IN THE FEDERAL COURT)

OF AUSTRALIA)

WESTERN AUSTRALIA)

DISTRICT REGISTRY)

GENERAL DIVISION) No. WAG 134 of 1994

B E T W E E N: TENZIN DHAYAKPA

Applicant

and

THE MINISTER FOR
IMMIGRATION AND ETHNIC
AFFAIRS

Respondent

CORAM: FRENCH J.

PLACE: Perth

DATE: 9 November 1995

REASONS FOR JUDGMENT

Background

Tenzin Dhayakpa was born in Tibet on 6 July 1945. Upon the Chinese invasion of Tibet in 1960, he and his family fled to India. Many of his family were killed during

that flight by Chinese troops. Dhayakpa says he became a member of a Tibetan resistance group based in India. He married in South India in 1976. He and his wife had four children.

In 1989, Dhayakpa entered into an arrangement with a man called Arjun at Kathmandu. He agreed with Arjun and three other men, Madan, Khatri and Pun that he and they would obtain visas to enter Australia and would carry heroin from Bangkok to Sydney via Melbourne. Dhayakpa agreed to take 200 grams of heroin to be concealed in packages carried in his body. He was to receive $140,000 for the heroin thus imported by himself and the other men and would bring the money back to Arjun.

Dhayakpa entered Australia at Perth on 5 March 1989 using a Nepali passport with a visitor's visa under a false name, Ramesh Shrestha. He was arrested at Perth Airport, charged and subsequently convicted in the District Court of Western Australia on an indictment which alleged:

1. Between 1 December 1988 and 6 March 1989 at Perth and other places outside Australia, the applicant (Ramesh), Madan Kumar Shrestha ("Madan"), Bijay Kumar Pun ("Pun") and Madan Krishna Khatri ("Khatri") conspired with each other and divers other persons to import into Australia prohibited imports to which s.233B of the *Customs Act 1901 (Cth)* ("the Act") applied, namely, narcotic goods consisting of a quantity of heroin being not less than the trafficable quantity applicable to heroin, contrary to s.233B(1)(cb) of the Act.

(2) On 5th March 1989 at Perth Ramesh did import into Australia prohibited imports to which s.233B of the Act applied, namely narcotic goods consisting of a quantity of heroin being not less than the trafficable quantity applicable to heroin, contrary to s.233B(1)(b) of the Act. (3) On 5th March 1989 at Perth Ramesh did without reasonable excuse have in his possession prohibited imports to which s.233B of the Act applied, namely, narcotic goods consisting of a quantity of heroin being not less than the trafficable quantity applicable to heroin which were imported into Australia in contravention of the Act, contract to s.233B(1)(c) of the Act.

Dhayakpa was tried and convicted and on 10 November 1989 was sentenced to a term of 12 years in respect of the conviction for conspiracy. He was sentenced to terms of imprisonment for seven years on each of the other counts with a direction that those sentences be served concurrently with each other and concurrently with the sentence on the conspiracy count. The trial judge declined to make an order that he be eligible for parole. Dhayakpa appealed against his convictions and sentences to the Court of Criminal Appeal. On 21 June 1990, his applications for leave to appeal against conviction and appeals against conviction were dismissed. Leave to appeal against the sentences was granted and the appeal was allowed by reducing the sentence imposed for the offence of conspiracy from imprisonment for 12 years to nine years. An order was also made that he be eligible for parole in respect of each of the sentences imposed.

On 17 June 1993, Dhayakpa completed an Application for Refugee Status in Australia which he lodged with the Department of Immigration, Local Government and Ethnic Affairs. He claimed to have Tibetan citizenship. In his application he said he had been conscripted to the Tibetan section of the Indian army at age 14 and had spent nearly 15 years in the Tibetan Border Patrol Division of the Indian Army. His eligibility for parole commenced on 17 June 1993. The basis of his claim to refugee status was set out briefly as follows:

> "CURRENTLY UNDER ILLEGAL OCCUPATION BY COMMUNIST CHINA.
> NO PROTECTION FOR TIBETANS IN TIBET"

Asked what he feared would happen to him if returned to his country of nationality or habitual residence he said:

> "INCARCERATION FOR LIFE OR PUBLICLY EXECUTED IF RETURNED TO NEPAL..."

