge a 'man of genius.' That same reverence came to be displayed in Evatt J's dissenting judgment in *Chester v The Council of the Municipality of Waverly*.⁵² The facts of the case are tragic. The plaintiff was the mother of a missing seven-year-old child who, upon discovering her son was missing, 'searched for him without intermission'.⁵³ The body of the young child was discovered some time later in a water-filled trench that had been excavated and left virtually unfenced by the defendant council. On seeing her child removed from the trench, the plaintiff suffered nervous shock. The majority, Latham CJ, Rich and Starke JJ found that the facts did not disclose a breach of any duty owed by the defendant council to the plaintiff. Evatt J disagreed. His Honour observed that during the search for the child the mother was no doubt 'tortured' between the fear that he had been

drowned and the hope that he may still be alive. It was also perfectly understandable that the period of waiting for knowledge of the child's whereabouts had reduced her 'to a state of nerve exhaustion'. It was at this stage of the judgment that Evatt J invoked Blake's imaginative genius in portraying suffering and anxiety of this kind with an extract from *The Little Girl Found*:—

*Tired and woe-begone
Hoarse with making moan*

...

*Rising from unrest
The trembling woman prest
With feet of weary woe:
She could no further go.*

Evatt J's judgment is also one of those rare examples in which Australian literature is cited. To that end, his Honour set out an extract from Tom Collins' novel, *Such is Life* to illustrate the agony of fearfulness caused by a search for a lost child:

Longest night I ever passed, though it was one of the shortest in the year. Eyes burning for want of sleep, and couldn't bear to lie down for a minute. Wandering about for miles; listening; hearing something in the scrub; and finding it was only one of the other chaps, or some sheep. Thunder and lightning, on and off, all night; even two or three drops of rain, toward morning. Once I heard the howl of a dingo, and I thought of the little girl, lying worn-out, half-asleep and half-fainting — far more helpless than a sheep ...

What distinguishes Evatt J's judgment, in part, was a more forceful reconstruction of the narrative, and upon an extensive empathetic exposition of the 'state of nerve exhaustion' of the plaintiff.⁵⁴ Further, his Honour proceeded, with literary assistance, to invest the 'naked words' of the Full Court of the Supreme Court of New South Wales that 'the discovery that her son had drowned caused her a severe shock' with a greater 'sufficiency' in a judicial narrative that sought to recreate in the most forceful manner possible, the 'very terrifying setting of the tragedy', the 'most grievous character' of the shock, and the special cultural resonances that the loss of children must import in the Australian context.⁵⁵ The pathos and ethos present in Evatt J's recourse to Blake and Collins are readily apparent.

Alexander Pope and the deceased diptera

An amusing illustration of logos is cited by French CJ in his paper delivered to the New South Wales Bar Association in 2013 referred to above. His Honour refers to a decision of Neasey J of the Supreme Court

of Tasmania in *Doyle v Maypole Bakery Pty Ltd*.⁵⁶ Under s 63(1)(ba) of the *Public Health Act 1962* an article of food is adulterated when it contains a foreign substance. The defendant bakery was charged before a magistrate 'that it did on or about the 12th day of February, 1981 sell an article of food namely a lamington which was adulterated in that it contained a blowfly'. The magistrate was not satisfied that the said lamington 'contained' the blowfly within the meaning of the relevant Act. Neasey J took a different view holding that anything which has become attached or adheres to or becomes embedded in the surface of an article of food such as a cake may be said to be contained by the cake. In support of his contention, his Honour cited Pope's *An Essay on Criticism* where it was said:

Knights, squires, and steeds, must enter on the stage.

So vast a throng the stage can ne'er contain.

Then build a new, or act it in a plain.

That is to say, a stage can be said to contain actors or people who are on its surface and likewise the offending blowfly was 'contained' within the cake. Logos and ethos on full display.

Trials and tribulations of a Phoenician queen

No discussion of literary allusion in the law would be complete without reference to the ancients. Expectedly, allusions to ancient literature are not difficult to find in Australian judgments. A few examples from Virgil's epic poem, *The Aenid* will suffice.

