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ON APPEAL  
FROM THE COURT OF CRIMINAL APPEAL IN THE REPUBLIC OF SINGAPORE

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BETWEEN:

TEO HOOK SENG

Appellant

- and -

THE PUBLIC PROSECUTOR

Respondent

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CASE FOR THE RESPONDENT

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Record

1. This is an appeal by special leave in p.540  
forma pauperis from a Judgment of the p.538  
Court of Criminal Appeal in Singapore  
(Wee Chong Jin, C.J., Kulasekaram, and  
Choor Singh, JJ.) dated the 17th January  
1977 which dismissed the Appellant's appeal  
against his conviction of unlawfully  
trafficking in 46.38 grammes of morphine  
under Section 3 (a) of the Misuse of Drugs  
Act, 1973, and sentence of death in the  
High Court, Singapore (Chua, and D'Cotta, p.518  
JJ.) on the 13th July 1976.
  
2. The Appellant was charged as follows:

that he on or about the 9th day of January 1976, at about 2.45 p.m. at Woodlands Customs Checkpoint, Singapore, did unlawfully traffic in a controlled drug specified in Class A of the First Schedule of the Misuse of Drugs Act, 1973 to wit, 46.38 grammes of morphine and thereby committed an offence under Section 3(a) of the Misuse of Drugs Act, 1973, punishable under Section 29 of the aforesaid Act (No. 5 of 1973).

p.3

3. The trial took place in the Supreme Court in Singapore (Chua and D'Cotta, JJ.) between the 5th and 13th days of July, 1976. The prosecution called material evidence the effect of which is accurately summarized in the Grounds of Decision of the learned trial Judges at pp.519-525 of the Record.

pp.519-533

4. On Monday the 5th July, 1976, at the beginning of the trial there was some discussion as to the calling of a chemist by the Appellant. It appeared that on the previous Tuesday, the 29th June, 1976,

pp.1-5

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Counsel for the Appellant had approached the Deputy Public Prosecutor for an analysis to be carried out by a chemist on the Appellant's behalf. Counsel for the Appellant said that the analysis had been carried out on behalf of the Appellant on the previous Thursday, the 1st July, 1976, but that the full results of the analysis would be known only in the course of the next few days. Counsel for the Appellant said that he was not asking for an adjournment. It was thought that the Appellant's chemist, Dr. Rintoul, would have his report ready by Thursday or Friday, the 8th or 9th July, 1976. Dr. Rintoul said that he would do his utmost to have his report ready by Wednesday, the 7th July, 1976, Chua, J. having said that otherwise the case would have to be adjourned and Counsel for the Appellant assuring the Court that it was wished to avoid an adjournment.

p.1D

p.2 A-B

p.2B

p.3E

pp.4F-5A

p.2E

p.2F

5. The prosecution then called certain evidence on the first day of the trial, at the end of which, upon the application of

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Appellant's Counsel for a short adjournment to take instructions, the Court adjourned early at 3.25 p.m. p.80 D-F

6. On the 2nd day of the trial Tuesday, the 6th July, 1976, the prosecution called certain evidence concerning the taking of the Appellant's statement and the trial within a trial started. Upon the completion of the evidence of Lee Seat Chung, an interpreter, the trial adjourned to the following day. Exhibit P8 p.542 p.186

7. On the third day of the trial, Wednesday, the 7th July, 1976, the trial within a trial continued with the evidence of the Appellant. At the conclusion of the evidence called in the trial within a trial, Judges found that the statement Exhibit P8 was made voluntarily and ruled that it should be admitted in evidence. The learned trial Judges then gave Counsel for the Appellant the opportunity to make a submission as to the admissibility of the statement. Counsel for the Appellant p.187 p.208 A & E p.208 C & D

