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| **TOA AN NHAN DAN**  **TINH SON LA** | **CONG HOA XA HOI CHU NGHIA VIET NAM Doc lap - Ty do - Hanli phuc** |
| Ban an s6: 69/2011/HSST Ngay 17 thang 6 nim 2011 | **NHAN DANH** |

**Nl OC CQNG HOA XA HOI CHU NG HI A VIET NAM TOA AN NHAN DAN TINH SON LA**

**Lr//** *thanh phan Hoi dong xet xir so' tham gdm cd:*

’ A

Tham phan - Chu toa phien toa: Ong Ld Van Diet • A

Cac hoi tham: Ong La Khoi Viet va ong Luong Van Phinh Thu ky Toa an ghi bien ban phien toa: Ba Quang Hong Net can bo Toa an nhan dan tinh Son La.

Dai dien Vien Kiem sat nhan dan tinh Son La tham gia phien toa: Ba Ld Thi Om Kiem sat vien.

Ngay 17-6-2011 tai try sb Toa an nhan dan tinh Son La, xet xir so tham vu an hinh sir thu ly so 71/2011/HSST ngay 11-5-2011 doi vdi cac bi cao:

1. Miia A Chia (Cha) sinh nam 1973 tai Bac Yen - Son La. NDKHKTT ban Hang Dong C xa Hang Dong, huyen Bac Yen, tinh Son La. Cho d hien nay ban Tham Tir, xa Quan Phu, huyen Dac Nong, tinh Dac Nong. Nghe Nghiep trong trot; trinh do van hoa: Khong biet ch£r; dan toe: Mong; quoc tich: Viet Nam; con ong: Miia A Vang va ba Phang Thi Su (da chet); vo Song Thi Dua; con co 5 con, ldn nhat 13 tuoi, nhd nhat 03 tuoi; lien sir, tien an: Khong; bi bat tarn giur, tarn giam tir ngay 18-12-2010 hien dang tarn giam tai trai tarn giam Cong an tinh Son La cd mat.
2. Miia A Cau sinh nam 1970 tai Quan Hoa - Thanh Hoa. NDKHKTT ban Suoi Ton, xa Phu Son, huyen Quan Hoa, tinh Thanh Hoa. Nghe Nghiep trong trot; trinh do van hoa: Khong biet chu; dan toe: Mong; quoc tich: Viet Nam; con ong: Mua A Po va ba Vang Thi Pang (da chet); vo Song Thi Tru; con cd 6 con ldn nhat 16 tuoi, nhd nhat 01 tuoi; tien su, tien an: Khong; bi bat tarn gitr, tarn giam tir ngay 18-12-2010 hien dang tarn giam tai trai tarn giam Cong an tinh Son La co mat.
3. Ho A Giong sinh nam 1984 tai Tram Tau - Yen Bai. NDKHKTT ban Puoc Hieng, xa Trung Thanh, huyen Quan Hoa, tinh Thanh Hoa. Nghe Nghiep trong trot; trinh do van hoa: 01/12; dan toe: Mong; quoc tich: Viet Nam; con ong: Ho A Ly va ba Song Thi Mai (deu da chet); vo Va Thi Cu; cd 01 con 03 tuoi; tien su, tien an: Khong; bi bat tarn giu, tarn giam tir ngay 18-12-2010 hien dang tarn giam tai trai tarn giam Cong an tinh Son La co mat.
4. Miia A Sinh, sinh nam 1967 tai Van Chan - Yen Bai. NDKHKTT ban Puoc Hieng, xa Trung Thanh, huyen Quan Hoa, tinh Thanh Hoa. Nghe Nghiep trong trot; trinh do van hoa: 01/12; dan toe: Mong; quoc tich: Viet Nam; con ong: Mua A De va ba Giang Thi Gia (deu da chet); vo Thao Thi Co; con co 6 con, Ion nhat 22 tuoi, nho nhat 03 tuoi; tien su, tien an: Khong; bi bat tarn giu, tam giam tir ngay 18-12-2010 hien dang tam giam tai trai lam giam Cong an tinh Son La co mat.

