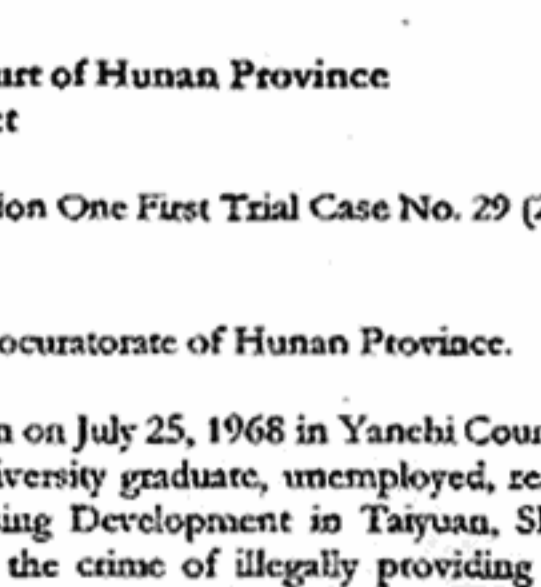


羁押一日折抵刑期一日，即自2004年11月24日起至2014年11月23日止)

如不服本判决，可在收到本判决书后的第二日起十日内，通过本院或直接向湖南省高级人民法院提出上诉，书面上诉的，应提交上诉状正本一份，副本两份。

审判长 欧阳华  
审判员 柳志敢  
代理审判员 谢绍平



本件与原告核对无异

书记员 黄实之

Changsha Intermediate People's Court of Hunan Province  
Criminal Verdict

Changsha Intermediate Criminal Division One First Trial Case No. 29 (2005)

Prosecuting organ is the Changsha People's Procuratorate of Hunan Province.

Defendant Shi Tao, a.k.a. "198964," male, born on July 25, 1968 in Yanchi County in Ningxia Hui Autonomous Region, Han ethnicity, university graduate, unemployed, resided at Room 102, West Unit, Building 3, Jun'anli Housing Development in Taiyuan, Shanxi Province. Because he was suspected of committing the crime of illegally providing state secrets to foreign entities, he was taken into custody on November 24, 2004, placed under criminal detention on the following day, and arrested on December 14 of the same year. He is currently being held in custody at the Changsha Detention Center.

Authorized defense attorney is Tong Wenzhong, a lawyer with the Tianyi Law Firm in Shanghai.

In Changsha Procuratorate Criminal Indictment No. 13 (2005), the Changsha People's Procuratorate charged defendant Shi Tao with committing the crime of illegally providing state secrets to foreign entities, and on January 31, 2005 it sent the case to this court for prosecution. This court formed a collegiate bench according to law and held a closed trial to hear this case. The Changsha People's Procuratorate sent prosecutor Su Shuangji to court to support the prosecution. Defendant Shi Tao and his defense attorney Tong Wenzhong were also in court to participate in the proceedings. This trial has now been concluded.

The Changsha People's Procuratorate charged that, from February 11 to April 22, 2004, defendant Shi Tao was employed by Hunan's *Contemporary Business News*, where he held the position of head of the Editorial Department. At around 5:00 on the afternoon of April 20, after a routine newspaper review meeting and a pre-editorial meeting, assistant editors-in-chief of *Contemporary Business News* Wang XX and Yang XX convened a special meeting of the heads of the newspaper's Front Page News Department, the Mobile Hotline Department, and the Editorial Department. During this special meeting, Wang XX verbally communicated a summary of the main contents of a top-secret document issued by the General Office of the Central Committee of the Communist Party of China (CPC) and the General Office of the State Council entitled "A Notice Regarding Current Stabilizing Work" (CPC General Office Document No. 11 [2004]). He also emphasized that this was a top-secret document and that notes must not be taken on it and that it should not be disseminated. However, defendant Shi Tao secretly did take notes on the summary of the document's main content. Between approximately 7:00 pm on that day and approximately 2:00 am the following morning, defendant Shi Tao used his personal email account (huoyan-1989@yahoo.com.cn) in his office to send the notes he had secretly taken on the above-mentioned summary of the main contents of CPC General Office Document No. 11 (2004) to the email account of Hong Zhesheng (carylung@aol.com), one of the founders of the "Asia Democracy Foundation" located in New York, USA and editor-in-chief of the foreign web site "Democracy Forum" and the electronic publication "Democracy News." He gave "198964" as the alias of the person who provided the document and asked Hong Zhesheng to find a way to distribute it as quickly as possible without using Shi Tao's name. That day, the above-mentioned summary of the main contents of CPC General Office Document No. 11 (2004) was posted for publication on the "Democracy Forum" under the name of "198964." It was later reposted for publication on other foreign web sites such as "Boxun News" and the "China Democracy & Justice Party."

