



HIGH COURT OF AUSTRALIA

Public Information Officer

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ANTHONY JOHN PINKSTONE v THE QUEEN

Interception of a drug consignment by police who disguised themselves as airline cargo staff to hand over the package did not prevent Mr Pinkstone's conviction for drug supply, the High Court of Australia held today. He argued he should only have been convicted of attempted supply.

In 1999 Mr Pinkstone delivered to Ansett at Sydney Airport two boxes, one containing cocaine and one containing methylamphetamine, to be collected at the cargo counter at Perth Airport. Before their dispatch, National Crime Authority officers photographed the boxes and kept them under surveillance until loaded on to an Ansett flight. At Perth Airport, two Western Australian Police officers dressed as Ansett cargo staff told a man who arrived to collect the cocaine box that the flight had not yet arrived and he went away. When the flight arrived the boxes – each holding a safe containing the drug in a cashbox – were videotaped and marked. Wayne Yanko collected the methylamphetamine he was followed and the box was recovered. Mr Pinkstone was convicted in 2001 in the WA Supreme Court of two counts of supplying a prohibited drug under section 6(1)(c) of the Misuse of Drugs Act. He was sentenced to 10 years and six months' jail on each count, converted to an aggregate sentence of 12 years and 3½ months, with no parole. The Court of Criminal Appeal dismissed Mr Pinkstone's appeal against conviction but re-sentenced him to an aggregate term of 12 years' jail with eligibility for parole.

Only the methylamphetamine supply charge was the subject of an appeal to the High Court. Mr Pinkstone argued the police intervention at Perth Airport severed the chain of causation between his consignment of the box at Sydney Airport and the receipt of that box by Mr Yanko. He claimed that because the police officer who handed over the box to Mr Yanko was not acting as his "innocent agent", the drug was not supplied to Mr Yanko on Mr Pinkstone's behalf, so he was merely guilty of attempted supply which carries a maximum jail sentence half that for supply.

The High Court held that Mr Pinkstone's liability did not depend on actual delivery of the drug to Mr Yanko, whether by Ansett or the police. It held that the police officer's action in handing over the drug parcel to Mr Yanko could not be imputed to Mr Pinkstone, as the officer was not a mere agent, but that did not change the outcome in Mr Pinkstone's favour. The definition of supply in the Act included forwarding, sending or delivery, and did not suggest that receipt by an intended recipient was a necessary element. Therefore there was no miscarriage of justice.

The Court, by a 4-1 majority, dismissed Mr Pinkstone's appeal.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*