He made reference in his application to the persecution of Tibetans by Chinese communists who had destroyed all the Buddhist monasteries and killed and imprisoned and tortured the monks. He also said that the Tibetans are treated as second class people in Tibet and that the Chinese think they are "DIRTY ANIMALS".

On 21 September 1993, a delegate of the Minister for Immigration, Local Government and Ethnic Affairs rejected the application concluding that Dhayakpa was not a refugee. The delegate concluded that Dhayakpa was not a citizen of Nepal, that he had been granted no right of residence there and that while it could be considered a country of his former habitual residence, he had no legal status there. She

considered his country of habitual residence to be India and concluded that he was entitled to return to that country:

> "The applicant has claimed that he would rather stay in Australia than return to India because he is not Indian. However, the applicant has not claimed that he would be persecuted in India, nor has he put forward any claims relating to India of a Convention based nature. I therefore find that the applicant would not be subject to persecution for a Convention related reason if he returned to India."

The fact that Dhayakpa had served a prison sentence in Australia for drug importation was not regarded as relevant to the question of refugee status and was therefore given no weight. Subsequently, he lodged an application for review of the decision with the Refugee Review Tribunal.

His written application for review took issue with the delegate's finding that he had not claimed he would be persecuted in India. He contended in the application that the borders between Nepal and India are open and that he would be exposed to attack from persons involved with the drug trade because of the magnitude of his co-operation with the Australian Federal Police. He was, he said, as likely to be assassinated in India as he would be in Nepal for these reasons.

The Refugee Review Tribunal affirmed the delegate's decision on 21 October 1994. On 18 November 1994, Dhayakpa took out the present application for an order for review of the decision of the Tribunal.

The Decision of the Refugee Review Tribunal

The Review Tribunal set out the background facts and the relevant legislative framework. It referred to Dhayakpa's contentions of fact which it received in both oral and written form. It noted that in 1972, he had moved from India to Nepal where he found various forms of work including selling jumpers, working as a cook, trekking for mountaineers and other jobs.

Before the Tribunal, Dhayakpa maintained that he was stateless. He said he did not recognise the Chinese occupation of Tibet as legitimate, that his country and culture had been taken from him by the occupation and that he would never accept Chinese nationality. In the event, the Tribunal found him to be a Chinese national and that his claims to refugee status were to be assessed in respect of Tibet on the basis that it is that part of China to which he would be expected to return from Australia. His assertions in relation to India and Nepal would have no bearing on his claim for protection under the Convention. The Tribunal referred to evidence before it about the occupation by China of Tibet and the subsequent violation of human rights of ethnic Tibetans. In so doing, it considered various reports and publications including a report of Amnesty International which referred to the imprisonment of prisoners of conscience and other political prisoners after unfair trials, torture and ill-treatment of detainees, the use of the death penalty and extra-judicial executions. It had been able to find very little information on the treatment by Chinese authorities of Tibetans returning from exile. There was, however, some evidence of ill treatment of Tibetan refugees returned from Nepal.

The Tribunal was not persuaded that Dhayakpa was part of an underground resistance movement while in the Indian Army as he claimed. It did accept, however,

that he was engaged in border patrols and that the possibility existed that service in the special frontier force could be considered to be an expression of opposition to the Chinese in Tibet. Reference was made to Articles 91 and 94 of the Chinese Criminal Code which provide that is a counter revolutionary crime for a Chinese citizen to collude with foreign states or turn traitor if such action is against China. On this aspect of its reasons, the Tribunal concluded in the following terms:

> "The difficulty in assessing the evidence in this case is that there is virtually no information available about people in Mr. Dhayakpa's position, that is who left Tibet when and how he did and who have not returned. Further, he does not have a history of any active opposition to Chinese rule in Tibet, other than some aspects of his service in the SFF. However, I accept Mr. Dhayakpa's statements about the depth of his feeling about the Chinese government and that these are an expression of his political opinion to which he may give voice on return. The evidence before the Tribunal about the real risk to life and freedom which follows and (sic) actual or perceived opposition in any form to Chinese rule in Tibet, including the treatment of those who attempt to leave and are returned is compelling.
>
> In the light of the evidence before the Tribunal, I find that the possibility that Mr. Dhayakpa will be persecuted in Tibet on account of his actual or imputed political opinion cannot be discounted as remote. I find, therefore, that his fear of persecution on account of his political opinion is well-founded."

