



HIGH COURT OF AUSTRALIA

12 August 2026

FARRUGIA v THE KING
[2026] HCA 28

Today, the High Court by majority dismissed an appeal from a judgment of the Court of Criminal Appeal of the Supreme Court of New South Wales.

The appellant, his co-offender Mr Kanmaz, and other conspirators were participants in a criminal group which organised the importation of border-controlled drugs for wholesale distribution and sale on the domestic market. The appellant pleaded guilty to a charge of conspiring to traffic a commercial quantity of controlled drugs ("the conspiracy offence"). He also pleaded guilty to a charge of dealing with proceeds of crime. Mr Kanmaz also pleaded guilty to the conspiracy offence and to a charge of dealing with proceeds of crime.

Prior to the sentencing hearing in the District Court of New South Wales, the Crown filed written submissions contending that Mr Kanmaz's conduct in committing the conspiracy offence "approach[ed] the higher end of the mid-range" of such offences whereas the appellant's conduct fell "within the mid-point of the mid-range". The Crown submitted Mr Kanmaz should receive a more substantial penalty than the appellant.

The same Senior Counsel appeared at the sentencing hearing in the District Court for both the appellant and Mr Kanmaz. Senior Counsel submitted, contrary to the submission of the Crown, that the objective seriousness of the appellant's offending was greater than that of Mr Kanmaz, but also contended that the offending of each offender should be characterised as less serious than that contended for by the Crown. The sentencing judge found that the appellant was more involved than Mr Kanmaz in the criminal enterprise, and the appellant received a longer custodial sentence than Mr Kanmaz.

The appellant applied to the Court of Criminal Appeal for leave to appeal against his sentence. The appellant contended that the exercise of the sentencing discretion had been vitiated because of a procedural irregularity, in that Senior Counsel was placed in a position of conflict between his duty to the appellant and his duty to Mr Kanmaz. The appellant did not adduce evidence before the Court of Criminal Appeal as to any advice he received from, or the instructions he gave to, Senior Counsel. The Court of Criminal Appeal granted leave to appeal but dismissed the appeal, finding that the evidence did not establish that Senior Counsel was conflicted.

The High Court by majority held that the Court of Criminal Appeal was correct to conclude that, in the absence of any direct evidence as to any advice the appellant received from, or the instructions he gave to, Senior Counsel, the appellant did not establish that Senior Counsel had a conflict or that there was a real or substantial possibility of conflict. A majority of the Court held that it was not demonstrated that any practical injustice was occasioned to the appellant, in that it was not shown that he was denied a reasonable opportunity to present his case.

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.