In one of the many 'Superleague' decisions⁵⁷, News Ltd claimed, among other things that various commitment agreements between players and the New South Wales Rugby League contravened s 45 of the *Trade Practices Act 1974* which prohibited a corporation from making a contract or arrangement that had the effect of substantially lessening competition. The claim before Burchett J failed for a number of reasons. At the conclusion of the judgment, his Honour observed that even if a breach of s 45 had been made out discretionary relief would have been declined. In that regard, his Honour noted that the Court should be vigilant to ensure that its remedies were not invoked for the furtherance and ultimate fulfilment of unlawful activities. Moreover, Burchett J found that in the circumstances 'it would be a mockery of the rule of law if the Court, finding a breach, were tamely to grant the applicant the relief it seeks, without having any regard to the applicant's own conduct'.

His Honour saw it fit to recount Aeneas' attempts to excuse his desertion of Queen Dido of Carthage by asserting that he must go to perform a God-given task. Dido, unimpressed, responded with scorching sarcasm that here is a man who would make the Gods accomplices to his crime:—

*'I rave, I rave! A god's command he pleads,
And makes Heav'n accessory to his deeds.'*
(*The Aenid*, Book 4, Dryden translation.)⁵⁸

For Burchett J, the law must not incur the reproach, in solemn earnest, of being accomplice to the inducement of breach of contract and the corruption of fiduciaries.⁵⁹

In the Victorian decision of *National Australia Bank Limited (ACN 004 044 937) v Di Battista, Domenico*⁶⁰ the mortgagee bank sought possession of various properties founded upon numerous guarantees. That brief description however belies the adversarial complexity among the numerous family participants involved in the litigation. Nathan J observed in that regard that the court was 'treated to a family dispute Virgilian in its scope'. According to his Honour the majority of family members manifested hatred and contempt for one particular family member who was blamed for bringing them to a joint predicament, and excluding him from what plainly had been a warm and affectionate family life. In that context, his Honour's allusion to Virgil in *The Aenid* recounting Aeneas writing to Queen Dido, was apposite, relevantly:

But to the point in debate I shall briefly speak. Believe me I neither thought by stealth to have concealed this my flight, nor did I ever pretend a lawful union to enter into such a contract. Had the fates left me free to conduct my life by my own direction and ease my cares, according to my own choice my first regards had been shown to Troy, and the dear relics of my country. Priam's lofty palace should now remain and with this hand I would have repaired for the conquered and walls of Pogomus raised again from ruin.

His Honour's utilisation of the classic text emphasises to the reader the perennial problems plaguing families spanning millennia and crossing cultures. More recently, in *Saravinovksa v Saravinovski (No 6)*,⁶¹ Kunc J was reminded of Tolstoy's *Anna Karenina* in the context of a family property dispute following the death of the familial patriarch: *'All happy families resemble one another, each unhappy family is unhappy in its own way.'*

Making the mundane memorable (or concluding with the whimsical)

Of course, not all use of allusion directly supports a judge's reasons. Quite often, allusion is used for purely aesthetic reasons as Meehan reminds us. For example, in *Australian Energy Regulator v Snowy Hydro Ltd*,⁶² Beach J of the Federal Court was faced with the unenviable task of deciding the question of whether clause 4.9.8(a) of the National Electricity Rules is invalid on an interlocutory basis. His Honour eloquently refused the application explaining:

[The] application has only the superficial allure of expediency, it flirts with heresies such as interlocutory declarations, and it seeks to entice me down a path descending inevitably into an inferno of appellate scrutiny more unforgiving than even Dante's allegorical circles.

The inefficiency of the litigation before Ipp JA in *Ohlstein bht Ohlstein v E & T Lloyd t/as Otford Farm Trail Rides*,⁶³ attracted similar rebuke. In *Ohlstein* the appellants' statement of claim contained no less than 27 particulars of negligence pleading virtually every form of negligence that could possibly arise. This scattergun approach to litigation reminded his Honour of the following line from Chekhov's *The Cherry Orchard*: 'When a lot of remedies are suggested for a disease, that means it can't be cured.'

