

Possess Imported Heroin
Commercial Quantity
s.307.5 / s.307.8 (Cth) Criminal Code

Commenced 6.12.2005

307.5 Possessing commercial quantities border controlled drug

307.8 Possessing commercial quantities border controlled drug reasonably suspected of having been unlawfully imported

Commercial Quantity: 1.5kg

Maximum Penalty: Life

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
1.	Basri (39) Madubuko (44) Okonkwo (45) [2009] NSWDC 398 Nicholson SC DCJ (Madubuko) [2011] NSWCCA 135	Import comm qty: s.307.1 Att possess comm qty: s.307.5 Att possess comm qty: s.307.5	1.88kg heroin	VG VG VG	5y 3m NPP 3y 3m 6y 6m NPP 4y 2m 6y 6m NPP 4y 2m	Conviction AD	Nil Nil Nil	B (female) recruited in Malaysia to import drugs from India in suitcase – controlled delivery made to co-offenders M and O B – courier shepherding drugs from India – to report progress and any problems M and O – first point of distribution in Sydney – charged with taking drugs to distributors in Bankstown – lesser criminality than B B – difficult childhood and marriage marked by violence – assistance – good prospects of rehabilitation M – Nigerian – positive prospects of rehabilitation O – Nigerian – good prospects of rehabilitation

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
2.	<p>A.Tran (20)</p> <p>P.Tran (20)</p> <p>Nguyen (20)</p> <p>(2013) 233 A Crim R 167 [2013] NSWCCA 136</p>	<p>Att possess comm qty: s.307.5</p> <p>Import comm qty: s.307.1</p> <p>Import comm qty: s.307.1</p>	6.25kg heroin	PG (25%)	<p>4y 6m released to recog after 2y 9m</p> <p>7y 6m NPP 4y 6m</p> <p>9y NPP 5y 6m</p>	Crown AD	Nil	<p>Drugs imported into Australia concealed in boxes marked statues, vase and bathroom accessories – N paid to arrange delivery – drugs delivered to P.Tran’s house – all involved in unpacking – all motivated by financial gain</p> <p>Nguyen – major role – remorse – drug addiction – good prospects of rehabilitation</p> <p>P.Tran – lesser but still significant role – cocaine user – lacked knowledge about nature and amount of drug – good prospects of rehabilitation</p> <p>A.Tran – remorse – good character – cocaine dependent – good prospects of rehabilitation</p>
3.	<p>Lau (34)</p> <p>[2014] NSWCCA 179</p>	<p>Att possess comm qty: s.307.5</p>	102kg heroin	VG	11y NPP 4y	AA 9y NPP 6y	Fraud offence in Hong Kong	<p>Agreed to do a job involving illegality after arriving from Hong Kong – small financial reward promised – continued involvement after becoming aware of drugs – unpacked and delivered drugs hidden in shipment of timber doors – controlled delivery</p> <p>Intellectual disability - parity</p>
4.	<p>Lay (61)</p> <p>[2014] NSWCCA 310</p>	<p>Att possess comm qty: s.307.5</p>	4.8kg heroin	PG (24%)	13y NPP 8y 6m	AD	Attempt possess imported heroin	<p>Large quantities of heroin and methamphetamines imported in homewares containers – controlled delivery – appellant took delivery of 20kg of substituted drug – involved for several days prior to taking delivery of drugs – significant role - intended to sell drugs at Casino to discharge gambling debt</p>

