



HIGH COURT OF AUSTRALIA

Public Information Officer

10 April, 2003

PHILIP CHEE MING NG v THE QUEEN
PETER ANDREW FITTOCK v THE QUEEN

The High Court of Australia today unanimously upheld the use of reserve jurors in federal criminal trials, holding that the practice of having additional jurors did not conflict with section 80 of the Constitution.

The applications for special leave to appeal by Mr Ng and Mr Fittock against their convictions were based on claims that the empanelling of reserve jurors at their respective trials was unconstitutional so they had not received a proper trial by jury. Their applications were rejected in February, and the High Court handed down its reasons for judgment today.

Mr Ng was convicted by a jury in Victoria for conspiring to import a commercial quantity of heroin, an offence under the Commonwealth Customs Act. Fifteen jurors were empanelled and before the jury retired to consider its verdict three jurors were removed by ballot to reduce the jury to 12. The jury foreperson's name was drawn out but the foreperson is immune from removal by ballot and another name was drawn instead.

Mr Fittock was convicted in the Northern Territory of murdering his pregnant girlfriend and of attempted unlawful killing of another man. The NT also permits up to three extra jurors, but unlike Victoria, they remain in reserve to replace any juror who becomes incapacitated rather than being part of a larger pool whittled down to 12 towards the end of the trial. A reserve juror who sat through the trial was not required and was discharged before the jury retired.

The High Court said of both applications for special leave that they had no prospect of success.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*