And, finally, who could complain of the following from US bankruptcy judge A. Jay Cristol, in the decision of *In re Love*,⁶⁴ where his Honour dismissed his own sua sponte (court initiated) motion for summary dismissal of a Chapter 7 (liquidation) proceeding under the US Bankruptcy Code using a parody of Edgar Allen Poe's *The Raven* beginning:

Once upon a midnight dreary, while I pondered weak and weary

Over many quaint and curious files of chapter seven lore

While I nodded nearly napping, suddenly there came a tapping

As of some one gently rapping, rapping at my chamber door,

'Tis some debtor' I muttered, 'tapping at my chamber door—

Only this and nothing more.'

*Ab distinctly I recall, it was in the early fall
And the file still was small*

The Code provided I could use it

*If someone tried to substantially abuse it
No party asked that it be heard.*

'Sua sponte' whispered a small black bird.

The bird himself, my only maven, strongly looked to be a raven.

Acta est fabula plaudite!

ENDNOTES

- The not-so subtle allusion to the similarly entitled Guns N' Roses album is entirely intentional.
- The author thanks Talitha Fishburn of Black Chambers and Kevin Tang of 8 Wentworth for directing my attention to a number of examples of literary allusion in recent Australian judgments.
- K Burke, *Language as Symbolic Action*, University of California Press, 1966.
- Hilde Scheuer Bliss and Donald Thayer Bliss. 'Coleridge's 'Kubla Khan' (1949) 6(4) *American Imago* 261 <http://www.jstor.org/stable/26301244>.
- In Xanadu did Kubla Khan – A stately pleasure-dome decree.*
- Famel Pty Ltd & Anor v Burswood Management Ltd & Ors* (1989) 15 ACLR 572 at 573 per French J.
- Chief Justice Robert French AC, 'Poetry and Public Law' (Speech, New South Wales Bar Constitutional & Administrative Law Branch Annual Dinner, 7 November 2013).
- Michael Meehan, 'The Good, the Bad and the Ugly: Judicial Literacy and Australian Cultural Cringe' (1990) 12 *Adelaide Law Review* 431 at 431.
- Chief Justice Robert French AC, 'Poetry and Public Law' (Speech, New South Wales Bar Constitutional & Administrative Law Branch Annual Dinner, 7 November 2013) at 2.
- Liversidge v Anderson* [1941] 3 All ER 338 at 361 per Lord Atkin.
- Justice Michael Kirby, 'Literature in Australian Judicial Reasoning' (2001) 75 *The Australian Law Journal* 602 at 603.
- Justice Michael Kirby, 'Literature in Australian Judicial Reasoning' (2001) 75 *The Australian Law Journal* 602 at 603.
- Justice Justice Susan Kiefel AC, 'Judicial Courage and the Decorum of Dissent' (Selden Society Lecture, 28 November 2017) at 4.
- Chief Justice Robert French AC, 'Poetry and Public Law' (Speech, New South Wales Bar Constitutional & Administrative Law Branch Annual Dinner, 7 November 2013) at 2.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 429-30.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 429-30.
- Elwyn Elms, 'On the Use of Classical Allusions in Judgment Writing' (2008) 31(1) *UNSW Law Journal* 56, 57.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 429-30.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 429-30.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 429-30.
- Edward H Levi, 'An Introduction to Legal Reasoning' (1948) 15(3) *The University of Chicago Law Review* 501 at 501-2.
- Chief Justice Robert French, 'Conference on Judicial Reasoning: Art or Science?' (2010) 42(1) *Australian Journal of Forensic Sciences* 5 at 8.
- Chief Justice Robert French, 'Conference on Judicial Reasoning: Art or Science?' (2010) 42(1) *Australian Journal of Forensic Sciences* 5 at 8.
- Chief Justice Robert French, 'Conference on Judicial Reasoning: Art or Science?' (2010) 42(1) *Australian Journal of Forensic Sciences* 5 at 8.
