

**CASE NO.** **VOLUME** **PAGE**  
Cite as; Romani v. Cheng, 1997 NSCA 49

THE STATE OF ROMANIA SHIOU CHENG, CHUNH-CHIH WU,  
CHIN-CHIU KUO, CHE-MIN JANG,  
KO-LUNG WANG, YUNG-LAI NI  
- and -  
(Appellant) (Respondents)

C.A. No. 136307 Halifax, N.S. HALLETT, J.A.  
(orally)

APPEAL HEARD: October 8, 1997

JUDGMENT DELIVERED: October 8, 1997

WRITTEN RELEASE OF ORAL: October 15, 1997

SUBJECT: **Practice - mootness of appeal**  
**Extradition Act, R.S.C. 1989, Ch. E-3 - definition of fugitive**

SUMMARY: A Supreme Court Judge determined that he did not have jurisdiction to make an order under the **Extradition Act** committing six Taiwanese persons accused of murdering Romanian stowaways on a Taiwanese ship while on the high seas as the alleged murderers were not within the geographical Territory of Romania.

Following the dismissal of the application, passports were returned to the six and they left Canada.

On appeal, the Court of Appeal determined that the appeal was moot as the six were no longer in Canada and, therefore, not fugitives within the meaning of the **Extradition Act** and could not be imprisoned under that **Act**.

The Court refused to hear the appeal applying the tests set down in **Borowski v. Attorney General of Canada**, [1989] 1 S.C.R. 342; (1989), 57 D.L.R. (4th) 231 for hearing of moot appeals. Appeal dismissed.

**THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S  
DECISION, QUOTES MUST BE FROM THE DECISION, NOT FROM THE COVER  
SHEET. THE FULL COURT DECISION CONSISTS OF 7 PAGES.**