



HIGH COURT OF AUSTRALIA

Public Information Officer

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PHILIP RUDDOCK, KAY PATTERSON AND COMMONWEALTH OF AUSTRALIA v GRAHAM ERNEST TAYLOR

The High Court of Australia today overturned an award of damages of \$116,000 paid to Mr Taylor after he was put into immigration detention when his visa was cancelled on character grounds.

British-born Mr Taylor, 45, came to Australia with his family in 1966. He is not an Australian citizen but has held a permanent transitional visa. In 1996, Mr Taylor pleaded guilty to a number of sexual offences and served three-and-a-half years in jail. Twice after his release in 1999 his visa was cancelled on character grounds under section 501 of the *Migration Act* due to his criminal record and he was taken into immigration detention. Both decisions cancelling his visa were quashed by the High Court, the first by Justice Callinan and the second by the Full Court. Mr Taylor's periods in detention in 1999-2000 totalled 316 days.

Mr Taylor sued the then Immigration Minister Mr Ruddock, the then Parliamentary Secretary Senator Patterson and the Commonwealth for damages for false imprisonment. The New South Wales District Court awarded him \$116,000. The Ministers and the Commonwealth appealed unsuccessfully to the NSW Court of Appeal. They then appealed to the High Court. In 2003, between the Court of Appeal decision and today's appeal, the High Court held in *Shaw v Minister for Immigration and Multicultural Affairs* that anyone born outside Australia to non-Australian parents, including British subjects, was, unless naturalised, an alien. The effect of the *Shaw* judgment was to support the legal basis upon which the authorities had acted in Mr Taylor's case.

Today's appeal turned on section 189 of the Act which provides that if an officer knows or reasonably suspects that a person is an unlawful non-citizen the officer must detain the person. That section was held to apply to the present case.

The High Court, by a 5-2 majority, allowed 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.*