

Import Heroin
Marketable Quantity
s.307 (Cth) Criminal Code

Commenced 6.12.2005

307.2 Importing and exporting marketable quantities border controlled drug

307.6 Possessing marketable quantities border controlled drug

307.9 Possessing marketable quantities border controlled drug reasonably suspected of having been unlawfully imported

Marketable Quantity: 2gm

Commercial Quantity: 1.5kg

Maximum Penalty: 25 years

Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
<i>Springer</i> (2007) 177 A Crim R 13 NSWCCA [2009] NSWCCA 144 [2014] NSWCCA 52	Import	71.8g	PG (50% plea and assist on appeal)	6y NPP (not stated)	AA 4y 6m NPP 2y 9m Crown AA 4y 6m NPP 3y 9m		Importation from Vietnam – drugs swallowed – SJ erred in assessment of applicant's assistance to authorities. Sentenced increased when failed to give promised assistance 2014 proceedings to set commencement date for custodial sentence
<i>Seng</i> [2007] NSWCCA 335	Import	71.7g	PG	5y 6m NPP 3y	AA 5y NPP 2y 6m		Importation for principal from Cambodia – courier - drugs concealed internally – parity with co-offender who had greater role.
<i>Tran</i> (41) (2007) 172 A Crim R 436 QCA	Import	1.473kg	PG	15y NPP 7y	AA 10y NPP 5y	Nil	Courier – drugs secreted in condoms sewn into skin of fish contained in jars in suitcase – flew to Vietnam then Cambodia – to be paid \$10,000

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Danial (59) [2008] NSWCCA 15	Import	94.4g	PG (15%)	6y NPP 4y	AD	Nil	Female - importation from Vietnam – drugs concealed in underwear – courier Suffering from cancer.
Huynh (2008) 180 A Crim R 517 NSWCCA	Import	108g	PG	4y NPP 2y	Crown AA 6y NPP 4y		Importation from Vietnam – drugs swallowed – courier – conduct undertaken to reduce gambling debt.
Chea (30) Choun (38) Loeung (25) Oum (35) BS (37) Srey (35) Yin (37) [2008] NSWCCA 78	Import	146.8g 149.9g 169.7g 228.8g 239.2g 27.1g 222.8g	PG	4y 5m NPP 2y 11m 5y 6m NPP 3y 6m 4y 5m NPP 2y 9m 5y 6m NPP 3y 5y 3m NPP 2y 9m 3y 2m NPP 2y 2m 5y 6m NPP 3y	Crown AD Crown AD Crown AD AA 5y 3m NPP 3y Crown AD Crown AD AA 5y 3m NPP 3y		Cambodian nationals travelled to Australia as a group – swallowed pellets of heroin – couriers – impoverished backgrounds Chea – male - lost consciousness and required emergency surgery – assistance Choun - male Loeung – female – young child fostered in Australia – assistance Oum – female – assistance BS – female – young child in foster care – HIV positive – assistance Srey – male - less deprived background – assistance Yin – female - assistance
Mokoena (29) (2009) 193 A Crim R 351 QCA	Import	497.5g	PG	9y NPP 4y 9m	AD	Nil	South African swallowed pellets – to be paid \$10,000 on delivery Remorse – married with two children – financial difficulties – HIV positive
El-Ghourani (2009) 195 A Crim R 208 NSWCCA	Att possess	181.5g	PG (15%)	9y NPP 6y	AD	Priors – possess drug	Was to receive drugs sent in timber frames in packages – controlled delivery – more than mere courier Married with children