Regarding the above-mentioned facts as charged, the prosecuting organ provided such corroborating evidence as the oral testimony of witnesses, a secrecy-degree verification certificate, related material and written evidence, materials on the process of taking Shi Tao into custody, photos of the crime scene and photos of material evidence, information proving the defendant's identity, and the defendant's confession. The procuratorate maintains that defendant Shi Tao's actions violated Article 110 of the "Criminal Law of the PRC" and that his actions constitute the crime of illegally providing state secrets outside of the country. It has sent the case to this court for prosecution, requesting that a verdict be passed according to law.

Neither defendant Shi Tao nor his defense attorney raised any objections to the criminal facts as charged in the indictment or to the characterization of this case. Defendant Shi Tao argued in his defense: "My criminal act of providing state secrets to foreign entities did not involve especially serious circumstances." His defense attorney stated: "Considering that defendant Shi Tao's actions did not cause extremely serious damage to state security or interests and that his attitude in admitting his crimes was good, please punish him leniently."

In the course of the trial it was determined that: In April 2001, defendant Shi Tao made the acquaintance of Hong Zhesheng (from China's Taiwan Province, resident of New York in the USA, and one of the founders of the Asia Democracy Foundation), editor-in-chief of the foreign web site "Democracy Forum" and the electronic publication "Democracy News." At approximately 5:00 on the afternoon of April 20, 2004, after a routine newspaper review meeting and a pre-editorial meeting, assistant editors-in-chief of *Contemporary Business News* Wang XX and Yang XX convened a meeting of senior staff of the newspaper's Front Page News Department, the Mobile Hotline Department, and the Editorial Department. Shi Tao, then head of the newspaper's News Center and Editorial Center, attended the meeting. During the meeting, Wang XX verbally communicated a summary of the main contents of a top-secret document issued by the General Office of the Central Committee of the Communist Party of China (CPC) and the General Office of the State Council entitled "A Notice Regarding Current Stabilizing Work" (No. 11 [2004] issued by the CPC General Office). He emphasized that this was a top-secret document and that notes must not be taken on it and that it should not be disseminated. Defendant Shi Tao took notes on this summary of the document's main contents. When Wang XX discovered that Shi Tao was taking notes, he reminded Shi Tao that he was not allowed to take notes. However, Shi Tao still made detailed notes in his notebook. That night at approximately 11:32 pm, defendant Shi Tao leaked this information to an overseas hostile element, taking advantage of the fact that he was working overtime alone in his office to connect to the internet through his phone line and use his personal email account (huoyan-1989@yahoo.com.cn) to send his notes on the above-mentioned summary of the main contents of CPC General Office Document No. 11 (2004). He also used the alias "198964" as the name of the provider and asked Hong Zhesheng to find a way to distribute the information as quickly as possible without using Shi Tao's name. That day, the above-mentioned summary of the main contents of CPC General Office Document No. 11 (2004) was posted for publication on the "Democracy Forum" under the name of "198964." It was later reposted for publication on other foreign web sites such as "Boxun News" and the "China Democracy & Justice Party."

The evidence demonstrating the above criminal facts is as follows: 1. A secrecy-degree verification certificate issued by the State Secrecy Bureau, which confirms that the sub-headings of the state secret materials illegally provided by defendant Shi Tao to foreign entities were basically the same as those in CPC General Office Document No. 11 (2004) (top-secret level) and that the basic content of CPC General Office Document No. 11 (2004) that was leaked should be classified as top-secret level state secrets. 2. Material evidence: (i) An email sent by Shi Tao at 11:00 p.m. on April 20, 2004 using his personal email account (huoyan-1989@yahoo.com.cn), in which he sent the summary of the contents of CPC General Office Document No. 11 (2004) to the email account of overseas hostile element Hong Zhesheng (carylung@aol.com). The general idea of the email was that Shi Tao

