



HIGH COURT OF AUSTRALIA

Public Information Officer

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STEVEN ADAMS v THE QUEEN

There was no legal or factual basis for a shorter sentence for a person convicted of possessing a commercial quantity of ecstasy on the ground that ecstasy was less harmful than heroin, the High Court of Australia held today.

Mr Adams, an American citizen, was convicted in the Victorian County Court in 2004 of possessing prohibited imports, which were almost 20kg of a mixture containing almost 9kg of MDMA, or ecstasy. He was charged under the *Customs Act* following the interception of containers shipped from overseas. The trafficable quantity of MDMA was 0.5 grams; that of heroin or cocaine was two grams. The commercial quantity of MDMA was 0.5kg; that of heroin was 1.5kg; that of cocaine 2kg. Offences involving a trafficable quantity of any form of narcotic carry a penalty of up to 25 years' jail and/or a fine of \$500,000. Offences involving commercial quantities carry a maximum penalty of life imprisonment and/or a fine of \$750,000. Mr Adams was sentenced to nine years' jail, on top of 260 days already in custody, with a non-parole period of seven years.

In sentencing Mr Adams, Judge Anthony Duckett said that the courts treat ecstasy, for sentencing purposes, as being similar to heroin. Mr Adams argued that this was an error and that he should have been sentenced on the basis that MDMA was less harmful than heroin. He appealed unsuccessfully to the Victorian Court of Appeal. He then appealed to the High Court.

Four Justices of the Court dismissed his appeal and the fifth Justice would have revoked special leave to appeal. The Court held that generalisations seeking to differentiate between the evils of the illegal trade in heroin and MDMA could not be sustained by evidence. Furthermore, the *Customs Act* fixed the penalties for drug importation offences and the courts could not apply a harm-based gradation of penalties that cut across the legislative scheme. There was nothing in the Act, or the evidence, or the available knowledge or opinion which required or permitted a court to sentence on the basis that possessing a commercial quantity of MDMA was in some way less anti-social than possessing a commercial quantity of heroin. The Court held that Mr Adams had failed to demonstrate either a legal or a factual foundation for the contention that he should have been sentenced on the basis that MDMA was less harmful than heroin.

- *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.*