



HUMAN TRAFFICKING WORKING GROUP

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CASE REPORT

Current as on: October 16, 2009

Case name	<i>R v Melita Kovacs & Zoltan Kovacs</i>
Reported in	<i>R v Kovacs</i> [2008] QCA 417 <i>R v Kovacs</i> [2007] QCA 143 <i>R v KO</i> [2006] QCA 34
Date(s)	Offence: August 27, 2002–February 5, 2003 Appeal (QCA): October 29, 2008, December 23, 2008
Jurisdiction	Queensland
Charges	S 270.3(1)(a) <i>Criminal Code</i> (Cth): intentionally possessing a slave S 270.3(1)(a) <i>Criminal Code</i> (Cth): intentionally exercising ownership over/using a slave S 240(1) <i>Migration Act 1958</i> (Cth): arranging a marriage for visa purposes S 349 <i>Criminal Code</i> (Qld): rape S 352 <i>Criminal Code</i> (Qld): sexual assault
Appeal	December 23, 2008: Qld Court of Appeal allowed the appeals and ordered retrial.

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Summary of Events

The case of Zoltan and Melita Kovacs, a married couple from the small town of Napranum near Weipa in Far North Queensland, is the first prosecution involving a case of trafficking in a domestic setting rather than the sex industry.

At some point during the year 2000, the couple decided to bring a woman from the Philippines to Australia to have her work in their food store and also work as a domestic helper in their private home. Subsequently, Mr Zoltan Kovacs (an Australian citizen of Hungarian background) and his friend Mr Balint Olasz made plans to travel to Manila to find a suitable woman. Part of the plan was that, once a woman was found, Mr Olasz, an Australian citizen, would marry her to facilitate her entry into Australia. This initial plan, however, failed for unknown reasons.

Ms Melita Kovacs (who is of Philippine decent) then sought assistance from a woman she knew in the Philippines to identify a suitable person. This woman suggested her niece, Ms G. At that time, the Court later heard, Ms G

was working with her aunt in a sewing factory and earning a little over \$10 a week. She was then 25 years of age and living in Manila with nine other family members in a one room, galvanised iron shack with no electricity, running water or telephone. The complainant was unmarried and had a son who was ill.¹

When Melita and Zoltan Kovacs approached G's mother (who was also in poor health) with their plan, the mother encouraged G to go with them so that G could assist the family by sending remittances from Australia to the Philippines.²

On January 8, 2001, G and Balint Olasz married in the Philippines. G was aware that the marriage was a sham only for the purpose of securing her visa to enter Australia.³ Mr Olasz returned to Australia a month later and communication to his new wife ceased until September 2001 when he returned to Manila to assist G in her application for an Australian visa.

Almost a year later, on August 28, 2002, G eventually arrived in Australia where she was met by Zoltan Kovacs at Cairns airport. They initially stayed in a motel in Cairns for several days where Mr Kovacs raped G on at least three occasions.⁴ In early September 2002, Zoltan Kovacs brought G to Weipa and she began working in the shop during the day and in the Kovacs' house at night.⁵

Her working conditions have been described as nothing short of slavery. She had to work seven days a week, usually 17 hours per day, with little or no pay. At trial, the Court heard evidence that on weekdays G was working from 6am to 6pm in the shop, followed by 4-5 hours of domestic work at the Kovacs' house which involved housekeeping can caring for three young children. She also had work in the shop on Saturdays between 6am and 12noon and did domestic work all weekend. No work-free days were allocated to her.⁶

¹ *R v Kovacs* [2008] QCA 417 para 7.

² *R v Kovacs* [2008] QCA 417 para 7.

³ *R v Kovacs* [2008] QCA 417 para 9.

⁴ The allegations of rape form the basis of additional charges. See 'Additional Convictions' below.

⁵ *R v Kovacs* [2008] QCA 417 para 9.

