

Possess Imported MDMA / Ecstasy
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: 500gm

Maximum Penalty: Life

Ecstasy / MDMA: 3,4-methylenedioxymethamphetamine

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
1.	Zeng [2008] NSWCCA 183 Co-offenders: CHEUN	Att possess comm qty: s.307.5	74kg MDMA	VG	10y NPP 6y	Crown AA To correct starting date – same effective sentence imposed	Nil	Drugs detected by custom officers in boxes – 1.29 million tablets – street value between \$38-\$77 million – police substituted harmless tablets - boxes collected by co offenders and stored at offender's residence – offender and co-offenders commenced process of extracting drugs from packages when arrested – offender only aware of drugs once extraction process had started.
2.	Cheun [2009] NSWCCA 116 [2011] NSWCCA 5 Co-offenders: ZENG	Att possess comm qty s.307.5	257,000 tablets MDMA (74kg – see <u>Zeng</u>)	PG (30% plea and assist)	17y 6m NPP 11y	AD Crown AD		Tablets concealed in ink/toner cartridges – middle manager – arranged for drugs to be picked up from storage and transported to new storage - originally discount for assistance On Crown appeal: failure to give promised assistance deemed reasonable in circumstances of case

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
3.	Pham	Att possess comm qty: s.307.5	9.757kg MDMA	VG	15y	AD		Drugs imported from Canada concealed in spa and pedicure chairs – controlled delivery – role of each offender difficult to ascertain – highly organised and sophisticated operation T greater culpability – more intimately involved and gave instructions – came out from Canada to confirm quantity of drugs and deal with discrepancies P – facilitated delivery to warehouse and unpacking of drugs
		Att possess comm qty: s.307.5	71.564kg cocaine		15y			
		Att possess comm qty: s.307.5	29.285kg methamphet		15y			
	Tang [2012] VSCA 101	Import comm qty		PG	15y			
		Import comm qty			15y			
		Import comm qty			15y			
				<u>Total:</u> 19y NPP 14y				
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4.	Karam Higgs Agresta Sergi (49) [2013] VSC 133 (King J) (Karam) [2015] VSCA 50 (Higgs) [2015] VSCA 223 Co-offenders: VISSER FALANGA	Consp possess comm qty: s.307.5 Consp possess comm qty: s.307.5 Consp possess comm qty: s.307.5 Consp to possess comm qty: s.307.5	over 1.4 tonnes MDMA	VG VG VG VG	19y NPP 15y 18y NPP 14y 12y NPP 8y 6m 10y NPP 6y 9m	AD AD	old convictions of little relevance significant and relevant record old convictions nil	(2007) Conspiracy to possess drugs concealed in 3000 large cans of tomatoes imported from Italy – used name of legitimate business – drugs intercepted by authorities – offence at highest level of offending – all sought financial reward although no evidence of nature of that reward K – below top three leaders - important position in planning group providing information on customs procedures and logistics – twice acquitted of similar offences – committed current offence during trial for one of these offences - married with three children H – conduit between K and leaders of conspiracy – important participant with knowledge, experience and contacts – physical and mental health issues A – foot soldier - no decision making or influencing role – slightly higher in hierarchy than S – disabled child – traumatised with wife by fatal gangland shooting in their shop some years prior – some prospects of rehabilitation S – trusted foot soldier – chronic medical condition as a result of accidents – reasonably good prospects of rehabilitation
5.	Douglas (27) [2014] QCA 104	Att possess comm qty: s.307.8	545g (0.545kg) MDMA	VG	9y 6m NPP 6y	AD	Traffic amphet – other minor offences	Booked hotel room and supplied room number for delivery of parcel – rest of role unclear – low level courier Made significant admissions at trial – drug addiction at time of offending

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6.	Visser Falanga (50 at appeal) [2015] VSCA 168 Co-offenders: KARAM HIGGS AGRESTA SERGI	Consp possess comm qty:s.307.5 Consp possess comm qty: s.307.5	over 1.4 tonnes MDMA	VG VG	11y NPP 8y 23y NPP 16y 6m	AD AD	career criminal with extensive record prior convictions – committed offence on bail	(2007) Conspiracy to possess drugs concealed in 3000 large cans of tomatoes imported from Italy – used name of legitimate business – drugs intercepted by authorities V – willing participant of lesser culpability – poor prospects of rehabilitation F – financier at higher end of organisation – limited prospects of rehabilitation and no remorse
7.	Nadar [2018] NSWCCA 256	Att possess comm qty: s.307.5	14.371kg MDMA	VG	9y 6m NPP 5y 9m	AA (only to backdate for pre-sentence custody)		Drugs sent from Netherlands in packages – offender a contractor to courier company – recruited by co-offender - liaised with employee of courier company to arrange delivery – expected to receive \$5,000
8.	Ramos (36) [2018] NSWCCA 206	Possess comm qty: s.307.8 Proceeds of crime: s.193B(2)	2.538kg MDMA \$12,900	PG (25%)	6y NPP 4y 3y NPP 19m <u>Total:</u> 7y 7m NPP 5y 7m	AA 6y NPP 4y 13m NPP 9m <u>Total:</u> 6y 9m NPP 4y 9m		Drugs imported in bottles of wine addressed to offender's partner via local general store – manager of store mistakenly used one bottle at family dinner causing illness – police discovered remaining bottles and money at home of offender – offender in process of extracting drug - offence a little above mid-range Dutch national – contrition – prospects of rehabilitation On appeal: erred in assessment of objective gravity of second offence
9.	Foley (36) [2019] VSCA 99	Att possess comm qty: s.307.5	815.7g (0.8157kg) MDMA	PG	7y 6m NPP 5y (pre discount for guilty plea: 11y NPP 8y)	AD	nil	Drugs concealed in base of table lamp delivered to delivery box in Adelaide – controlled delivery - arrangements made to forward packages to Victoria – further arrangements made to delivery to alternative address where collected by offender – unclear role or involvement prior to collection British national – facing isolation when partner deported - prior good character

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10.	Bisasa [2023] NSWCCA 251	Att possess comm qty: s.307.5	1.38 tonnes MDMA 655kg (0.655kg) methamph	PG (25%)	16y NPP 10y	AD	Nil	With co-offender and others, role to obtain access to imported drugs, unpack from shipping container, repack shipping container with substitute boxes, and transport boxes of drugs to others for disseminating into community - applicant acted as main person communicating higher up line to get message directly to others, supervisory role, part of a team with co-offender - did not know precise amount or purity but knew it was substantial. Good character - remorseful, strong family and community support, strong prospects rehabilitation - highly unlikely to reoffend. CCA: No disparity with co-offender – applicant bore somewhat greater responsibility.

Last updated: October 2023