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proceeded to make a full submission as to  
the admissibility of the statement. At  
the conclusion of the submission, the  
learned trial Judges said that they had  
not changed their views and that the state-  
ment was admitted in evidence. Once the  
statement had been admitted in evidence  
and read by the witness Lawrence Doray,  
Counsel for the Appellant said that he did  
not wish to cross-examine the witness as  
to the statement. As the prosecution's  
only remaining witness was Mr. Lim, a  
Government chemist, there was some dis-  
cussion as to when Counsel for the Appel-  
land would be in a position to cross-  
examine him and when the Appellant's  
chemist, Dr. Rintoul's analysis would be  
completed. The Court, having heard that  
Dr. Rintoul could finalise his analysis by  
the following day, Thursday, the 8th July,  
said that Mr. Lim's evidence-in-chief could  
be heard at once and his cross-examination  
reserved until the following day. Mr. Lim  
was then called and gave his evidence-in-

pp.209-223

p.223B

p.224 A-D

p.224 E-F

pp.226F -  
227A

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chief. The trial was adjourned at 12.55 p.m. p.2460  
to the following day.

8. On the fourth day of the trial, Thursday, the 8th July, 1976, Mr. Lim was cross-examined and the prosecution closed its case. The Appellant was called to give evidence and was still in the course of his evidence-in-chief when the trial was adjourned to the following day. Upon the Deputy Public Prosecutor asking whether the Appellant's chemist would be ready on the following day, the 9th July, 1976, Counsel for the Appellant replied in the affirmative and said that Dr. Rintoul "will be coming tomorrow morning". p.349

9. On the fifth day of the trial, Friday the 9th July, 1976, the evidence of the Appellant continued and was completed. p.350  
Dr. Rintoul, the Appellant's chemist was p.406  
called. He read his report: it was headed pp.410-411  
"Preliminary Report" and was dated that Exhibit  
very morning. It appeared that Dr. Rintoul D2 pp. 546-  
had not been able to carry out any quanti- 548  
p.419 C-D

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tative analysis, but hoped to be able to do so "some time next week". At the conclusion of Dr. Rintoul's evidence-in-chief, there was some discussion and the Court adjourned the trial until Monday, the 12th July, 1976. Counsel for the Appellant appeared to suggest that the D.P.P. would require more time than that to prepare his cross-examination of Dr. Rintoul and expressed surprise that the trial was adjourned to Monday, although making no application for any further adjournment.

p.422A

pp.431-432

p.431E

p.431 E-F

p.432B

10. On the sixth day of the trial, Monday the 12th July, 1976, Dr. Rintoul was cross-examined. He said that apart from one recent case, his last quantitative examination of narcotics was carried out between the years 1953 and 1956. He said that he had not dealt with blocks of narcotics as in this case since 1953. He said that he had not weighed the samples given to him by Mr. Lim: he said that 0.20 gm would be sufficient for analysis. The sampling was well done. There was some discussion as

pp.433-504

p.435 B-D

pp.436E -  
437B

p.437D

p.438D

Record

to an offer by the Deputy Public Prosecutor pp.442E -  
on the first day of the trial of assistance 444E  
from the Department of Scientific Services.  
Mr. Lim's findings were put in detail to Dr. pp.445-458  
Rintoul; based on Mr. Lim's findings, Dr.  
Rintoul said that his figures (or calcula-  
tions) and those of ~~Mr.~~ Lim agreed as to  
the percentages of morphine and impurities p.458 E-F  
in the two blocks A1 and A2, the subject- Exhibits  
matter of Dr. Lim's reports. The G.C. P13 & P14  
machine for carrying out a precise quanti- pp.543,  
tative analysis had not by 2.00 p.m. on 544  
Friday, the 9th July, 1976, reached the p.468E  
stage of precision desired. Old columns  
in the G.C. machine had not been replaced  
until Friday, the 9th July because new pp.471C -  
columns which had been ordered were sent 472C  
to the wrong place. Dr. Rintoul agreed  
that there were other tests to quantify p.472 C-D  
the amount of morphine and codeine which  
he could have carried out but they would  
not be so specific as those carried out on  
the G.C. machine. Dr. Rintoul said that pp.473B -  
one other such test was the colour nitrate 475B



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test as he did not want "roughly to inform p.475 B-D

the Court" but wished "to inform this Court  
with precision". Dr. Rintoul agreed that

a colour nitrate test did not take very p.476 C-E

long to complete and that even a test on

the G.C. machine if everything ~~was~~ working

properly would only take 2 to 3 hours. Dr.