**NHAN THAY:**

Cac bi cao Mua A Chia (Cha); Mua A Cau; Ho A Gidng; Mua A Sinh bi vien kiem sat nhan nhan tinh Son La truy to ve hanh vi pham toi nhir sau:

Hoi 04 h50 phut ngay 18-12-2010 to cong tac Cong an tinh Son La, phoi hop voi Cong an tinh Nam Dinh va Phong phong chong toi pham ve ma tuy, Cue canh sat bien - Bo quoc phong lam nhiem vu tai khu virc km 150 QL6A, thuoc dia phan xa Long Luong, Moc Chau, Son La, phat hien co 04 ngudi di tren hai chiec xe may tir htrdng Son La - Hoa Binh co bieu hien nghi van. To cong tac ra tin hieu dung xe de kiem tra, xe thur nhat mang BKS: 33R5-0460 do Ho A Gidng dieu khien, ngoi phia sau la Mua A Sinh; xe thtr hai mang BKS: 36L5-4856 do Mua A Chia dieu khien, ngoi phia sau la Mua A Cau. Qua kiem tra kham xet thu dupe tai tui ao khoac cua Gidng, trong tui ao nguc cua Chia, Cau moi ngudi 01 goi nylon mau hong, ben trong deu co bot nen mau trang cac doi tupng khai la Heroin.

To cong tac da tien hanh lap bien ban bat ngtroi pham toi qua tang doi voi: Mua A Chia (Cha); Mua A Cau; Ho A Gidng; Mua A Sinh, thu giu- vat chung cung 02 xe may va mot so giay to. tien, tai san lien quan.

Cung ngay co quan CSDT Cong an tinh Son La thanh lap hoi dong mo niem phong, can tinh vat chung da thu giu 03 goi cd tong trong luong 34,3gam.

Goi bot nen mau trang thu giu cua Mua A Cha cd trong luong 27,82 gam, trich ra 0,02 gam lam mau giam dinh ky hieu CH.

Goi bot nen mau trang thu giu cua Mua A Cau cd trong luong 5,6 gam, trich ra 0,02 gam lam mau giam dinh ky hieu CHC.

Goi bot nen mau trang thu giu cua Ho A Gidng co trong luong 0,88 gam, trich ra 0,02 gam lam mau giam dinh ky hieu CHG.

Tai ban thong bao ket qua giam dinh so 35 ngay 21-12-2010 cua Phong ky thuat hinh su Cong an tinh Son La ket luan: “Mau bot mau trang ky hieu CH; CHC; CHG cd thanh phan Heroin”.

Sau khi bi bat cac bi cao Mua A Cha. Mua A Cau, Ho A Gidng, Mua A Sinh kliai nhan: Sang ngay 14-12-2010 Cha mang theo 15.000.000d, di tu Dac Nong ra ban Buoc Hieng - Phu Son - Quan Hoa - Thanh Hoa. Ngay 17-12-2010 Cha den nha Mua A Cau d ban Suoi Ton - Phu Son - Quan Hoa rii Cau len Son La mua ma tuy ve su dung. Do Cau khong co xe nen hai ngudi ban voi nhau thue Ho A Gidng, Mua A Sinh moi ngudi 200.000d de dua Cha va Cau len Moc Chau tim mua matuy. Khoang 17h ngay 17-12-2010 Giong chb Cha, Sinh cha Cau, den khoang Oh ngay 18-12-2010 thi den ban Lung Xa - Long Luong, Moc Chau, Son La ca 04 ngubi cung vao nha cua 01 ngubi dan ong dan toe Mong ten la Lir, hoi mua Heroin, Cau dua cho Lir 1.600.000d; Cha dua 13.400.OOOd, sau khi nhan lien Lu di vao trong buong ngu cam ra 02 goi nylon mau hong, dua cho Cha Va Cau, khi ma ra kiem tra Cha lay mot it heroin tra cong cho Giong, con Cau tra cho Sinh 200.OOOd. Sau do Cha cam luon goi Heroin cua Cau roi ca 04 ngubi cung len xe di ve. Khi den km 150 QL6A Long Luong - Moc Chau thi bi bat qua tang, cung vbi vat chung.

Tai ban cao trang so 340/VKS-P2 ngay 10-5-2011 cua Vien kiem sat nhan dan tinh San La da truy to ra trudc Toa an nhan dan tinh San La de xet xu cac bi cao: Mua A Cha, Mua A Cau, Hb A Giong, Mua A Sinh ve toi Tang tru trai phep chat ma tuy theo diem b khoan 3 Dieu 194 Bo luat Hinh su.

