



HUMAN TRAFFICKING WORKING GROUP
Dr Andreas Schloenhardt (Coordinator)

The University of Queensland
TC Beirne School of Law

The University of British Columbia
Centre of International Relations

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CASE REPORT

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Table with 2 columns: Case Name, Reported in, Date(s), Court/Jurisdiction, Matter, Appeal. Row 1: Yap and MIMA [2006] AATA 510. Row 2: Entered Australia: 5 February 2002, Departed Australia: November 2002, AAT Decision: 13 June 2006. Row 3: Administrative Appeals Tribunal. Row 4: Application for Spousal Visa. Row 5: Yap and MIMA [2006] AATA 510.

Contents

Case Summary 2

Case Summary

The case of Yap is an immigration matter involving the fiancée of Mr Hardy Yap – the Thai national Ms Rattanaphon Chai-inpan, who applied for a spousal visa, but whose application was rejected on character grounds. Her situation was misconstrued by the Department of Immigration as being that of ‘people smuggling’ rather than ‘people trafficking’.¹

Yap met Chai-inpan in 2002 while she was working in a massage parlour in Fitzroy, Melbourne. They continued their relationship and became engaged after Chai-inpan returned to Thailand in November 2003.

The appeal against the primary decision to refuse Chai-inpan a visa contains a detailed account of the circumstances in which she entered, lived and worked in Australia’s sex industry.

Chai-inpan claims to have come to Australia to earn money to help support her sick grandmother, of Chiang Rae province in Thailand, who raised her after her parents separated. She noted that a man known as Mr Tik and his girlfriend Aa worked as ‘travel agents’ in Thailand and arranged for a sham Singaporean boyfriend to support Chai-inpan’s initial application for a visa to enter Australia. She was accompanied to Sydney by another woman and a male minder. While Chai-inpan knew that she would be working in the sex industry, she did not anticipate the harsh conditions of her employment. She was aware that money would be garnished from her wages to pay for her travel expenses, but did not know of the extent of either her debt to her employers or the garnishing.

When Chai-inpan arrived in Australia, she was picked up from a Sydney hotel by a man known as Mr Ah Van and his wife Je Je (Lili), the owners of a Sydney massage parlour. She then lived in a house with ten people, including six other prostitutes. Chai-inpan was not allowed to leave the house unsupervised and she was informed by her employers that she now had a debt to pay off. Her passport was also taken from her, allegedly to process her visa, and she was later informed she would have to make another payment for her passport to be returned. It is also apparent that Chai-inpan’s passport was used to lodge a fraudulent protection visa without her knowledge. As seen in other cases, an appeal was made to the Refugee Review Tribunal after this application was denied, but the appeal was subsequently withdrawn.

Chai-inpan managed to pay off the debt in 6- 7 months, seeing 10 clients a day and earning around \$50 per client per half hour. In August 2002, Chai-inpan was moved to a Fitzroy brothel also run by Ah Van and Je Je. It was around this time that she met Yap and commenced a relationship with him.

In November 2002, after learning that her grandmother’s condition had deteriorated, Chai-inpan threatened to kill herself if her employers did not allow her to return to Thailand. They acceded and she left Australia in November 2002, but maintained contact with Yap.

The Administrative Appeals Tribunal found that the applicant should not be refused a visa on the grounds of failing the character test, and the decision was remitted for consideration by the decision maker.

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¹ *Yap and MIMA* [2006] AATA 510, [38].