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## Double murderer 'contract killer' freed under new direction

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A double murderer convicted over a contract killing has been spared deportation under Labor's revised ministerial direction, after a tribunal found his ties to Australia and level of rehabilitation outweighed community expectations that he should never be granted a visa.

In a major test for ousted immigration minister Andrew Giles's [rewritten Direction 110](#), the Administrative Review Tribunal found that US citizen Robert Michael Main – who had been jailed for 33 years after emigrating as a 12-year-old – had “strong ties to Australia” and should be allowed to stay.

ART deputy president Damien O'Donovan ruled that Main should have his visa - returned because he had significant relationships in Australia, posed a low risk of committing future crimes and it would be difficult to access medical treatment in his birth country.

Mr O'Donovan said Main's criminal history – including convictions for two murders and an armed robbery – were so serious that Australians would expect he “should not continue to hold a visa”, but the evidence and [consideration of Direction 110](#) tipped the balance in favour of allowing him to remain.

Main, who has battled a heroin addiction and been diagnosed with schizophrenia, was convicted over his fatal shooting of a man during an armed robbery of a drug dealer's house in Sydney in 1983. On remand he used a fatal dose of heroin to murder an inmate to stop him testifying in another case in exchange for heroin as payment.

The judge characterised the incident as a “cold, calculated, deceitful assassination”.

The seriousness of Main's offending has drawn criticism from the Coalition and put Labor's strengthened direction under scrutiny, less than a year after [Mr Giles replaced Direction 99](#) in the wake of revelations in The Australian that the guideline had allowed foreign rapists and murderers to avoid deportation.

Main, now 70, was handed three life sentences, but reforms to NSW sentencing laws in the 1990s opened up the legal avenue to review his sentence and he was released in June 2016.

The federal government has sought to cancel Main's visa twice since his release. Main successfully argued that it should be returned in the Federal Court in May 2023 and the ART last month under Direction 110.

“This decision is a difficult one,” Mr O'Donovan said in the January 29 decision.

“The offences which the applicant has committed are so serious that in many contexts they would in and of themselves justify cancellation of the visa.”

Mr O'Donovan said he was “obliged to make the preferable discretionary decision based on the evidence before me and in light of the considerations which the direction requires me to take account of”.

As [Immigration Minister Tony Burke faces pressure](#) over a series of scandals including the release of more than 150 foreign criminals under the High Court's NZYQ ruling, a Home Affairs spokesman said the department could not comment on individual cases “for privacy reasons”.

Mr Burke announced on Sunday that a deal had been struck to send three of the former NZYQ detainees to Nauru.

Opposition home affairs spokesman James Paterson criticised Labor's response to a series of migration bumbles, declaring that only a Coalition government would have the strength “to make tough decisions to protect Australians”.

“When Labor tried to fix their deportation disaster with a second ministerial direction, we warned them it was still not tough enough because ties to Australia remained a primary consideration,” Senator Paterson said.

“Our worst fears have been realised. Under Labor, foreign murderers get to stay in Australia instead of being deported as they should be.”

Opposition immigration spokesman Dan Tehan said public safety remained the primary consideration when handling immigration matters.

“Given this decision, we need to hear from the Prime Minister as to whether this decision poses any risk to the Australian community,” Mr Tehan said.

Mr O'Donovan took into consideration Main's “few but important relationships in Australia” and his lack of connections in the US.

He noted that the American's commitment to a relationship with his grandson and that he had cared for his former partner, with whom he had lived in Tweed Heads following his release from immigration detention in May 2023.

Main's offending had been “motivated by drugs” and as his addiction was now being treated with monthly doses of Buvidal, and previously methadone, he was unlikely to reoffend, the decision said.

Lawyers for Mr Burke argued Main's offending revealed “fundamental character concerns”, but Mr O'Donovan found the evidence showed his nature had changed.

Australian Lawyers Alliance spokesman and barrister Greg Barns said migration law was unique because of the “lack of finality” for those whose visas had been cancelled.

“It is obviously relevant to take into account when offences were committed, the person's conduct since the offences were committed,” Mr Barns said.

“And of course the longer the period in which they have not reoffended the stronger the case for not having their visa revoked.”

Main was released from prison under strict parole conditions banning him from using alcohol and mandating he continue treatment for his heroin addiction. After his release he cared for his brother who was suffering from a terminal illness.

After six years living in the community then Coalition immigration minister Alan Tudge cancelled Main’s visa after he failed to respond to a notice flagging the potential cancellation of his visa. He was taken into immigration detention two years later.

The Federal Court overturned the decision in May 2023 finding it to be “illogical”, and he was released into the community again. Later that year a delegate of the immigration minister issued Main with another notice flagging the cancellation of his visa, and his visa was cancelled last September.

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