

U.S. Drops Case Against Guide for 16 Jailed Tourists

The New York Times

November 6, 1992, Friday, Late Edition - Final

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Distribution: National Desk

Section: Section A;; Section A; Page 14; Column 1; National Desk; Column 1;

Length: 1120 words

Byline: By FOX BUTTERFIELD,

By FOX BUTTERFIELD, Special to The New York Times

Dateline: BOSTON, Nov. 5

Body

The Federal Government today **dropped** all charges **against** a Malaysian tour **guide** accused of smuggling illegal aliens into the **United States**, ending a painful and puzzling ordeal for members of a tour group who had been held in **jail** here for more than two weeks as material witnesses.

The surprise decision to dismiss the charges **against** the tour leader and release the **16** Malaysian **tourists** who remained incarcerated out of an original group of 24 was made by A. John Pappalardo, the **United States** Attorney here. Mr. Pappalardo acted after the Government had come under increasing criticism from the Federal magistrate hearing the **case** as well as defense lawyers, human rights campaigners and Malaysian diplomats.

Peter T. Elikann, a lawyer for one of the **tourists** detained by the Government as a witness, Lai Wan Cheng, said the Immigration and Naturalization Service "absolutely trampled the rights of these people." He said Ms. Cheng signed a statement only after being repeatedly threatened by immigration agents who told her "they would keep her in **jail** here for life."

He said another agent had told Ms. Cheng, a 41-year-old seamstress: "You're not here to work. You are here to be a prostitute."

Legal and Ethical Questions

"I think if it was English-speaking people that this never would have happened," Mr. Elikann said.

James Farmer, the head of the Organized Crime Strike Force in Boston, said accusations that the Government's detention of the entire group was racist are "absolutely, categorically untrue."

But several lawyers questioned whether the Government's action was legal or ethical.

For example, some lawyers said the Government might have violated the law by detaining the group for eight days after they arrived in Boston from Paris on Oct. 21 before any of them appeared in court.

Lawyers in the **case** say the immigration service has sweeping powers to hold aliens, but the agency must take anyone accused of a crime or wanted as a witness before a judge within three days. The tour leader, Chee Kheong

U.S. Drops Case Against Guide for 16 Jailed Tourists

Choong, was charged on Oct. 28 with trying to smuggle two of the Malaysians into the United States, and the next day the Government asked a Federal magistrate to hold seven of them as witnesses.

Request to Hold Others

Mr. Choong's lawyer then insisted that many of the others be held to give him a chance to question them.

Lawyers also questioned why the immigration service did not permit the Malaysians to notify their consular officials or engage lawyers during those eight days, as normally required by law. Asking why, they noted that no Government agency had notified the Malaysian Embassy in Washington to tell them 25 of their citizens were being detained.

Equally important, they have asked if immigration agents threatened or abused any of the Malaysians, as several defense lawyers charged in Federal District Court here in the past three days.

Questions have also been raised as to whether the people seized were really tourists, as they have asserted, or whether the Government was right to suspect that at least some of them intended to stay on illegally and work in the United States. A crucial factor in the Government's thinking, said one official who spoke on the condition that he not be identified, was that the 25 people were all ethnic Chinese.

In the past year, Government officials have become increasingly concerned over a wave of illegal Chinese immigrants. Some of these illegal immigrants have become involved in a growing web of Chinese organized crime groups this country.

An immigration agent testified in court this week said that a check of computer records had found that 21 of the 24 Malaysians had been in this country before and that many of them had overstayed their six-month tourist visas. He said one had stayed and worked for up to six years.

But Arthur Helton, an executive with the Lawyers Committee on Human Rights in New York, said that given the way the immigration service processes information about departures of aliens from this country, it would have been impossible for the agency to ascertain such information when the group was first detained. Because the agency does not stamp a person's passport on departure, it would have been very difficult to prove in court that so many members of the group had overstayed.

'Highly Unusual' Detention

Much of the information leading to the smuggling charge against Mr. Choong came out only under questioning while the group was being held in one of several local jails.

"This sort of detention is highly unusual, and the Government's conduct is troubling," Mr. Helton said. "They seem to have lumped people together as a group."

The Malaysians were first detained at Logan Airport on Oct. 21 when an immigration inspector noticed that one of the tourists had been in the United States before and might have overstayed her tourist visa.

Today, some officials of the immigration service, the Justice Department and the State Department were blaming each other for the troubles.

Mr. Farmer, head of the Justice Department's Organized Crime Strike Force here, said it was the immigration service that had held the Malaysians during the eight days before their first court appearance on Oct. 29. But Timothy Whelan, deputy director of the immigration service in Boston, said his agency had held the group after a request from the United States Attorney's office.

Mr. Whelan also said his office immediately notified the State Department about the Malaysians, thinking the agency would notify the Malaysian Embassy. "Part of the problem was logistics," he said.

U.S. Drops Case Against Guide for 16 Jailed Tourists

Phyllis Young, a State Department press officer, said she did not know why the department had not notified the Malaysian Government. But she acknowledged an error had been made. "Timely notification was not given as required by our consular agreement," she said. "The Department of State has expressed its regret to the Malaysian Government."

In announcing the Government's decision today in Federal District Court, Magistrate Marianne Bowler said: "There have been a number of problems in this case. Time was of the essence."

Deportations Are Ordered

She then ordered that the tour leader, Mr. Choong, and the group members who were still incarcerated be deported immediately. "I'm ordering everyone in this case to be on flights out of this country today," she said.

The other eight Malaysians were freed on her orders earlier this week.

In explaining his decision to drop the case, Mr. Pappalardo said it became impossible to prosecute after the magistrate ordered on Wednesday that depositions of each of the tourists be kept to 90 minutes so as to let them go quickly.

Classification

Language: ENGLISH

Subject: IMMIGRATION (90%); US FEDERAL GOVERNMENT (90%); CORRECTIONS (90%); LAWYERS (90%); WITNESSES (90%); LAW COURTS & TRIBUNALS (89%); MAGISTRATES (89%); ETHICS (89%); EMBASSIES & CONSULATES (88%); CITIZENSHIP (78%); ORGANIZED CRIME (78%); SMUGGLING (78%); ALIEN SMUGGLING (78%); JAIL SENTENCING (77%); JUDGES (75%); HUMAN RIGHTS (74%); HUMAN RIGHTS & CIVIL LIBERTIES LAW (74%); ILLEGAL IMMIGRANTS (73%); RACISM & XENOPHOBIA (69%)

Company: IMMIGRATION & NATURALIZATION SERVICE (56%); IMMIGRATION & NATURALIZATION SERVICE (56%)

Organization: IMMIGRATION & NATURALIZATION SERVICE (56%); IMMIGRATION & NATURALIZATION SERVICE (56%); IMMIGRATION & NATURALIZATION SERVICE (56%); IMMIGRATION & NATURALIZATION SERVICE (56%)

Industry: LAWYERS (90%)

Geographic: BOSTON, MA, USA (79%); UNITED STATES (94%)

Load-Date: November 6, 1992