The Tribunal then turned to consider whether Dhayakpa's convictions for drug related offences would bring him within the provisions of Article 1F(b) of the Convention thus excluding him from its protection. By that Article, the Convention does not apply to any person with respect to whom there are serious reasons for considering that he or she has committed a serious non-political crime outside the country of refuge prior to admission to that country as a refugee.

The Tribunal found that Dhayakpa's conviction and sentence constituted serious reasons for considering that he had committed a serious non-political crime. Moreover, the Tribunal found the conspiracy offence, which it regarded as the most serious of all, to have been committed outside the country of refuge prior to admission. In this case there was also evidence that Dhayakpa had made a previous trip to Australia two years earlier for the same purpose. the Tribunal concluded:

> "I find that, in the circumstances in which it was committed in this case, namely that it was the second trip that Mr. Dhayakpa had made to Australia for this very purpose, it is a serious non-political crime within the meaning of Article 1F(b) and that Mr. Dhayakpa is, therefore, excluded from the protection of the Convention."

On that basis the Tribunal concluded that as Dhayakpa was not a person to whom Australia had protection obligations under the Refugee's Convention it followed he could not be granted a protection visa.

Grounds For Review

At the heart of the grounds for review was the proposition that the Refugee Review Tribunal erred in law in applying Article 1F(b) in this case because the crime of conspiracy for which Dhayakpa was convicted had not been committed outside Australia nor prior to admission to Australia. Moreover, the Article was said not to apply because the crime of conspiracy to import heroin into Australia was not justiciable outside this country nor any longer justiciable anywhere. To the extent that the Tribunal may have considered the related convictions for heroin importation to have been serious non-political crimes committed outside Australia, it was said to have erred in law.

Submissions

It was submitted for Dhayakpa that the purpose of Article 1F(b) of the Convention is to prevent persons who have committed serious crimes overseas from escaping legitimate criminal liability by claiming refugee status. The Article was not intended to apply to a crime which may have had its origins overseas, but was committed at least in part in the country of refuge and which could be or had been adjudicated in that country. Conspiracy, it was said, is a continuing offence which continues for so long as there are two or more parties to the agreement intending to carry out the design. It had been specifically found in the Court of Criminal Appeal that so far as the importation aspect of the agreement was concerned, it was fully performed in Australia. Accordingly, both by reference to literal meaning and intent Article 1F(b) did not apply in relation to the conspiracy offence.

It was said to be an implied requirement of the Article that the "serious non-political crime" referred to in the Article must be justiciable in the country in which it was committed. If it were alleged that the conspiracy was committed outside Australia there was no evidence before the Tribunal that the offence for which Dhayakpa was convicted, namely conspiracy with others to import heroin into Australia, was an offence in any country other than Australia. It was inherently unlikely that a conspiracy to commit a statutory Australian crime relating to importation of goods into Australia was a crime against the laws of any other country. In any event, Dhayakpa having been convicted of the offence in Australia and having completed his sentence, the offence should no longer be regarded as justiciable. Accordingly, it was said that while it might be open to the Tribunal to consider Dhayakpa's criminal conduct by reference

to Article 33(2) of the Convention, the Tribunal should not have found that he was excluded from a protection of the Convention by reference to Article 1F(b).

The Minister did not dispute the finding of the Tribunal that Dhayakpa's fear of persecution on account of his political opinion was well founded. He accepted that the case raised for consideration the proper construction of Article 1F of the Convention which had only been the subject of judicial consideration on one occasion in Australia. The Convention should be interpreted in good faith in accordance with the ordinary meaning be given to the terms of the Convention in their context and in the light of its object and purpose. Provided that the serious non-political crime had been committed outside the country of refuge prior to admission to that country, the ordinary natural meaning of the word "crime" in the context in which it is used in Article 1F(b) includes a crime against the law of the receiving country. There is, it was submitted, no valid reason to artificially restrict the ordinary meaning of "crime" in the context in which it appears in Article 1F(b) to a crime against the law of another country.

