



HIGH COURT OF AUSTRALIA

Public Information Officer

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JURE JACK RONCEVICH v REPATRIATION COMMISSION

A soldier who injured his knee when he fell from a window after drinking a large quantity of beer may be entitled to compensation, the High Court of Australia held today.

Mr Roncevich was a non-commissioned officer (NCO) in the Australian Army from 1974 to 1998, rising to warrant officer (class 1) at the time of his voluntary discharge. On 27 February 1986, Mr Roncevich, then a sergeant, attended drinks and dinner for a visiting senior officer at the Sergeants' Mess at Holsworthy Military Barracks in Sydney where he was stationed. NCOs on base were expected to attend such functions for distinguished visitors. Mr Roncevich had drunk six to eight cans of full-strength beer before excusing himself to change into civilian clothes and to iron his uniform for the next day. In his room, on the second floor of the barracks, he opened his window and stood on a trunk beneath the window to lean out to spit. He overbalanced and fell to the ground, causing an internal derangement of his left knee.

On his retirement from the Army, Mr Roncevich made a claim under the *Veterans' Entitlements Act* seeking compensation for various injuries he suffered during his service, including the knee injury. The Repatriation Commission rejected the claim for the knee, a decision upheld by the Administrative Appeals Tribunal (AAT). The Federal Court of Australia held that the AAT's decision was affected by error of law and the matter was remitted to the AAT for a fresh hearing. The AAT again rejected Mr Roncevich's claim, holding that his injury was caused by intoxication and did not occur in the course of his defence service. The Federal Court and the Full Court of the Federal Court, by majority, upheld this decision. Mr Roncevich appealed to the High Court.

The Court unanimously allowed the appeal. It held that the AAT, in asking itself whether Mr Roncevich's intoxication was caused by, or arose out of, a task that he had to do as a soldier, it posed the wrong question. Under section 70(5) of the Act, the question the AAT should have asked was whether the injury arose out of, or was attributable to, any defence service by Mr Roncevich. Evidence in the case showed a requirement and an expectation of attendance at the Mess and the consumption of alcoholic drinks. Mr Roncevich's need to return to his quarters to prepare his uniform for the next day was also capable of being seen to have arisen out of, or to have been attributable to, his defence service. On the remaining question whether climbing on to the box and falling through the window because he was intoxicated was also related to his defence service, the Court held that it was relevant that there was no suggestion of misconduct or a breach of discipline, and that the inebriation and the accident while performing the duty of preparing a uniform occurred on base. The Court also held that the terms "arising out of" and "attributable" gave "defence-caused" a broad meaning. It held that it was not appropriate for the High Court or the Federal Court to decide the ultimate question whether Mr Roncevich's injury was defence-caused, and remitted the case to the AAT to be determined according to law.

- *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.*