⁶ *R v Kovacs* [2008] QCA 417 para 10. Cf Australia, Anti-People Trafficking Interdepartmental Committee, *Trafficking in Persons: The Australian Government's Response January 2004–April 2009* (2009) 71, available at [www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(084A3429FD57AC0744737F8EA134BACB\)~IDC+Annual+Report_WEB.pdf/\\$file/IDC+Annual+Report_WEB.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(084A3429FD57AC0744737F8EA134BACB)~IDC+Annual+Report_WEB.pdf/$file/IDC+Annual+Report_WEB.pdf) (accessed 15 Oct 2009).

When G was 'recruited' in the Philippines, Melita and Zoltan Kovacs said that she would receive AUD 800 for her work in Australia, which G assumed was a sum to be paid monthly. Ms G was also told that some payment would be withheld to cover the expenses for her visa and travel to Australia. The total amount of these expenses was never revealed to her and she was not informed that she would have to do any domestic work in addition to working in the shop. Mr Kovacs did tell G that she would 'have to work for five years before she could leave Australia.'⁷ After arriving in Australia, G never received a regular salary. At some point, she received two small payments, one of AUD 400 and one of AUD 60. G then gave some of that money, AUD 350, to Zoltan Kovacs to give to her family in Manila. The family did later receive about 7000 pesos, approximately AUD 180, and the Kovacs paid for some medical expenses for G's son in Manila. It is not clear whether or not further payments were made to the family.⁸

Mr Kovacs continued raping G in Weipa. At trial, the Court heard evidence that:

Mr Kovacs had sexual intercourse with the complainant at the shop two to three mornings a week before the arrival at work of another employee, Ms Kris. On some of these occasions he gave her twenty or thirty dollars, which he described as 'pocket money'. He also sexually assaulted her in the house when his wife was absent.⁹

Ms G never complained or reported the rape because Zoltan Kovacs threatened that 'they would all go to gaol' if she spoke to police. G also continued to believe that she may be able to help her family abroad and did not want her mother to worry.¹⁰ She did, however, make a first attempt to flee from the Kovacs in October 2002, less than two months after arriving in Australia. On that occasion she took a taxi to a woman named Ms Kris, who was the only person G knew apart from the Kovacs. But Zoltan and Melita Kovacs found G quite immediately, brought her back to their house and confiscated G's passport.¹¹

In December 2002, G was able to flee from the Kovacs successfully with the help of Mr Kovacs' daughter from a former marriage, Ms Fabian. Ms Fabian was visiting her parents for Christmas while her father was abroad. During that time she drove G to the shop several times and on one of these trips G told Ms Fabian that she had been raped repeatedly by her father and asked for her help to escape. Together with Ms Kris, who worked for the Kovacs', Ms Fabian helped G buy a ticket to fly to Cairns where Ms G contacted DIAC to inquire about obtaining a new passport.¹² DIAC then referred the matter to police.

Trial

Zoltan and Melita Kovacs were tried together before the Supreme Court of Queensland, sitting in Townsville, in 2007.¹³ At the end of the trial Zoltan Kovacs was convicted for arranging the marriage between G and Mr Balint Olasz for the purpose of assisting G to obtain a visa to enter Australia;¹⁴ intentionally possessing a slave between August 27, 2002, and February 5, 2003;¹⁵ and intentionally exercising power over/using a slave over the same period.¹⁶ He was sentenced for one year imprisonment for the marriage offence, and eight years imprisonment for the slavery offences. A non-parole period of three years and nine

⁷ *R v Kovacs* [2008] QCA 417 para 8.

⁸ *R v Kovacs* [2008] QCA 417 para 9.

⁹ *R v Kovacs* [2008] QCA 417 para 11.

¹⁰ *R v Kovacs* [2008] QCA 417 para 11.

¹¹ *R v Kovacs* [2008] QCA 417 para 12.

¹² *R v Kovacs* [2008] QCA 417 para 13.

¹³ *R v Kovacs* [2007] QCA 143.

¹⁴ Section 240(1) *Migration Act 1958* (Cth).