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TYN (42) (2009) 195 A Crim R 345 NSWCCA	Import	242.3g	PG (58% plea and assist)	6y NPP 3y 9m	AD	Minor	Courier – travelled to Vietnam and swallowed heroin before returning to Sydney Drug user – provided assistance – remorse – reasonable prospects of rehabilitation
Todoroski [2010] NSWCCA 75	Att possess	825.7g	PG	6y 6m NPP 3y 9m	Crown AD		Package sent from Bangkok to fictitious person containing drug hidden in glue sticks – arranged for sister to accept delivery – controlled delivery unsuccessful because late – admitted paid to arrange and take delivery of package – culpability in upper end of mid-range
Brink [2010] NSWCCA 217	Import	210.5g cocaine 281.9g heroin.	PG	8y 6m NPP 5y	AD		Brought in drugs concealed in picture frames from South Africa – suspicious that frames contained drugs Amputated leg
Okeke (44) [2010] NSWCCA 266	Possess Att possess cocaine and heroin Att possess cocaine Att possess cocaine Recklessly deal with proceeds of crime	473g 545.4g cocaine 71g heroin 80.4g 371.9g cocaine	PG	6y 6m 3y 18m 3y 14m <u>Total</u> 10y 6m NPP 8y	AA 6y 6m 7y 2y 4y 6m 18m <u>Total</u> 10y 6m NPP 6y 10m		Arranged to receive drugs secreted in 6 packages sent from overseas over 7 months – found in possession of heroin after collecting package from interstate – also found in possession of \$61,150 – above mid-range
Tsen (38) [2010] WASCA 21	Import	667.2g	VG	11y NPP 6y 6m	AD	nil	Female Taiwanese national – brought in drugs from Malaysia secreted in suitcase – working on behalf of person met through the internet – to receive \$10,000 – reckless as to possibility of drugs – no knowledge of quantity of drugs

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Jailani (40) [2010] VSCA 276	Import	189g	VG	6y	AA 4y	nil	Malaysian female - arrived in Melbourne with drugs secreted in suitcase – courier Isolation in custody
	Import morphine	143.1g		6y	4y		
	Import Monoacetylmorphine	194.9g		6y	4y		
				<u>Total</u> 6y NPP 4y	<u>Total</u> 5y NPP 3y		
Adenopo [2011] VSCA 269	Import	127g	PG	3y 6m	AA 3y 6m NPP 2y 4m		Nigerian – importing drugs from China having swallowed pellets Erroneously failed to set NPP because of likelihood of deportation
Youssef (41) [2011] NSWCCA 104	Import	573.6g	PG (30% plea and assist)	7y 8m NPP 4y 8m	AD	nil	Agreed to import heroin from Thailand to repay money borrowed to bring daughter to Australia from Iran Born in Iraq – assistance to authorities
Govindaraju (30) [2011] NSWCCA 255	Import	372.4g	PG	9y NPP 5y 4m 24d	AA 8y NPP 4y 3m	Limited record in Malaysia and Singapore	Malaysian national – swallowed drugs in India – unsophisticated - courier
Harper (25) [2011] VSCA 314	Import	126.5g	PG (20% on appeal)	5y NPP 3y	AA 4y NPP 2y 6m		Female – imported drugs concealed in vagina and rectum Deprived and difficult background – isolation in custody
Seah (37) [2011] NSWCCA 269	Import	423.6g	PG (sign discount)	8y NPP 5y	AD	Record in Singapore	Arrived from Malaysia with drugs in shoes – courier History of drug abuse – financial difficulties
Bui (2011) 32 VR 146 VSCA (2012) 244 CLR 638 HCA	Import	197.3g	PG (33.3% on appeal)	3y – released to recog	Crown AA 4y NPP 2y Appeal to High Court dismissed		Female – brought drugs into country concealed internally – financial reward to pay off debts Hardship to newborn twins - assistance