It was submitted for the Minister that the purpose of the Article is to protect the community of a receiving State from the danger of admitting as a refugee a person who has committed a serious common crime. It is similar in purpose and complementary to Article 33(2) which provides the means for States to expel or return refugees who have committed particularly serious crimes, even if they were to face extremely serious forms of persecution. The standard required to expel a refugee under Article 33(2) is more exacting than the standard required to refuse admission as a refugee pursuant to Article 1F(b). As Dhayakpa had not been admitted as a refugee, the real issue was whether he had committed a crime "outside the country of refuge"

for the purposes of the Article. The Tribunal was correct in finding that the conspiracy offence was committed outside Australia. The ingredients of the offence of conspiracy are complete upon agreement between two or more persons. The ingredients of the offence had been committed outside Australia. That was sufficient to characterise the offence as having been committed outside Australia for the purposes of the Article. That conclusion is not defeated by the fact that a conspiracy does not end with the making of the agreement. Given that the Tribunal is required only to have "serious reasons for considering" that a serious non-political crime was committed outside Australia, it was not necessary for the Tribunal to consider precisely what offences may have been committed by Dhayakpa contrary to the laws of Nepal or any other country. It is neither an express nor implied requirement of the Article that the crime referred to therein must be justiciable in the country in which it was committed.

Legislative Framework

The grant of visas is authorised by s.29 of the Migration Act 1958 which provides in part:

> "29(1) Subject to this Act, the Minister may grant a non-citizen permission, to be known as a visa, to do either or both of the following:
>
> (a) travel to and enter Australia;
> (b) remain in Australia."

There are prescribed classes of visa (s.31(1)). In addition, the Act itself specifies certain classes of visa. The regulations may prescribe criteria for visas of specified classes (s.31(3)). Section 36 specifies a class of visa known as "protection visas". A

criterion for a protection visa is that an applicant for the visa is a non-citizen in Australia to whom Australia has protection obligations under the Refugees Convention as amended by the Refugees Protocol (s.36(2)).

Regulations are authorised to provide that visas or visas of specified classes may only be granted in specified circumstances.

Regulation 2.04 of the Migration Regulations provides that for the purposes of s.40 and subject to the Regulations, the only circumstances in which a visa of a particular class may be granted to a person who has satisfied the criteria in a relevant Part of Schedule 2 are the circumstances set out in that Part.

Schedule 2 sets out various subclasses of visa. Subclass 866 is the Protection (Residence) Visa. Clause 866.211 of subclass 866 states:

> "866.211 The applicant claims to be a person to whom Australia has protection obligations under the Refugees Convention and:
>
> (a) makes specific claims under the Refugees Convention; or
>
> (b) claims to be a member of the family unit of a person who:
>
> (i) has made specific claims under the Refugees Convention; and
>
> (ii) is an applicant for a Protection (Class AZ) visa."

It is also a criterion that the Minister must be satisfied that the applicant is a person to whom Australia has protection obligations under the Refugee Convention (866.221).

The Refugees Convention is the Convention Relating to the Status of Refugees 1954 which is to be read with the Protocol Relating to the Status of Refugees 1973. Article 1 of the Convention, read with the Protocol, defines a refugee as a person who fulfils the following conditions:

> "...owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside of the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

That application of that definition is qualified by Article 1F of the Convention which reads:

> "F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:
>
> (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
>
> (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
>
> (c) he has been guilty of acts contrary to the purposes and principles of the United Nations."

The Exclusion of Persons Guilty of Serious

Non-Political Crimes Committed Outside the Receiving Country

Article 1F excludes from the application of the Convention persons with respect to whom there are serious reasons for considering that they have committed the classes of crime or been guilty of the classes of act there specified. The use of the words "serious reasons for considering that" suggests that it is unnecessary for the receiving State to make a positive or concluded finding about the commission of a crime or act of the class referred to. It appears to be sufficient that there be strong evidence of the commission of one or other of the relevant crimes or acts. The precise construction of that phrase does not fall for consideration in the present case as it is not in dispute that the crime relied upon by the Tribunal to ground the rejection of the claim for refugee status was committed.

