

IN THE SUPREME COURT OF VICTORIA
COURT OF APPEAL
MELBOURNE

No 626 of 2009

THE QUEEN

Respondent

v.

Tan Hai NGUYEN

Appellant

SUMMARY OF PROCEEDINGS

Date of document:	25 May 2010
Filed on behalf of:	Respondent
Prepared by:	Marjorie De La Fuente
Craig Hyland	Solicitor's code: 7539
Solicitor for Public Prosecutions	Telephone: [REDACTED]
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Melbourne Vic 3000	Reference: 0602883

[1] AGE

The Appellant was born on [REDACTED] The Appellant was 38 years of age at the time of the offences. The Appellant was 41 years of age at the time of sentence.

[2] PREVIOUS CONVICTIONS

The Appellant has 2 findings of guilt from 1 court appearance – see the details in the further presentment.

[3] ARREST

On 8 June 2006 the Appellant was charged and remanded in custody in respect to the following offences the subject of the presentment.

Counsel for the Respondent called the following witnesses –

1. [REDACTED] (through interpreter) – see T, 5 – 57

Under cross examination the following exhibit was tendered –

- Exhibit B – Undertaking made 02/03/09 by Director of Public Prosecutions – see T, 18

Following re-examination the following exhibit was tendered –

- Exhibit C – Booklet of Photographs – see T, 57.

2. PII [REDACTED] – see T, 57 – 75

Following re-examination the following exhibit was tendered –

- Exhibit D – Depositions and notices of additional witnesses and statements – see T, 75.

[13] PLEA IN MITIGATION

Counsel for the Appellant called the following witness –

1. **Tan Hai NGUYEN** (the Appellant) (through interpreter) – see T, 79 – 123 and 129 – 150

Under examination in chief the following exhibit was tendered –

- Exhibit 1 – Purported receipt and translation (For Identification) – see T, 86.

A plea in mitigation was put on behalf of the Appellant – see T, 150 – 156, 159 – 168, 171 – 174 and 185.

Counsel tendered the following exhibits –

- Exhibit 1 – Letter dated 02/05/2008 from Thuy Bui CLV worker of the North Richmond Community Health Centre – T, 163.
- Exhibit 2 – Report of Dr K. Bowed, Dundas Street Medical Centre dated 04/03/2009 – see T, 164.
- Exhibit 3 – Report of Ian Joblin dated 23/03/2009 – see T, 185.

[18] POST SCRIPT

On ^{P11} August 2007 the co-offender, [REDACTED] entered a plea of guilty to Presentment U01380147 preferring the following counts –

- count 1 – trafficking in a drug of dependence, namely Diacetylmorphine between 9 November 2005 and 7 January 2006
- count 2 – trafficking in a drug of dependence, namely Diacetylmorphine on 8 June 2006
- count 3 – possession of a drug of dependence, namely morphine between on 8 June 2006

On ^{P11} April 2008 and ^{P11} April 2008, the matter proceeded as a plea hearing before His Honour Judge Barnett at the County Court at Melbourne.

On ^{P11} April 2008 the co-offender, [REDACTED] was sentenced as follows –

- count 1 – convicted and sentenced to 30 months imprisonment
- count 2 – convicted and sentenced to 9 months imprisonment (3 months cumulative on count 1)
- count 3 – convicted and sentenced to 9 months imprisonment.

The total effective sentence imposed was 33 months imprisonment. The sentencing judge ordered that the sentence be wholly suspended for a period of 3 years.

Pre-sentence detention of 55 days was declared under section 18(1) of the Sentencing Act 1991.

Pursuant to section 5(2AB) of the Sentencing Act 1991 the sentence imposed was less severe than it would otherwise have been, if not for the undertaking given by [REDACTED] to assist authorities, after sentencing, in the prosecutions of her co-offenders.

Pursuant to section 6F of the Sentencing Act 1991 sentenced as a serious drug offender.