



HIGH COURT OF AUSTRALIA

Public Information Officer

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CHAD JOHNSON v THE QUEEN

The Western Australian Court of Criminal Appeal made errors in reviewing the prison sentence of a convicted drug courier, the High Court of Australia held today.

Mr Johnson's co-accused, Jurgen Helmut Schwarz, was apprehended as he arrived in Perth in November 2000 carrying 5,533 ecstasy tablets and almost 1.5kg of cocaine. He agreed to participate in a controlled delivery of material substituted for the confiscated drugs. Mr Schwarz checked into a hotel in the suburb of Como and by arrangement Mr Johnson arrived to collect the supposed drugs. The Australian Federal Police arrested him as he left the hotel room and arrested Phillip David Smart who was waiting with \$10,688 in Mr Johnson's sister's car outside the hotel. Mr Johnson was charged with attempting to obtain a commercial quantity of ecstasy (more than 500 grams) and attempting to obtain a trafficable quantity of cocaine (between two grams and 2kg).

Mr Johnson pleaded guilty in the WA Supreme Court. Justice Graeme Scott said the appropriate sentence for the first count was 10 years' jail and for the second count five years' jail, to be served cumulatively. The sentence for the second count was reduced on account of the totality principle. The total sentence of 15 years was reduced by a further 3½ years for Mr Johnson's guilty plea to 11½ years, with a 5½-year non-parole period.

Mr Johnson's appeal against his sentence was rejected by the CCA. He contended that he collected only one package with no knowledge of the particular drugs he was collecting, and that insufficient allowance was made for the fact that the offences arose from a single course of conduct.

The High Court held that the two offences had much in common, including one inducement, one payment, one occasion, one package and one receipt of it, and that the CCA had made factual errors in its reasoning.

The High Court unanimously allowed the appeal and remitted the matter to the CCA for reconsideration of Mr Johnson's sentence in accordance with the Court's reasons.

- *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.*