Rintoul said that he did not carry out an p.477 A-C

ultra violet ray test, because "I am not

interested in probability, I want facts ..."

Dr. Rintoul said that he did not know if

the G.C. machine was then ready as he had pp.447E-  
478B

been in Court on Thursday and Friday and on

duty at the race course on Saturday and

Sunday. He said that on Friday he went

straight from the Court to his laboratory

where the G.C. machine showed some promise.

After the luncheon adjournment, Dr. Rintoul

said that he had telephone his laboratory

to see if the G.C. machine was ready and

said that it was not ready yet. He said

that no-one had looked at the G.C. machine

on Saturday or Sunday. Dr. Rintoul agreed

that based on ~~Mr.~~ Lim's figures arrived at p.488 A-B

after two analyses 5½ months apart there seemed to be little decomposition of the morphine and little or no conversion into morphine.

p.500 C-E  
p.488C

11. At the conclusion of Dr. Rintoul's evidence, there followed some discussion as to when the final result of a test on the G.C. machine would be known. Counsel for the Appellant applied for an adjournment of the trial to such time as Dr. Rintoul would be able to release his results of a quantitative test. When asked by Chua, J. what it was hoped Dr. Rintoul was going to establish and whether that was that the two blocks A1 and A2 contained less than 30 grammes of morphine, Counsel for the Appellant at first said it was very difficult for him to say and then agreed that that was so. When Chua, J. said that there was nothing to suggest a possibility or probability or doubt that there were less than 30 grammes of morphine, Counsel for the Appellant agreed. After further discussion, the Court refused the Appellant's
- p.511 C-D
- p.512 D-E
- pp.512F-513B
- p.513 E-F
- p.514 A-C

application for an adjournment. The Court then adjourned until the following day to give Counsel for the Appellant an opportunity to prepare his submission and said that Dr. Rintoul was excused and need not come back.

p.516 A-B

12. On the seventh day of the trial, Tuesday the 13th July, 1976, Counsel for the Appellant formally closed his case, making no further application for an adjournment. There was no attempt then to recall Dr. Rintoul nor was the Court informed of any further development in the matter by the defence. After the closing addresses of Counsel, the Court found that the Appellant knew he was carrying morphine and that the prosecution had proved its case beyond reasonable doubt. The Court found the Appellant guilty of the charge, convicted him and sentenced him to death.

p.517

p.518

13. In its Grounds of Decision, the Court summarized the evidence called by the prosecution and in particular that of Mr. Lim,

pp.519-533

pp.519-525

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the Government chemist. The Court then dealt with the admissibility of the Appellant's cautioned statement and the submissions made on behalf of the Appellant that it was not made voluntarily and that the interpreter was not a proper person to be the interpreter. The Court said that it rejected both submissions. The Court said that it was satisfied that the Appellant understood the charge and that the cautioned statement was a free and voluntary statement given by the Appellant who knew what he was saying when he made the statement. The Court said that it therefore admitted the cautioned statement. The Court then recited the definition of "Traffic" set out in Section 2 of the Misuse of Drugs Act, 1973 and the provisions of Sections 15 (presumption of possession of morphine for the purpose of trafficking) and 16 (presumption of possession) and said that there was no doubt whatever that the Appellant had the morphine in his possession at the material time and that possession

pp.522-524

pp.524B -  
525C

p.525A

p.525B

Exhibit  
P8 p.542  
p.525C

pp.525C-  
526C

pp.526C-  
527A

attracted the presumptions set out in Sections 15 and 16. The burden of proof was therefore on the Appellant to rebut those presumptions by proving on the balance of probabilities that he did not have the morphine in his possession for the purpose of trafficking therein. The Court found that, even if the statutory presumptions did not arise, the evidence adduced by the prosecution, in particular the Appellant's cautioned statement, established a prima facie case against the Appellant that he did unlawfully traffic the stated amount of morphine in the charge.

