

4. Supreme Court ruling - summary - translation

2011 (A) No. 1756

Decision

Chonburi City Residence Chiba City Mihama Ward Takahama 6 - chome 18
Chiba City Mihama Ward Takahama Ding 6 No. 18 No. 9

Company executive

Yasuhiro Nagano
Birth of 9th September 1954

Since the accused filed an appeal from the accused against the decision the Tokyo High Court sentenced on September 22, 2011 concerning the case of aiding the violation of the Immigration Control and Refugee Recognition Act against the above persons,
The court shall decide as follows.

Main sentence

We dismiss this appeal.

the reason

Motoyoshi Murakami's appeal spirit is a factual misunderstanding, a simple misrepresentation of laws, a sentence of unjust sentence, and among the intentions of the appellee of the defendant himself, the point of violating the Constitution with respect to the defendant's confession letter, Even as there is no evidence sufficient to doubt the arbitrariness of confessions, it lacks the premise, the remainder, including the point of violation of the Constitution, is a fact misperception, mere law misunderstanding, mere imprisonment of sentencing, Neither is the reason for final appeal under Article 405 of the Code of Criminal Procedure.

Therefore. According to Article 414, 386 1, item 3 of the same law, the judge unanimously agrees and decides according to the main sentence.

January 23, 2012

Supreme Court of the second small court

Judge judge	Yuki Yoshida
judge	Ikuo Takeuchi
judge	Masahiko Sudo
judge	Katsumi Chiba

Note:
Criminal Procedure Law

405 For the judgment of the first trial or the second trial conducted by the High Court, a petition for final appeal may be filed on grounds of the grounds on the left.

1 There is a violation of the Constitution or an interpretation of the Constitution is false.

2 Judgment conflicting with the judgment of the Supreme Court.

3 In the absence of precedents from the Supreme Court, we made a judgment contrary to the judgment of the

High Court as the Grand Trial or the appellate court or the precedent of the High Court as the appellate court after this law enforcement.

414 The provisions of the preceding paragraph shall apply mutatis mutandis to the appeal of appeal, except in cases where there are special provisions in this Act.

386 (1) (3)

In the case of Article 386 left, the Court of Appeals shall dismiss the appeal by decision.

1. When not appointing an appeal brief within the period prescribed in Article 376 (1).
2. When the appellate brief is in violation of this law or the method prescribed by the rules of the court, or if the appellate brief is not accompanied by necessary sponsorship documents or warranty cards in accordance with the provisions of this Act or the rules of the court.
3. The reason for the appeal for appeal as stated in the appellate brief is clearly not applicable under the circumstances prescribed in Articles 377 to 382 and 383.

○ 2 The provisions of paragraph 2 of the preceding Article shall apply mutatis mutandis to the decision set forth in the preceding paragraph.

Decision

Defendant Yasuhiro Nagano

Regarding the case of assisting violation of the Immigration Control and Refugee Recognition Act for the above mentioned persons (Heisei 22 (a) No. 1756), on January 23, 2012, the court filed an objection from the accused against the decision to dismiss appeal. There was no reason for this complaint. According to the criminal procedure law 414, 386 2, 385 2, 426 1, the judge unanimously agrees and decides as follows.

Main sentence

We dismiss this petition.

February 2, 2012

Supreme Court second small court

Judge	judge	Yuki Yoshida
	judge	Ikuo Takeuchi
	judge	Masahiko Sudo
	judge	Katsumi Chiba

Note:

Criminal Procedure Act
414 Article

The provisions of the preceding paragraph shall apply mutatis mutandis to the appeal of appeal, except in cases where there are special provisions in this Act. 386 条 2 項

In the case of Article 386 left, the Court of Appeals shall dismiss the appeal by decision.

1 When we do not offer an appeal brief within the period prescribed in Article 376, paragraph 1.

2 When the appeal brief is in violation of this law or the method prescribed by the rules of the court,

Or in appeal brief pursuant to the provisions of this Act or the rules of the court

When you do not attach the required spamming material or warranty card.

3 The reason for the appeal for appeal as stated in the appellate brief is clearly not applicable under the circumstances prescribed in Articles 377 to 382 and 383.

02 The provision of paragraph 2 of the preceding Article shall apply mutatis mutandis to the decision set forth in the preceding paragraph.

Article 385 2 (2)

385 If the petition for appeal of appeal violates the legal form or it is clear that it was made after the disappearance of the appeal right, the Court of Appeals shall reject it in the decision.

02 In response to the decision set forth in the preceding paragraph, a motion for opposition under Article 428, paragraph 2 may be made. In this case, the provision on immediate appeal also applies.

426 Paragraph 1

If the procedure of appeal of 426 violates the provision, or when there is no reason for appeal, the appeal shall be dismissed by the decision.

02 When there is a reason for appeal of appeal, the original decision shall be canceled by decision and further trial shall be made if necessary

平成23年(あ)第1756号

決 定

本 籍 千葉県美浜区高浜6丁目18番

住 居 千葉県美浜区高浜6丁目18番9号

会 社 役 員

長 野 恭 博

昭和24年9月9日生

上記の者に対する出入国管理及び難民認定法違反幫助被告事件について、平成23年9月22日東京高等裁判所が言い渡した判決に対し、被告人から上告の申立てがあったので、当裁判所は、次のとおり決定する。

主 文

本件上告を棄却する。

理 由

弁護人村上元茂の上告趣意は、事実誤認、単なる法令違反、量刑不当の主張であり、被告人本人の上告趣意のうち、被告人の自白調書に関して憲法違反をいう点は、記録を調べても、自白の任意性を疑うに足りる証跡は認められないから、前提を欠き、その余は、憲法違反をいう点を含め、実質は事実誤認、単なる法令違反、量刑不当の主張であって、いずれも刑訴法405条の上告理由に当たらない。

よって、同法414条、386条1項3号により、裁判官全員一致の意見で、主文のとおり決定する。

平成24年 1 月 23 日

最高裁判所第二小法廷

裁判長裁判官

古 田 佑 紀

裁判官

竹 内 行 夫

裁判官

須 藤 正 彦

裁判官

千 葉 勝 美

これは謄本である。

平成24年1月23日

最高裁判所第二小法廷

裁判所書記官 小池



稔

平成24年(す)第38号, 第45号

決 定

被 告 人 長 野 恭 博

上記の者に対する出入国管理及び難民認定法違反幫助被告事件(平成23年(あ)第1756号)について, 平成24年1月23日当裁判所がした上告棄却の決定に対し, 被告人から異議の申立てがあったが, この申立ては理由がないので, 当裁判所は, 刑訴法414条, 386条2項, 385条2項, 426条1項により, 裁判官全員一致の意見で, 次のとおり決定する。

主 文

本件申立てを棄却する。

平成24年 2 月 2 日

最高裁判所第二小法廷

裁判長裁判官 古 田 佑 紀

裁判官 竹 内 行 夫

裁判官 須 藤 正 彦

裁判官 千 葉 勝 美

これは謄本である。

平成24年2月2日

最高裁判所第二小法廷

裁判所書記官 小池 稔