It has been said that the operation of Article 1F confers upon the potential State of refuge a discretion to determine whether the criminal character of the applicant for refugee status in fact outweighs his or her character as a bona fide refugee and so constitutes a threat to its internal order - Goodwin-Gill, The Refugee in International Law p.160. The adjective "serious" in Article 1F(b) involves an evaluative judgment about the nature of the allegedly disqualifying crime. A broad concept of discretion may encompass such evaluative judgment. But once the non-political crime committed outside the country of refuge is properly characterised as "serious" the provisions of the Convention do not apply. There is no obligation under the Convention on the receiving State to weigh up the degree of seriousness of a serious crime against the possible harm to the applicant if returned to the state of origin. In para.156 of the 1992 Handbook on Procedure and Criteria for Determining Refugee Status issued by the Office of the United Nations High Commissioner for Refugees, it is said of Article 1F(b):

> ""156. In applying this exclusion clause, it is also necessary to strike a balance between the nature of the offence presumed to have been committed by the applicant and the degree of persecution feared. If a person has well-founded fear of very severe persecution, e.g. persecution endangering his life or freedom, a crime must be very grave in order to exclude him. If the persecution feared is less serious, it will be necessary to have regard to the nature of the crime or crimes presumed to have been committed in order to establish whether the applicant is not in reality a fugitive from justice or whether his criminal character does not outweigh his character as a *bona fide* refugee."

In T. v. Home Secretary (1995) 1 WLR 545, the Court of Appeal held that there is nothing in the Convention to support the view that in deciding whether a non-political crime is "serious" the relevant Minister or appeal tribunal is obliged to weigh the threat of persecution if asylum be refused against the granting of the crime - at 554-555. It is not necessary for present purposes to decide whether the evaluative characterisation of an offence as serious attracts elements of a balancing exercise. For on any view, a conspiracy to import into Australia trafficable quantities of heroin must be regarded as a serious offence.

Nor is it necessary for present purposes to dwell upon the scope of the word "non-political" in the Article. There is no basis for any contention that Dhayakpa's offences were committed for a political purpose or otherwise had some political attribute or character.

The general objective of Article 1F exemption, like similar provisions in Article 7(d) of the United Nations High Commission on Refugees Statute and Article 14(2) of the Universal Declaration of Human Rights, is that the rights they create should not be abused by fugitives from justice nor interfere with the law of extradition - Grahl-Madsen,

The Status of Refugees in International Law (1966) at p.290. By reference to the other human rights statutes cited Grahl-Madsen suggests that the Article 1F(b) exemption does not extend to crimes for which punishment has been suffered or crimes which are either too unimportant to warrant extradition or are no longer justiciable. The difficulty with that construction, so far as it refers as to prior punishment or justiciability, is that it imports into Article 1F(b) limitations not able to be found in the language of the Article.

A policy basis for Article 1F(b) is set out in the 1992 UNHCR Handbook. It is said at para.148 of the Handbook that at the time the Convention was drafted there was a desire on the part of States to deny admission to their territories of criminals who would present a danger to security and public order. At para.151 it is said:

> "The aim of this exclusion clause is to protect the community of a receiving country from the danger of admitting a refugee who has committed a serious common crime. It also seeks to render due justice to a refugee who has committed a common crime (or crimes) of a less serious nature or has committed a political offence."

It is also said in the Handbook that only a crime committed by the applicant outside the country of refuge prior to admission to that country as a refugee is a ground for exclusion (para.153). A refugee committing a serious crime inside the country of refuge is subject to due process of law in that country (para.154). Article 33 permits a refugee's expulsion or return to his home country if, having been convicted of a particularly serious common crime, he constitutes a danger to his country of refuge. It is to be noted that the Handbook is not a document which purports to interpret the Convention. In Chan Yee Kin v. Minister for Immigration and Ethnic Affairs (1989) 169

CLR 379 at 392, Mason CJ said that he had not found the Handbook especially useful in the interpretation of the definition of "refugee". His Honour went on to observe:

> "Without wishing to deny the usefulness or the admissibility of extrinsic materials of this kind in deciding questions as to the content of concepts

> of customary international law and as to the meaning of provisions of treaties ... I regard the Handbook more as a practical guide for the use of those who are required to determine whether or not a person is a refugee than as a document purporting to interpret the meaning of the relevant parts of the Convention."

See also Todea v. Minister for Immigration and Ethnic Affairs (1994) 20 AAR 470 at 484 (Sackville J).