¹⁵ Section 270.3(1)(a) 1st alt *Criminal Code* (Cth).

¹⁶ Section 270.3(1)(a) 2nd alt *Criminal Code* (Cth).

months was set. Melita Kovacs was convicted for the same offences and was sentenced to four years imprisonment for the slavery offences and for one year imprisonment for arranging the sham marriage. The non-parole period was set for her at 18 months.¹⁷

Appeal

In 2008, the convictions were appealed on a seven grounds, two of which were made out.¹⁸ First, it was argued that the trial judge misdirected the jury in relation to the elements of the charges against both Melita and Zoltan Kovacs. The Court of Appeal held that this ground had not been made out.¹⁹ The Court of Appeal also dismissed the second ground that 'the primary judge erred in directing the jury that to find the [Ms Kovacs] guilty they did not need to be satisfied that [G] was in the condition of slavery for the duration of the period charged.'²⁰ The Court also dismissed suggestions that the verdicts were unreasonable and against the weight of evidence, and that the primary judge erred in failing to order separate trials for the two defendants.²¹

Mr Kovacs appeal was successful on the ground that that the trial judge erroneously admitted evidence of the complaints made by G to Ms Fabian and that he failed to direct the jury to ignore that evidence,²² and that he failed to correctly direct according to s 21A(8) of the *Evidence Act 1977* (Qld).²³ Mrs Kovacs' appeal was also successful in relation to the s 21A(8) direction.²⁴ Accordingly, the appeal was allowed and the slavery convictions were set aside. A retrial for these charges is expected to take place in 2009.

Additional Convictions

Additionally, Mr Kovacs has been charged with the rape and sexual assault of Ms G.²⁵ He was originally tried for rape charges in 2005 and sentenced to 8 years imprisonment on October 2, 2006, but a retrial was ordered in 2006,²⁶ and again in 2007.²⁷ Another trial initiated since then has also collapsed.²⁸

In a related matter Mr Kovacs was also convicted on February 23, 2007 of two counts of rape and a single count of sexual assault against AV,²⁹ the niece of his wife, said to have occurred in 1997. Ms V had been brought to Australia from the Philippines to act as a domestic cleaner for the couple. His appeal against this conviction was dismissed and Mr Kovacs is currently serving a seven year prison sentence with a parole eligibility date of October 3, 2012.³⁰

¹⁷ *R v Kovacs* [2008] QCA 417 para 3.

¹⁸ Malcolm Weatherup, 'Couple Win Appeal; Retrials Ordered in Slave Hearing', *Courier Mail* (Brisbane), 30 Dec 2008.

¹⁹ *R v Kovacs* [2008] QCA 417 paras 14–32.

²⁰ *R v Kovacs* [2008] QCA 417 paras 33–43

²¹ *R v Kovacs* [2008] QCA 417 paras 44–53.

²² *R v Kovacs* [2008] QCA 417 para 76.

²³ *R v Kovacs* [2008] QCA 417 paras 77-84

²⁴ *R v Kovacs* [2008] QCA 417 paras 54-55.

²⁵ Sections 349, 352 *Criminal Code* (Qld).

²⁶ *R v KO* [2006] QCA 34.

²⁷ *R v Kovacs* [2007] QCA 143.

²⁸ Mark Oberhardt, 'Sex Slave Couple Appeal Judgements', *Courier Mail* (Brisbane), 1 January 2008.

²⁹ *R v Kovacs* [2007] QCA 441.

³⁰ Australia, Anti-People Trafficking Interdepartmental Committee, *Trafficking in Persons: The Australian Government's Response January 2004–April 2009* (2009) 71, available at [www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(084A3429FD57AC0744737F8EA134BACB\)-IDC+Annual+Report_WEB.pdf/\\$file/IDC+Annual+Report_WEB.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(084A3429FD57AC0744737F8EA134BACB)-IDC+Annual+Report_WEB.pdf/$file/IDC+Annual+Report_WEB.pdf) (accessed 15 Oct 2009).

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