



## HIGH COURT OF AUSTRALIA

Public Information Officer

9 March 2006

### KEVIN PHILIP NUDD v THE QUEEN

Mr Nudd complained that he was incompetently represented after he was convicted of being knowingly concerned in the importation of cocaine. The High Court of Australia dismissed his appeal, saying that no miscarriage of justice had occurred.

In the Queensland Supreme Court in 2003, Mr Nudd was convicted and sentenced to 22 years' jail with a non-parole period of 11 years. Police and Customs had intercepted the yacht *Sparkles Plenty* in Moreton Bay near Brisbane in May 2001 and found 89 kilograms of cocaine (plus some water-damaged packets of the drug). Mr Nudd was apprehended at the same time in Los Angeles where he was living and later extradited to Australia. Aboard the yacht were American father and son Peter and Gareth Jackson, who left Mexico on the yacht 12 months earlier. The yacht sat in Noumea for five months before making the final leg to Australia. During that time, the Jacksons spent three months in Sydney while buyers were sought, then returned to the US when their visas expired. While they were in Sydney, Mr Nudd's sister attempted to obtain a false passport for Peter Jackson but was unsuccessful. Mr Jackson then obtained one in the US and flew to Noumea to sail the yacht to Australia. Police had installed listening devices in the Jacksons' Sydney hotel room and taped telephone conversations, including 11 with Mr Nudd. He allegedly helped with arrangements to get the cocaine to Australia, put Peter Jackson in contact with another American, Jorge Velarde, who was to help with distribution of the cocaine, assisted Mr Jackson to obtain the false passport, and resolved various problems that arose.

At the trial his defence counsel was under a misapprehension as to the elements of the offence which the trial judge, Justice Anthe Philippides, corrected. In the Court of Appeal, Mr Nudd claimed that his trial counsel had failed to give him proper advice, had made admissions of fact, had failed to object to prejudicial material in the telephone tapes being admitted, and should have called him to give evidence. The appeal was dismissed and Mr Nudd appealed to the High Court.

The Court unanimously dismissed the appeal and upheld the Court of Appeal's decision. The Court held that the case against Mr Nudd was very strong and any errors that might otherwise have caused the trial to miscarry were properly corrected by Justice Philippides. The Court held that there had been no departure from the requirements for a fair trial and that the tactics of inexperienced counsel had not affected the fairness of the process.

- *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.*