The primary question for decision in this case is whether the offence of conspiracy for which Dhayakpa was convicted, was committed outside Australia within the meaning of Article 1F(b). The elements of that offence were complete when the criminal agreement had been concluded - Kamara v. DPP [1974] AC 104 at 119; Gerakiteys v. R. (1984) 153 CLR 317 at 327; Savvas v. R (1995) 129 ALR 319 at 324. In the present case the criminal agreement to import heroin into Australia was concluded outside Australia. It continued in effect and the offence thereby continued after the applicant entered Australia. This is reflected in the terms of the indictment which identifies the conspiracy as having taken place "at Perth and other places outside Australia".

The provisions of the Convention are beneficial and are not to be given a narrow construction. The exemption in Article 1F(b) however, is protective of the order and safety of the receiving State. It is not, in my opinion, to be construed so narrowly as to undercut its evident policy. The fact that a crime committed outside the receiving State is an offence against the laws of that State does not take it out of the ordinary meaning of the words of Article 1F(b). Nor does the fact that the crime has subsequently been punished under the law of the receiving State. The operation of the exemption is not punitive. There can be no question of twice punishing a person for the same

offence. Rather it is protective of the interests of the receiving State. The protective function is not limited according to whether or not the punishment has been inflicted in Australia or elsewhere. Nor, on the language of the Article or its evident policy, is it necessary that the disqualifying crime have any connection to the reason for seeking refuge. A person who would otherwise qualify for admission as a refugee may be disqualified by the operation of Article 1F(b) if it were shown that such a person had a record of serious non-political criminal offences whether in the country of origin or elsewhere. In my opinion also it makes no difference that the offence, in this case a continuing offence, was committed both outside and within Australia.

In my opinion the Tribunal has not been shown to have erred in its approach to the application of Article 1F and the criteria for the grant of a protection visa. The application should be dismissed with costs.

I certify that the preceding twenty one

(21) pages are a true copy of the Reasons for Judgment of his Honour Justice French.

Associate:

Date:

Counsel for the Applicant: Mr H. Christie

Solicitors for the Applicant: Legal Aid Commission

Counsel for the Respondent: Mr S. Bhojani

Solicitors for the Respondent: Australian Government Solicitor

Date of Hearing: 25 October 1995

Date of Judgment: 9 November 1995

IN THE FEDERAL COURT)

OF AUSTRALIA)

WESTERN AUSTRALIA)

DISTRICT REGISTRY)

GENERAL DIVISION) No. WAG 134 of 1994

B E T W E E N: TENZIN DHAYAKPA

Applicant

and

THE MINISTER FOR

IMMIGRATION AND ETHNIC

AFFAIRS

Respondent

MINUTE OF ORDER

JUDGE MAKING ORDER: FRENCH J.

DATE OF ORDER: 9 November 1995

WHERE MADE: PERTH

THE COURT ORDERS THAT:

1. The application is dismissed.

2. The applicant is to pay the Respondent's costs of the application.

NOTE: Settlement and entry of Orders is dealt with in Order 36 of the Federal Court Rules.

C A T C H W O R D S

IMMIGRATION - application for refugee status - person having well-founded fear of persecution in country of origin - conspiring to import heroin to Australia prior to entry to Australia - subsequently convicted in Australia of conspiracy - whether Convention ceased to apply - exclusion from benefit of Convention - whether applicable - serious non-political crime outside the country of refuge - whether conspiracy constituted a crime "outside the country of refugee" - whether subsequent punishment within Australia prevents application of exclusion.

Office of the United Nations High Commissioner for Refugees, -Handbook on Procedures and Criteria for Determining Refugee Status

Goodwin-Gill, The Refugee in International Law

Grahl-Madsen, The Status of Refugees in International Law (1966)

Migration Act 1958 s.29

Chan Yee Kin v. Minister for Immigration and Ethnic Affairs (1989) 169 CLR 379

Todea v. Minister for Immigration and Ethnic Affairs (1994) 20 AAR 470

Kamara v. DPP [1974] AC 104

Gerakiteys v. R (1984) 153 CLR 317

Savvas v. R (1995) 129 ALR 319

TENZIN DHAYAKPA v. MINISTER FOR IMMIGRATION AND ETHNIC AFFAIRS

WAG 134 OF 1994

FRENCH J

PERTH

9 NOVEMBER 1995