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Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
O P Q (45) (2012) 221 A Crim R 424 VSCA	Att possess	491.3g Heroin 69.7g Cocaine	PG	6y NPP 3y 6m	AD	Assault – bond Dishonesty off – suspended sentence	Nigerian – travelled from Sydney to Melbourne to collect five packages sent from Bangladesh, Nepal, Argentina, Thailand, Philippines – organised and planned – possession of false identity documents and cash showed more than just collecting packages – trusted intermediary Good character HIV – PTSD from childhood in Nigeria – mental condition moderated culpability - drug user
Kuti (70) [2012] NSWCCA 43	Import	452.6g (56.8%)	PG (25%)	7y 6m NPP 4y 6m	AD	nil	Nigerian – drugs concealed internally. From village – poor financial circumstances.
Younan (47) [2012] NSWCCA 155	Import Import	537g 642g	VG	5y 9m 6y 2m <u>Total</u> 7y 5m NPP 4y 6m	AD		At request of co-offender travelled to Thailand and returned to Australia with heroin hidden in shoes (role of courier) – on second occasion, assisted to import drugs and received \$10k – disclosures to police regarding himself and co-offenders – insisted he thought he was importing diamonds – no scope for finding remorse. Offences committed for gambling addiction - discount for assistance Sentence at very bottom of range
Nguyen (49) [2012] NSWCCA 184	Import	274.7g	PG (40% plea and assist)	7y NPP 4y	AD	Lengthy including drugs	Courier - arrived from Cambodia – had swallowed pellets – paid about \$40k – street value between \$310k-\$530k Mental illness – drug abuse – traumatic background.
Isaac [2012] NSWCCA 195	Aid and abet import Aid and abet import Aid and abet import	537.3g 642.1g Similar amount	PG (30%) PG (30%) PG (40%) (plea and assist on appeal)	<u>Agg</u> 11y 8m NPP 8y 6m	AA 8y 4m 8y 4m 7y 6m <u>Agg</u> 9y 10m NPP 7y 5m		Principal organiser – all drugs imported in shoes of couriers – arranged couriers – travelled to Vietnam to have shoes filled with drugs Gave evidence against couriers

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Nguyen (2012) 226 A Crim R 405 [2012] VSCA 297	Consp to import Att possess	474.3g	PG	5y 3y <u>Total:</u> 7y NPP 5y	AD	nil	Principal beneficiary – no further facts Good prospects of rehabilitation – stress of deportation On appeal - four additional offences incorrectly dealt with as summary offences on sentence – offences transferred to Magistrates Court
DPP v Johie [2013] VSCA 308	Import	567.9g	PG (17% on appeal)	4y NPP 2y	Crown AA 5y NPP 3y		Female – brought in drugs concealed in bed sheets and support of backpack Failure to give promised assistance
Thai (2014) 242 A Crim R 173 [2014] VSCA 122	Conspiracy to import Traffick	1251.97g 343g	PG (25%)	7y 4y <u>Total:</u> 9y NPP 5y	Crown AD	Nil	Female – assisted de facto partner when she became aware of his involvement in importing – nine importations involving nine couriers concealing drugs in bodies – assisted with some organisation especially with finances and storage of drugs – on some occasions acted independently Genuine remorse – delay – sentence inadequate but parity issue
Vu (57) [2014] VSCA 291	Import	116.8gn	PG (33%)	5y 8m NPP 3y 8m	AD	Drug offences	Vietnamese - female – carried drugs in from overseas – courier - difficult background leading to drug use (five judge bench to consider consequences of crown providing sentencing range)
Chan (29) Tan (54) [2014] VSCA 301	2 x Att possess Att possess	245.5g 241.1g 245.5g	PG PG	7y (each) <u>Total:</u> 8y 6m NPP 6y 3m 6y NPP 4y	AA 6y (each) <u>Total:</u> 8y 6m NPP 6y 5y NPP 3y	nil nil	245.5g heroin arrived concealed in parcel from Malaysia – T arrived from Malaysia to take possession of parcel but arrested – next day second parcel arrived and C arrived to take possession of both parcels T – courier - remorse – assistance – Malaysian national – good prospects of rehabilitation – isolation in custody – anxiety and depression C – more trusted intermediary – Malaysian national – remorse – anxiety and depression – isolation from family

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Chime (36) [2014] NSWCCA 304	Aid and abet import heroin	42.3g	VG	2y	AD (minor change made to sentence on one count to correct slip)	Nil	Nigerian took delivery of drugs in eight packages – intermediary involving quite a degree of planning – false identification documents – more than a courier – unwrapped drugs and passed them on Suffering some PTSD
	Aid and abet import cocaine	64.7g		2y			
	Aid and abet import heroin	174g		3y			
	Aid and abet import morphine derivative	106g		3y			
	Aid and abet import cocaine	116.7g		3y			
	Aid and abet import heroin	At least 2g		3y	2y		
	Aid and abet import methamphet	158.6g		3y			
	Aid and abet import heroin	332.1g		4y			
	Aid and abet import cocaine	159g		3y			
	Proceeds of crime			7y			
			<u>Total:</u> 12y NPP 7y	<u>Total:</u> 12y NPP 7y			