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
5.	Key (40) Sok (35) [2015] VSCA 232	Import comm qty: s.307.1 Possess comm qty: s.307.5 Import comm qty: s.307.1 Possess comm qty: s.307.5	12.36kg heroin 2.4kg heroin 12.36kg heroin 2.4kg heroin	VG VG	14y 9m 6y <u>Total:</u> 14y 9m NPP 11y 14y 9m 6y <u>Total:</u> 14y 9m NPP 11y	AD	Nil Priors for violence	S travelled to Cambodia with knowledge of K to arrange importation of drugs – heroin suspended in liquid and sent in five packages to rental properties arranged by offenders – three controlled deliveries and one not delivered – seriousness of roles indistinguishable K – suffered persecution in Cambodia before coming to Australia S – Cambodian – drug addictions – depression and anxiety
6.	Pham (35) Tran (32) Dang (51) [2017] QCA 46	Att possess comm qty: s.307.5 Att possess comm qty: s.307.5 Att possess comm qty: s.307.5	33.667kg heroin 33.667kg heroin 33.667kg heroin	VG VG PG	12y NPP 7y 10y NPP 6y 10y NPP 5y 6m	Crown AD	Prior trafficking Nil Prior receiving	Heroin imported into Australia concealed in wooden altar – controlled delivery – found in possess of removing drugs from altars – all low level involvement – willing workers extracting drug
7.	Tran (56) [2017] VSCA 346	Att possess comm qty: s.307.5	3.9883kg heroin	PG	8y NPP 5y	AD	minor drug offences	Followed and took delivery of consignment containing drugs – checked package and prepared consignment for further distribution – anticipated \$20,000 for involvement – critical role and trusted associate Female – Vietnamese – mental health issues – impoverished and difficult background - remorse

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
8.	Bembo (40 at appeal) [2019] VSCA 308	Att possess comm qty: s.307.5 Att possess comm qty: s.307.5 Consp to import comm qty: s.307.1	3.767kg heroin 125.682kg methamphet 4kg methamphet	VG	14y 19y 13y <u>Total:</u> 35y NPP 25y	AD	Dishonesty offences	Over three years sought to organise three different importations from different countries involving different people – heroin imported from Pakistan concealed in furniture – largest shipment of methamphetamine concealed in logs imported from Nigeria – this offence committed last while on bail – enthusiastic but not successful drug dealer – culpability very high Traumatic childhood in Congo – PTSD On appeal – accepted individual sentences appropriate – rejected submission total sentence crushing
9.	Hong (29 at offending; 39 at sentence) [2020] NSWCCA 225	Att possess comm qty: s.307.5	25kg heroin	PG (25%)	15y NPP 10y	AA 14y NPP 9y	Nil	2011 - Oversaw packaging of furniture containing drugs from overseas – arranged for furniture to be brought to Sydney- significant role. Gambling addiction – offence for money. Acceptance of responsibility and remorse; excellent, almost completely unblemished, progress over past years. CCA: <i>Xiao</i> error established.
10.	Lam (31) Lay (60s) [2021] NSWCCA 242	Att possess comm qty: s.307.5 Att possess comm qty: s.307.5 Att possess comm qty: s.307.5 Traffick comm qty amphet: 302.2(1)	174.484kg heroin 233.070kg amphetamine 48kg heroin 38.844kg amphetamine	PG (25%) PG (25%)	18y NPP 12y 18y NPP 12y (concurrent) <u>Total:</u> 17y 6m NPP 11y 6m	AD AD	Nil	Lam: Part of sophisticated syndicate - performed essential role; trusted member - travelled into Australia for sole purpose of committing offences - unloaded drug from container - facilitating collection of significant portion of drugs by co-offender - role critical to success of the enterprise. Motivated by commercial gain - good character - strong family support in Hong Kong - good prospects rehabilitation. Lay: collection and storage - travelled to warehouse to collect discrete amounts - conduct was a step in process of intended distribution. Low risk of further criminal conduct – family support.

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
11.	Goh (early 30s) [2022] VSCA 24	Att possess comm qty: s.307.5	8.31kg heroin	PG	11y NPP 6y 9m (pre discount for guilty plea: 14y NPP 9y 6m)	AD	Nil	Drugs delivered in ten consignments – arranged for collection of consignments – planned offence involving recruitment of others – recklessness as to nature of drugs high Malaysian national – co-operation in own apprehension and assistance – financial difficulties led to offence – positive prospects of rehabilitation On appeal: sentence stern but not excessive

Last Updated: Jan 2023