



---

FOR IMMEDIATE RELEASE ON 20.08.11, 1.30PM

## PRESS RELEASE

### MOHAMMAD ASHIK BIN ARIS

On August 17, the Court of Appeal chaired by Chief Justice Chan Sek Keong and including Justice Andrew Phang and Justice V K Rajah, dismissed the appeal against conviction for the case *Mohammad Ashik Bin Aris*, known as the “*urine test case*”, after hearing arguments from both prosecution and Defence Counsel. Grounds of decision will be issued at a later date.

The case is important because it resolves the issue of what is required in testing of urine for cases of drug consumption. In the case of *Lim Boon Keong v PP* [2010] 4 SLR 451, questions had been raised by the High Court over the urine adequacy of the testing regime in place at the Health Sciences Authority and whether this regime met the requirements of the Misuse of Drugs Act. The Court of Appeal’s decision in *Mohammad Ashik bin Aris* puts to rest any such doubts about the adequacy of the regime.

#### Background

1           The accused was arrested on 22 Jan 2010 at Kim Tian Hotel by a party of Narcotic Officers from CNB. The accused was facing and claimed trial to one count of *consumption of methamphetamine*, an offence under s 8b(ii) of the Misuse of Drugs Act (“MDA”) and punishable under s 33(1) of the MDA.

2 A 28 day trial proceeded in the High Court for the Prosecution to establish that the testing of the accused's urine specimens by the HSA complied with the requirements laid down in s 31(4) of the MDA that the urine test shall be conducted on each part by a different person.

3 During the trial, the Prosecution led full and detailed evidence on the steps carried out by the HSA's Drug Abuse Testing laboratory ("DAT laboratory") in handling urine specimens which are sent to it for testing under s 31 of the MDA.

4 Significantly, such detailed evidence has not been led in previous cases of drug consumption, including the recent case of *Lim Boon Keong v PP* [2010] 4 SLR 451 heard before Justice Steven Chong. The present case therefore provided an opportunity for Justice Chan to give a definitive ruling on the interpretation of s 31(4)(b) of the MDA and whether the HSA's procedures at the time of the accused's urine specimens were in compliance with that provision.

5 An expert witness for the Prosecution, Ms Shelly Turner, from New Zealand, testified that the DAT lab not only followed, but in a number of aspects exceeded, internationally accepted best practice procedures for the handling and testing of drugs in urine.

6 The Defence called an expert witness, Dr John Douse, from UK. Dr Douse concluded his evidence that the DAT lab's urine handling and testing procedures meet the internationally accepted standards.

### **Prosecution's Submissions**

7 The Prosecution submitted that the HSA urine testing procedures (now largely automated) were in compliance with s 31(4)(b) of the MDA, *inter alia* because:

- (i) the certifying analysts had "conducted" the urine tests because they could exercise meaningful supervision over the earlier stages by analysing the

instrument test results and detecting errors by scrutinising the results for various Quality Control samples and calibration standards; and

- (ii) the two “tests” conducted on the appellant’s urine samples were conducted independently by different persons at each stage of the “test” which we accepted commences at the sampling stage.

8 We also submitted that the admissibility of HSA certificates was governed purely by s 16 of the MDA, and s 31(4)(b) of the MDA was not relevant to the question of admissibility. We submitted that where there was non-compliance with s 31(4)(b), the presumption in s 22 would be rebutted. The certificate would still be admissible under s 16 and whether the presumption in s 16 is rebutted or not is essentially a question of fact to be determined by the Judge, and would depend on the kind and degree of non-compliance.

### **Judgement**

9 The Court of Appeal dismissed the appeal by the Defence and its full judgement has been reserved till a later date.

### **For further queries, please contact:**

Li Jin Haw (Ms)  
Assistant Director, Corporate Communications Unit  
Attorney-General's Chambers, Singapore  
Email: [li\\_jin\\_haw@agc.gov.sg](mailto:li_jin_haw@agc.gov.sg)  
Mobile: 9722 1168

---