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Lam (59) Le (55) [2014] WASCA 114	Import Import	233.7g	VG VG	7y NPP 6y 6y 6m NPP 5y	AD AD	Nil Nil	Husband and wife arranged for importation of drugs in package – used co-offender T as ‘post box’ - husband (Lam) posted parcel containing drugs concealed in Buddha statute – controlled delivery – main instigators
Eriyo (35) [2015] NSWCCA 16	Att possess Possess	130.1g 118.7g	PG (25%)	6y NPP 4y 6y NPP 4y <u>Total</u> 6y 10m NPP 4y 10m	AA To adjust start date	Nil	Consignment from overseas delivered to offender’s address – drugs hidden in sandals – police officers attended offender’s residence whilst being delivered – search of offender’s premises found shoe containing further drugs - role of trusted middleman in an organised distribution chain. Nigerian background – represented Nigeria in Cth Games in Australia and acquired refugee status – financial motivation
Dang (35) Tran [2015] NSWCCA 163	Att possess Att possess	822.3g	VG VG	7y 10m NPP 5y 2m 10y NPP 6y 6m	AD AD	Nil relevant	Acted in concert with others to import heroin in tennis bats from Hong Kong – controlled delivery – present to take possession of drugs after delivered to co-offender T – more than courier – essential link in sophisticated international enterprise D – sub-ordinate role – Vietnamese – care of elderly mother
Huynh [2015] NSWCCA 167	Import Sched: Import pseudo	197g 423.9g	PG	7y NPP 4y	AD	Prior conviction for drug importation – released from custody 12 months prior to offence	Female courier – agreed to bring in drugs from Vietnam for money – not aware of precise nature of quantity of drugs – pseudoephedrine found in bags – heroin concealed in pellets inserted in groin area Mother to three children – mother ill in Vietnam – husband unable to obtain visa – 5% discount for minor assistance
Maeda (66) [2015] VSCA 367	Import	320g	VG	9y 6m NPP 6y 4m	AD	prior drug importation offences	Accompanied co-offender who carried drugs internally on flight from Thailand – minder and higher in organisation than co-offender Japanese citizen

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E.Samuels-Orumnwense (47) J.Osifo [2015] VSCA 152	Att possess Att possess	221.9g	VG VG	5y 9m NPP 3y 5y 9m (cumulative to existing sentence – global NPP 6y 6m set)	AD AA to adjust accumulation dates – same effective sentence	nil breached bail for earlier drug offence	Drugs sent in parcel from India concealed in cricket pads – controlled delivery – collected by ESO – JO following in car ESO – actively involved in planning and obtaining possession of drugs – motivated by financial reward – greater role than courier – good character – mental health impacting on custody – good prospects of rehabilitation – isolation from family in Nigeria – delay JO – error made in accumulation – serious mental health issues from childhood exposure to war and abuse
Pham (41) [2016] VSCA 259 Co-offender: NGUYEN	Import	577.1g	PG	8y 6m NPP 6y	AD	Priors including trafficking and possessing drugs	Courier – ingested to import heroin from Vietnam – to receive \$10,000 minus expenses Very poor health Sentence originally reduced on appeal then Crown appealed successfully to HCA: <u>Pham</u> [2015] HCA 39
Nguyen (48) [2016] VSCA 276 Co-offender: PHAM	Consp import	577.1g	PG	10y NPP 7y	AD	nil	Involved in conspiracy over several months to import heroin on regular basis – several importations using couriers planned and carried out – offender used contacts in Vietnam to source heroin – also assisted in planning and monitoring importations - offender supplied 577.1g of total heroin (1.497kg) imported pursuant to conspiracy Female – Vietnamese – married with three children – prior good character – isolation in custody due to language Offending occurred while husband serving sentence for drug importation: [2012] VSCA 297

Last updated: Dec 2019