



HIGH COURT OF AUSTRALIA

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HONG PHUC TRUONG v THE QUEEN

A man found guilty of kidnapping and murder was lawfully tried and convicted even though he had been extradited from the United Kingdom on charges of conspiracy to kidnap and to murder, the High Court of Australia held today.

Mr Truong was extradited from Britain to face charges of conspiracy to kidnap and conspiracy to murder but was tried in 2000 in the Victorian Supreme Court for kidnap and murder. He was convicted and sentenced to life imprisonment for murder and to 15 years' imprisonment for kidnapping. On appeal, Mr Truong claimed his trial contravened section 42 of the *Extradition Act* which prohibits the trial of an extradited person for any offence other than one for which they were returned, a point not raised at his trial. The Court of Appeal dismissed an appeal and Mr Truong appealed to the High Court.

Mr Truong, a Vietnamese national, allegedly headed a drug trafficking network whose operations included Hong Kong, Vietnam and Australia. In March 1996, through his sister Truong Thi Van who lived in Melbourne, he met Ha Que Thi Ha, a wealthy Vietnam-based exporter of clothing and footwear. Mr Truong and Mrs Van allegedly tried to recruit Mrs Ha to bring heroin into Australia with her clothing shipments and later demanded \$400,000 in protection money. Her refusals were met with threats of harm to her and her family. After Mr Truong left Australia, two Vietnamese criminals living in the United States, arrived in Melbourne. They allegedly kidnapped Mrs Ha's 21-year-old son Le Anh Tuan from his home in Glen Waverley. His body was found a few weeks later in an aqueduct in Noble Park. The cause of death was a single gunshot to the head.

Although Mr Truong was extradited in 1997 on charges that included the kidnapping and murder conspiracy charges but not the substantive charges, four members of the High Court held that in the circumstances of this case that was immaterial, as the acts pointing to the existence of the conspiracies included the actual kidnapping and murder. Both the conspiracy offences and the substantive offences relied on the same evidence. Additionally, three members of the Court held that even if the course of proceedings had been inconsistent with section 42 that did not enable Mr Truong to have his convictions set aside.

The High Court, by a 6-1 majority, dismissed the appeal.

- *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.*