p.527 A-B

14. The Court then summarized the evidence

of Dr. Rintoul called on behalf of the Appellant and set out the terms of his report.

pp.527C -  
529A

The Court described the preliminary tests carried out by Dr. Rintoul, the circumstances

p.529A-end

in which Dr. Rintoul did not carry out a quantitative test and how he said that

p.530 A-C

was unable to say when he could carry out

such a test . The Court said that on the

12th July, 1976, Counsel for the Appellant

had applied for an adjournment of the case to a date when Dr. Rintoul would be able to furnish the result of his quantitative test. The Court said that it had considered the application carefully and rejected it. p.530D

The Court said that Dr. Rintoul was of no assistance to the Court and the results of his preliminary tests were most unsatisfactory. Dr. Rintoul had not challenged or repudiated Mr. Lim's figures. Mr. Lim, within a period of six months had carried out two tests and obtained almost identical results. Dr. Rintoul's evidence failed to throw any doubt whatever on the accuracy of Mr. Lim's analysis. There was no suggestion by the defence that the quantitative analysis of Mr. Lim was so inaccurate that there was a possibility or probability that the quantitative analysis of Dr. Rintoul might prove the weight of the morphine to be less than 30 grammes. The Court said that it accepted the results obtained by Mr. Lim. For those reasons, the Court said that the application for an adjournment was refused. p.530D p.530D p.531A p.531B p.531B

Record

15. The Court then considered the evidence on oath given by the Appellant and summarized the same. The Court said that it rejected the Appellant's evidence and found that the Appellant was not a witness of truth. The Court found that the Appellant did unlawfully traffic the morphine and referred to the admission of trafficking in the Appellant's cautioned statement. The Court found that what the Appellant said in his cautioned statement was true. pp.531C-533A p.533 p.533
16. The Court concluded by saying that it was satisfied beyond reasonable doubt of the guilt of the Appellant and that it convicted him as charged and passed the sentence imposed by law. p.533
17. The Appellant appealed to the Court of Criminal Appeal, Singapore. The grounds of appeal were set out in full in a Petition of Appeal. pp.535-537
18. The Court of Criminal Appeal, Singapore (Wee Chong Jin, C.J., Kulasekaram, and Choor

Singh, JJ.) delivered their Judgment on p.538  
the 17th January, 1977, dismissing the  
Appellant's appeal.

19. Counsel for the Appellant abandoned  
all but two grounds of appeal and those p.538  
related to the refusal of the application p.536  
for an adjournment and to the admitting  
in evidence of the cautioned statement.  
The Court of Criminal appeal said that the  
facts from the Record did not support the p.538  
grounds argued and that there was no  
reason and nothing in the Record to justify  
a conclusion that the Appellant was not  
properly convicted on the charge.

20. The Appellant was granted special leave  
to appeal in forma pauperis to the Judicial p.540  
Committee on the 21st November, 1977. The  
Petition and the Supplemental Petition in  
support of the application for special leave  
set out two grounds relied on, first, that  
the application for an adjournment on the  
12th July, 1976, should not have been refused  
and, secondly, that the case of Poon Soh Har &



Anor - v - The Public Prosecutor (decided on the 25th July, 1977) held that the presumption in Section 15 of the Misuse of Drugs Act, 1973 whereby a defendant could be presumed to have had a controlled drug in his possession "for the purpose of trafficking therein", did not of itself prove the offence of unlawful trafficking contrary to Section 3 of the Act.