Can cur vao cac chung cir va tai lieu da duac tham tra tai phien toa; can evr ket qua tranh luan tai phien toa; tren ca sb xem xet day du, toan dien chung cu. Y kien cua kiem sat vien giu nguyen quan diem truy to doi vbi cac bi cao, de nghi Hoi dong xet xir ap dung diem b khoan 3 Dieu 194 diem p khoan 1 Dieu 46 Bo luat Hinh su. Xu phat bi cao Mua A Cha tir tu 15 den 16 nam tu; bi cao Mua A Cau tu 14 den 15 nam tu; bi cao Hb A Giong tu 13 den 14 nam tu; bi cao Mua A sinh tu 13 den 14 nam tu.

Ve vat chung cua vu an: Tich thu tieu huy 01 phong bi niem phong 34,24 gam Heroin cua Mua A Cha va dong bon; 01 chung minh nhan dan mang ten Hb A Giong; 01 chung minh nhan dan mang ten Mua A Sinh, do khong con gia tri su dung.

Tich thu sung cong quy nha nude 01 xe may nhan hieu WaVe mau nau den BKS 33R5- 4060 cua Mua A Sinh; 01 chiec xe may nhan hieu WaVe mau xanh BKS-36L5-4856 va 01 dang ky xe may so 0005092 do Cong an tinh Thanh Hoa cap ngay 10-01-2006 mang ten Le Huu Hung cua Hb A Giong la phuong tien pham toi. Tich thu sung cong quy nha nude so tien 200.OOOd thu cua Mua A Sinh do bi cao pham toi ma co.

Doi vbi 02 chiec dien thoai di dong, 01 cai hieu NOKIA; 01 cai Mobile va

sb tien 300.OOOd thu giu cua Mua A Cha; sb tien 200.OOOd thu giu cua Mua A Cau; sb tien 20.OOOd thu giu cua Mua A Sinh, khong lien quan den vu an can tarn giu de

dam bao viec thi hanh an.

Cac bi cao khong co y kien gi doi vdi ban luan toi cua kiem sat vien, ve toi danh, dieu luat ap dung, xir ly vat chung xin duoc giam nhe hinh phat.

**XET TH AY:**

Tai phien toa cac bi cao Mua A Cha, Mua A Cau, Hb A Giong, Mua A Sinh \*

deu thua nhan duoc thuc hien hanh vi pham toi nhu cao trang nhu cao trang vien 3

kiem sat da truy to, dirge the hien qua cac chung cu sau: Lai khai nhan toi cua cac bi cao trirac *co* quan dieu tra cung nhu tai phien toa la hoan toan phii hgp vdi bien ban bat ngudi pham toi qua tang ve thdi gian, dia diem; vat chimg thu dirge tren ngudi ciia Cha, Cau, Giong 03 goi nylon mau hong co tong trong lugng 34,3gam Heroin; ket qua giam dinh cua Phong ky thuat hinh su Cong an tinh Son La ket luan “Mau bot mau trang ky hieu CH; CHC: CHG cd thanh phan Heroin”, cac bi cao da thuc hien hanh vi len San La lim mua ma tuy muc dich dem ve de sir dung.

Tir cac hanh vi nhu da neu tren cd du can cir ket toi cac bi cao Mua A Cha, Mua A Cau, Ha A Giong, Mua A Sinh pham toi Tang trtr trai phep chat ma tuy theo quy dinh tai diem b khoan 3 Dieu 194 Bo luat Hinh su, dung nhu cao trang cua vien kiem sat da truy to doi vdi cac bi cao.

Xet tinh chat mire do thuc hien hanh vi pham toi cua cac bi cao thuoc trudng hgp dac biet nghiem trong, gay mat trat lu tri an xa hoi tai dia phuong. Do do can cd hinh phat nghiem kliac doi vdi cac bi cao mdi du de cai tao, giao due cac bi cao trd thanh cong dan cd ich cho gia dinh va xa hoi, cung nhu cong tac dau tranh phong chong toi pham ve ma tuy trong giai doan hien nay.

Xet vai trd thuc hien hanh vi pham toi cua timg bi cao trong vu an thay rang: Bi cao Mua A Cha la ngudi true tiep thuc hien toi pham, bo tien ra mua so lugng ma tuy nhieu nhat. Doi vdi bi cao Mua A Cau la ngudi bi ru de nhung cung la ngudi true tiep thuc hien toi pham, bo tien ra mua so lugng ma tuy it han. Bi cao Hd A Giong, Mua A Sinh biet Cha va Cau di tim mua ma tuy ve sir dung nhung van tham gia vdi vai trd giup sire.

