



NEWS RELEASE

The Scottish Criminal Cases Review Commission ('the Commission') has referred the case of Liston Craig Pacitti to the High Court of Justiciary.

In accordance with the Commission's statutory obligations, a statement of reasons for its decision has been sent to the High Court, the Lord Advocate and Crown Office. The Commission has no power under its founding statute to make copies of its statements of reasons available to the public.

On 19 December 2017 at Dundee Sheriff Court the applicant pled guilty to an amended charge of culpable and reckless conduct by supplying substances known as "legal highs" or "New Psychoactive Substances". On 24 April 2018 the sheriff sentenced him to 4 years and 6 months reduced from 6 years. His co-accused, Paul Brocklehurst, pled guilty to the same offence but in different circumstances and was also sentenced to 4 years and 6 months' imprisonment. The applicant's sentence appeal was refused after a hearing on 26 June 2018. However, Mr Brocklehurst's sentence appeal was successful and on 16 October 2018 the appeal court reduced his sentence to 3 years and 9 months. The court agreed with his submissions that the sheriff had erred by firstly not distinguishing his sentence from the applicant's but also in relying upon provisions within the New Psychoactive Substances Act 2016 which was not in force at the time of the offence and the English Sentencing Council's Guidelines for Drugs Offences.

The Commission has decided to refer the applicant's sentence to the High Court of Justiciary. The Commission considers that the sheriff may have erred in considering the provisions contained within the Psychoactive Substances Act 2016 and the English sentencing guidelines and as a result a miscarriage of justice may have occurred.

This release is for information purposes only and the content of this news release should not be treated as forming part of the Commission's statement of reasons.

Notes for Editors

The Scottish Criminal Cases Review Commission was established as an independent body on 1 April 1999 to review alleged miscarriages of justice in Scottish convictions and/or sentences. Under section 194 A to L of the Criminal Procedure (Scotland) Act 1995 (as inserted by section 25 of the Crime and Punishment (Scotland) Act 1997) the Commission can refer a case to the High Court if it believes that a miscarriage of justice may have occurred and that it is in the interests of justice that a reference should be made. Once a case is referred to the High Court by the Commission, it will proceed as a normal appeal.

The Commission operates with a Board of 8 Members, one of whom is the Chairperson, a Chief Executive, a Director of Corporate Services, a Head of Casework, 2 Senior Legal Officers, 5 Legal Officers and administrative support staff.

In terms of its disclosure policy, the Commission will disclose the fact that a case has been referred. However, as it operated under strict statutory non-disclosure provisions, the Commission will not disclose any further information about such cases.

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