21. The Respondent respectfully submits that this Appeal should be dismissed. The Respondent submits that the trial Judges were entitled in all the circumstances and for the reasons given by them to refuse the application made on the 12th July, 1976, on behalf of the Appellant for the trial to be adjourned. The Appellant had been represented by Mr. Thomas Chan, Advocate and Solicitor in Singapore at least since March, 1976 at the Preliminary Enquiry. The Appellant received Mr. Lim's reports Exhibits P13 and P.14 either on the 9th or 12th March, 1976. Although Counsel for the Appellant (Mr.
- pp.549-552
- pp.545 & 549

Thomas Chan) had said on the third day of p.227F  
the trial that he had been sure (presumably  
for the first time) on the 25th June, 1976,  
that he was assigned by the High Court to  
the defence of the Appellant, there is no  
suggestion that there was anything to pre-  
vent preparation for trial by the obtaining  
of a chemist's report between the end of  
March (when Mr. Thomas Chan appeared at  
the Preliminary Enquiry) and the beginning  
of July, 1976. Once the difficulty with  
the purging of the G.C. machine had arisen,  
no attempt was made to carry out a quanti-  
tative test on any other machine until Monday  
the 12th July, when it was then found that  
the machine of the Department of Scientific  
Services was not available. Dr. Rintoul  
could have carried out tests other than that  
on the G.C. machine to give a less specific  
indication of quantity than a G.C. machine  
test: there was therefore no indication of  
any possibility, even in general terms, that  
the two quantitative tests carried out by  
Mr. Lim were in any way inaccurate or so

inaccurate as to make the total morphine found by Mr. Lim of 46.38 grammes less than 30 grammes.

22. The Respondent respectfully submits that the rejection by the Courts in Singapore of an application for an adjournment should not be overruled by the Judicial Committee where, as here, the local courts have exercised their discretion judicially upon sufficient material entitling them to arrive at such a conclusion.

23. The Respondent respectfully submits that there is no substance in any of the Appellant's submissions concerning the admission in evidence of the Appellant's cautioned statement and that such statement was in all the circumstances rightly so admitted.

24. The Respondent respectfully submits that Poon's case (see paragraph 20 above) is of no assistance to the Appellant. It is submitted that there was ample evidence of trafficking within the Misuse of Drugs

Act, 1973 by the Appellant of the morphine. The Appellant arrived in Singapore from Johore Bahru carrying the package containing the morphine in his right sock. In his cautioned statement, the Appellant admitted that he had committed an offence for trafficking in about 75 grammes of morphine, the quantity found in the two blocks in the package in his sock which had been weighed by Lawrence Doray in the Appellant's presence. The trial Judges did not rely upon the presumption in Section 15 of itself as establishing the offence of unlawful trafficking: they found, as they were entitled to on the evidence, that the Appellant had failed to rebut the presumption that he had the morphine in his possession for the purpose of trafficking therein and further found on the evidence, as they were entitled to, that the Appellant did unlawfully traffic the morphine.

25. The Respondent respectfully submits that this Appeal should be dismissed and the Judgment of the Court of Criminal Appeal, Singapore

should be affirmed for the following,  
among other,

REASONS

1. BECAUSE the learned trial Judges were entitled to reject the application for an adjournment made on the 12th July, 1976 on the Appellant's behalf.
2. BECAUSE the Appellant's cautioned statement was correctly admitted in evidence.
3. BECAUSE there was ample evidence that the Appellant did commit the offence of unlawful trafficking as charged.
4. BECAUSE the learned trial Judges correctly applied the presumption in Section 15 of the Misuse of Drugs Act, 1973.
5. BECAUSE of the other reasons set out in the Findings and Grounds of Decision of the learned trial Judges and in the

Judgment of the Court of Criminal  
Appeal.

STUART M. MCKINNON

TEO HOOK SENG

Petitioner

- and -

THE PUBLIC PROSECUTOR

Responden

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CASE FOR THE RESPONDENT

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Charles Russell & Co  
of London.