



HIGH COURT OF AUSTRALIA

8 March 2017

PRIOR v MOLE
[2017] HCA 10

Today the High Court, by majority, dismissed an appeal from a decision of the Court of Appeal of the Supreme Court of the Northern Territory. The High Court held that the apprehension of the appellant, Mr Prior, pursuant to s 128(1) of the *Police Administration Act* (NT) ("the PAA"), was not unlawful, because it was open for a court to find that the apprehending officer had reasonable grounds to believe Mr Prior was likely to commit an offence.

Section 128(1) of the PAA, relevantly, allows a member of the Police Force of the Northern Territory to apprehend without warrant a person who the member has reasonable grounds for believing is intoxicated, is in a public place, and that, because of the person's intoxication, the person may intimidate, alarm or cause substantial annoyance to others, or is likely to commit an offence. Before his apprehension, Mr Prior was drinking liquor with two other men on a footpath in front of a set of shops, including two shops selling liquor. He was intoxicated. When a police car, driven by Constables Fuss and Blansjaar, drove by he made an offensive gesture and shouted abuse. The officers parked the car in front of the men and asked Mr Prior to speak to them. Mr Prior was belligerent and aggressive. Mr Prior was apprehended by Constable Blansjaar pursuant to s 128(1) of the PAA because Constable Blansjaar believed that, because of Mr Prior's intoxication, he might intimidate, alarm or cause substantial annoyance to people, and that it was likely he would commit the offence of drinking in a regulated place contrary to s 101U of the *Liquor Act* (NT) ("the Liquor Act offence").

After being taken into custody, Mr Prior engaged in conduct which led to him being charged with assaulting a police officer in the execution of duty and public indecency. He was convicted of those offences upon a trial in the Court of Summary Jurisdiction. That Court found Mr Prior had been lawfully apprehended pursuant to s 128(1) of the PAA. On appeal to the Supreme Court, Southwood J was satisfied beyond reasonable doubt that there were reasonable grounds for Constable Blansjaar's belief that, because of his intoxication, Mr Prior was likely to commit the Liquor Act offence. Mr Prior's convictions were, however, set aside by Southwood J, and subsequently restored by the Court of Appeal, on grounds not subject of appeal to the High Court. The Court of Appeal upheld Southwood J's conclusion that Constable Blansjaar had reasonable grounds for believing that it was likely Mr Prior would commit the Liquor Act offence.

By grant of special leave, Mr Prior appealed to the High Court, arguing the Court of Appeal erred in holding Constable Blansjaar was entitled to rely on his policing experience in deciding that he had reasonable grounds for believing that Mr Prior would commit the Liquor Act offence. The High Court held, by majority, that the lack of precise particularisation of Constable Blansjaar's experience did not deprive the Court of Appeal of its capacity to assess the reasonableness of his belief. It was fair for the Court of Appeal to infer that Constable Blansjaar's belief about how Mr Prior was likely to behave was informed at least in part by Constable Blansjaar's experience in dealing with other intoxicated people, and it was open to hold that, based on Constable Blansjaar's experience, it was reasonable for him to believe that Mr Prior was likely to continue drinking liquor in a regulated place. The High Court also rejected a separate argument that the apprehension of Mr Prior exceeded the limits of the s 128(1) power.

- *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.*