wanted Hong Zhesheng to find a way to distribute CPC General Office Document No. 11 (2004) as quickly as possible but that he should use "198964", rather than [the name] Shi Tao, as the name of the document's provider; the summary of the document was attached at the end. (ii) The summary of CPC General Office Document No. 11 (2004), downloaded from the Internet, where it was posted on foreign web sites and electronic publications such as "Democracy Forum," "Boxun News," and "China Democracy & Justice Party" under the name of "198964." These materials were identified by defendant Shi Tao, confirming that these materials were the same as the state secrets that he provided. (iii) Materials downloaded from the Internet that identify hostile element Hong Zhesheng and confirm that Hong Zhesheng is from China's Taiwan Province, resides in New York in the USA, is a founder of the Asia Democracy Foundation, and is editor-in-chief of the foreign web site "Democracy Forum" and the electronic publication "Democracy News." 3. Notes on evidence-taking and the material evidence of a notebook, confirming the fact that on December 6, 2004, defendant Shi Tao's wife Wang Ai provided the state security organ with a notebook found in their home containing Shi Tao's notes on the summary of CPC General Office Document No. 11 (2004). There was also a note recorded in Shi Tao's notebook reading "Meeting on April 20 to relay Propaganda Department document (top-secret) (CPC General Office Document No. 11 [2004]), notice from the CPC General Office regarding current stabilizing work," with a summary of the document appended at the end. This notebook was identified by defendant Shi Tao, confirming that he was the person who made the notes. (4. Account holder information furnished by Yahoo Holdings (Hong Kong) Ltd, which confirms that for IP address 218.76.8.201 at 11:32:17 p.m. on April 20, 2004, the corresponding user information was as follows: user telephone number: 0731-4376362 located at the *Contemporary Business News* office in Hunan; address: 2F, Building 88, Jianxiang New Village, Kaifu District, Changsha. 5. Photos taken at the scene and photos of related material evidence and written evidence. 6. Material evidence: (i) One envelope and one check sent by overseas hostile element Hong Zhesheng to defendant Shi Tao as payment for a manuscript. (ii) Another notebook of defendant Shi Tao's, in which was written the email address of overseas hostile element Hong Zhesheng. (iii) The notebooks of witnesses Wang XX and Peng Zhiguo, in both of which was written information on CPC General Office Document No. 11 (2004). 7. The testimony of witnesses Wang XX, Yang XX, and Peng Zhiguo, confirming that at approximately 5:00 on the afternoon of April 20, during a meeting especially convened by Wang XX of the newspaper's department heads, he verbally communicated a summary of the main contents of CPC General Office Document No. 11 (2004) and emphasized that it was a top-secret document that should not be disseminated; that defendant Shi Tao attended the meeting and took notes; that when Wang XX discovered that Shi Tao was taking notes, he especially reminded Shi Tao of the fact that he was not supposed to take notes; and that defendant Shi Tao worked the night shift that night. 8. The testimony of witnesses Yi Sufen, He Ping, Hu Youde, and Hong Yu, confirming that, when the department heads of the newspaper passed on the main points of a document issued by the Provincial Committee's Propaganda Department, if it had been emphasized not to circulate it and that it was a top-secret document, as newspaper employees they would all have regarded that document as a state secret. 9. Materials on the process of taking Shi Tao into custody. 10. Defendant Shi Tao's identity papers. 11. A *Contemporary Business News* employee registration form, confirming that defendant Shi Tao was employed by Hunan's *Contemporary Business News* from February 11, 2004 to April 22, 2004. 12. Written statements given by Shi Tao, and his confession, confirming that he confessed completely to the fact

that he intentionally and illegally provided state secrets to foreign entities. The above items of evidence corroborate with each other and are sufficient to establish the facts of this case.

This court finds that, in order leak information to hostile elements outside of the country, defendant Shi Tao intentionally and illegally provided information that he knew to be top-secret level state secrets to an entity outside of the country. Having endangered state security and involving especially serious circumstances, his actions constitute the crime of illegally providing state secrets to foreign entities. Therefore, the court accepts the prosecution's charge that Shi Tao's actions constitute the crime of illegally providing state secrets to foreign entities. Defendant Shi Tao argued in his defense: "My criminal act of providing state secrets to foreign entities did not involve especially serious circumstances." This was investigated and it was found that, according to Item 1 of Article 2 of the Supreme People's Court's "Explanation on Certain Questions Regarding the Specific Application of the Law when Trying Cases of Stealing, Gathering, Procuring, or Illegally Providing State Secrets or Intelligence Outside of the Country," stealing, gathering, procuring, or illegally providing state secrets are crimes with "especially serious circumstances." The state secrets that defendant Shi Tao illegally provided outside of the country were verified by the State Secrecy Bureau as being top-secret level state secrets, and his actions should be considered to involve especially serious circumstances. Therefore, the defense argument cannot be accepted by this court. Shi Tao's defense attorney stated: "Considering that defendant Shi Tao's actions did not result in causing extremely serious harm to state security or interests and that his attitude in admitting his crimes was good, please punish him leniently." This was investigated and found to conform with the facts; therefore, the opinion of the defense can be accepted by this court. In view of the facts above, and in accordance with Article 111, Paragraph 1 of Article 55, and Paragraph 1 of Article 56 of the "Criminal Law of the PRC," the following verdict is passed:

Defendant Shi Tao is sentenced to 10 years' imprisonment with two years' subsequent deprivation of political rights for committing the crime of illegally providing state secrets to foreign entities.

(The prison term is to be calculated starting on the day the verdict is implemented, with each day spent in detention prior to the implementation of the verdict to count as one day of the prison term; therefore, the term will run from November 24, 2004 to November 23, 2014).

If this verdict is not accepted, an appeal may be filed between two and ten days from the receipt of this verdict, either to this court or directly to the Hunan Province Higher People's Court. In case of a written appeal, the original appellate petition must be submitted together with one copy.

Presiding judge: Ouyang Hua

Judicial officer: Liu Zhiguo

Deputy judicial officer: Xie Shaoping