

Herald Sun

Killer's visa fight costing Victorian taxpayers through legal aid

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VICTORIAN taxpayers are funding a brutal double killer's fight to remain in Australia.

The Vietnamese refugee, whom the *Herald Sun* has decided not to name for legal reasons, had been in Australia less than three years when he murdered two men in separate gang killings just a week apart.

Now, having spent 15 years in jail, he is using Victoria Legal Aid to fight a decision to cancel his visa. The case has raised questions about the cases VLA chooses to cover, with legal figures saying Victorians charged with petty offences can't access legal aid.

Criminal lawyer George Balot said legal aid guidelines were not helpful to low-income first-time offenders as they were based on the likelihood of immediate jail.

"Unfortunately, it means that career criminals including rapists and child molesters qualify for legal assistance presumably because they are facing a jail term," he said. "But an innocent first-time offender trying to clear their name is ineligible for assistance.

"It imposes significant restrictions on being able to properly defend oneself, particularly in family violence and sexual offences where self-represented people in certain cases are prohibited from cross-examining protected witnesses, unless otherwise ordered. In those situations, legal aid funding is restricted only to the cross-examination of the protected witness."

The killer was 16 when he murdered the two men in 1996 while a member of Sydney gang the Madonna Boys. He says he was pressured into it.

Arrested in 2000 over one of the killings, he then confessed to the other. Days before being paroled last year, his visa was cancelled, and on his release he was transferred to the Maribyrnong Immigration Detention Centre. He has appealed the visa cancellation on four grounds including legal unreasonableness and the legal consequences.

The killer says he is scared to return to Vietnam because he will be seen as someone who has betrayed the country by fleeing.

His case was dismissed by the Federal Court, but he can still apply for a protection visa granting him the right to remain in Australia.

A Victoria Legal Aid spokesman said one of its priorities was to ensure processes were fair and transparent.

"This includes clarifying legal processes followed when the immigration minister decides if a visa should be cancelled, and how the minister approaches the question of risk to the community," she said.

"Decisions on funding cases involving cancellation of visas are made according to our migration guideline."