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Xet ve nhan than cua cac bi cao trudc khi pham toi chua cd tien su, tien an. Sau khi bi bat da khai bao thanh khan an nan hoi cai, cac bi cao deu co tinh tiet giam nhe theo diem p khoan 1 Dieu 46 Bo luat Hinh su.

Theo quy dinh tai khoan 5 Dieu 194 Bo luat Hinh su, cac bi cao con co the bi phat tien, do cac bi cao cd hoan canh gia dinh kho khan, tai san khong cd hoi dong xet xu khong ap dung hinh phat bo sung doi vdi cac bi cao.

Doi vdi ngudi co ten la Lu, ngudi ban ma tuy cho cac bi cao, co quan dieu tra da xac minh lam rd khong cd can cu giai quyet trong vu an.

Ve vat chung cua vu an: Hoi dong xet xu thay de nghi cua kiem sat vien, xu ly doi vdi vat chimg da thu giu cua cac bi cao la cd can cu can dugc chap nhan.

Ve an phi: Cac bi cao phai chiu an phi hinh sir so tham theo quy dinh cua phap luat.

IT *cac le tren*

**QUYET DINH**

Tuyen bo cac bi cao: Mua A Chia (Cha), Mua A Cau. Hd A Giong, Mua A Sinh pham toi Tang tru trai phep chat ma tuy.

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1. Ap dung diem b khoan 3 Dieu 194: diem p khoan 1 Dieu 46 Bo luat Hinh sir. Xu phat bi cao Mua A Chia 15 (mudi lam) nam tu, thdi han tu tinh tir ngay bi bat tarn gift, tarn giarn (ngay 18-12-2010).
2. Ap dung diem b khoan 3 Dieu 194; diem p khoan 1 Dieu 46; Dieu 53 Bo luat Hinh sir. Xu phat bi cao Mua A Cau 14 (mudi bon) nam tu; Ho A Giong 13 (mirdi ba) nam tu; Mua A Sinh 12 (mucri hai) nam tu, thai han tu tinh tir ngay bi bat tarn gift, tarn giarn (ngay 18-12-2010).
3. Ve vat chimg: Ap dung diem a,b,c khoan 1 Dieu 41 Bo luat Hinh su; diem

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a,c.d khoan 2 Dieu 76 Bo luat To tung hinh su.

Tuyen tich thu lieu hiiy 01 phong bi niem phong 34,24 gam Heroin cua Mua A Cha va dong bon; 01 chung minh nhan dan mang ten Ho A Giong; 01 chung minh nhan dan mang ten Mua A Sinh.

Tuyen tich thu sung cong quy nha nude 01 xe may nhan hieu WaVe mau nau den BKS -33R5-4060 cua Mua A Sinh; 01 chiec xe may nhan hieu WaVe mau xanh BKS-36L5-4856 va 01 dang ky xe may so 0005092 mang ten Le Hftu Hung cua Hd A Giong la phuong tien pham toi.

Tuyen tich thu sung cong quy nha nude so tien 200.000d cua Mua A Sinh do bi cao pham toi ma co.

Tuyen tarn giu 02 chiec dien thoai di dong, 01 hieu NOKIA; 01 hieu Mobile va so tien 300.000d thu giu cua Mua A Cha; so tien 200.000d thu giu cua Mua A Cau; so tien 20.000d thu giu cua Mua A Sinh, khong lien quan den vu an de dam bao viec thi hanh an. *(theo bien ban giao nhan vat chimg ngay 25-4-2011 cua Cue thi hanh an dan sic tinh Son La).*

1. Ve an phi: Cac bi cao Cha, Cau, Giong, Sinh phai chiu an phi hinh sir so tham moi ngudi 200.000d *(Hai tram ngan dong chan).*

Bao cho cac bi cao duqc quyen khang cao trong thdi han 15 ngay ke tir nay tuyen an (ngay 17-6-2011).

*No'i nhdu*

TM. HOI DONG XET XU"

Ld Van Diet

* Toa ail nhan dan toi cao;
* Vien kiem sat nhan dan tinh Son La;
* Cong an tinh Son La;
* Trai tarn giam Cong an tinh Son La:
* Cyc Thi hanh an dan sy tinh Son La:
* Bi cao;
* Chanh an;
* Chanh toa hinh sy;
* Phong Giam doc kiem tra: THAHS
* Liru ho so. an van.