- Justice Michael Kirby, 'Literature in Australian Judicial Reasoning' (2001) 75 *The Australian Law Journal* 602 at 606.
- Justice Michael Kirby, 'Literature in Australian Judicial Reasoning' (2001) 75 *The Australian Law Journal* 602 at 606-7.
- Justice Michael Kirby, 'Literature in Australian Judicial Reasoning' (2001) 75 *The Australian Law Journal* 602 at 606-7.
- Justice Michael Kirby, 'Literature in Australian Judicial Reasoning' (2001) 75 *The Australian Law Journal* 602 at 606-7.
- Justice Michael Kirby, 'Literature in Australian Judicial Reasoning' (2001) 75 *The Australian Law Journal* 602 at 608.
- Justice Michael Kirby, 'Literature in Australian Judicial Reasoning' (2001) 75 *The Australian Law Journal* 602 at 608.
- Justice Michael Kirby, 'Literature in Australian Judicial Reasoning' (2001) 75 *The Australian Law Journal* 602 at 608.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 431.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 431.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 431.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 433-5.
- John M DeStefano III, 'On Literature As Legal Authority' (2007) 49 *Arizona Law Review* 521 at 523-525.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 433-5.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 433-5.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 433-5.
- John M DeStefano III, 'On Literature As Legal Authority' (2007) 49 *Arizona Law Review* 521 at 523-525.
- John M DeStefano III, 'On Literature As Legal Authority' (2007) 49 *Arizona Law Review* 521 at 523-525.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 435-6.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 435-6.
- Kristin B Gerdy Kyle, 'Big Brother, Othello, and Dogs That Don't Bark: The Use of Literary Allusion in Federal Appellate Opinions' (2020) 29(3) *Southern California Interdisciplinary Law Journal* 427 at 435-6.
- Elwyn Elms, 'On the Use of Classical Allusions in Judgment Writing' (2008) 31(1) *UNSW Law Journal* 56, 57.
- Michael Meehan, 'The Good, the Bad and the Ugly: Judicial Literacy and Australian Cultural Cringe' (1990) 12 *Adelaide Law Review* 431, 432.
- Edward J Eberle and Bernhard Grossfeld, 'Law and Poetry' (2006) 11(2) *Roger Williams University Law Review* 353 at 355.
- Michael Meehan, 'The Good, the Bad and the Ugly: Judicial Literacy and Australian Cultural Cringe' (1990) 12 *Adelaide Law Review* 431, 431.
- Michael Meehan, 'The Good, the Bad and the Ugly: Judicial Literacy and Australian Cultural Cringe' (1990) 12 *Adelaide Law Review* 431, 441.
- Chester v The Council of the Municipality of Waverly* (1939) 62 CLR 1.
- Chester v The Council of the Municipality of Waverly* (1939) 62 CLR 1 at 16.
- Michael Meehan, 'The Good, the Bad and the Ugly: Judicial Literacy and Australian Cultural Cringe' (1990) 12 *Adelaide Law Review* 431 at 438.
- Michael Meehan, 'The Good, the Bad and the Ugly: Judicial Literacy and Australian Cultural Cringe' (1990) 12 *Adelaide Law Review* 431 at 438.
- Doyle v Maypole Bakery Pty Ltd* [1981] Tas R 376.
- News Ltd v Australian Rugby Football League Ltd* (1996) 58 FCR 447 at 534 per Burchett J.
- News Ltd v Australian Rugby Football League Ltd* (1996) 58 FCR 447 at 534 per Burchett J.
- News Ltd v Australian Rugby Football League Ltd* (1996) 58 FCR 447 at 534 per Burchett J.
- National Australia Bank Limited (ACN 004 044 937) v Di Battista, Domenico* (Supreme Court of Victoria, Nathan J, 7 December 1995) 2.
- Saravivnoska v Saravivnoski* (No 6) [2016] NSWSC 964 at [2] per Kunc J.
- Australian Energy Regulator v Snowy Hydro Ltd* [2014] FCA 1013.
- Ohlstein bht Ohlstein v E & T Lloyd t/as Otford Farm Trail Rides* [2006] NSWCA 226 at [60] per Ipp JA.
- In re Love*, 61 B.R. 558 (Bankr. S.D. Fla. 1986).