

Justice

Indecent Publications Act 1963

Decision No. 25/88

Reference No.: IND 10/88

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publications: *Colt Studio Presents All American Jocks*, (Issue 9), publisher Colt Studio Inc, USA; *Olympus*, Vol. 1, No. 5, publisher not known:

Chairman: Judge R. R. Kearney.

Members: R. Barrington, A. J. Graham, K. Hulme and S. C. Middleton.

Hearing at Wellington on the 12th day of April 1988.

Appearances: M. J. Wotherspoon appeared for Comptroller of Customs. G. A. Ireland counsel for the Lawrence Publishing Company of New Zealand Ltd.

Decision

These publications were privately imported at Auckland in December 1987, and subsequently seized by the Collector of Customs at Auckland. The importer has disputed forfeiture and the books have accordingly been referred to the Tribunal prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Both of these publications consist essentially of photographs with a small amount of accompanying text and those photographs are principally of the nude or semi-nude male with occasional photographs of two or more males. Some of the photographs in each of the magazines cause the tribunal some concern, but that concern was insufficient to warrant an unconditional indecent classification.

The Tribunal is satisfied however, that both publications would be injurious to younger readers, and accordingly classifies each as indecent in the hands of persons under the age of 18 years.

Dated at Wellington this 21st day of June 1988.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go10512

Decision No. 24/88

Reference No.: IND 9/88

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publication: *Erotic Hands*, publisher not known :

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, K. Hulme, and S. C. Middleton.

Hearing at Wellington on the 11th day of April 1988.

Appearances: M. J. Wotherspoon appeared for Comptroller of Customs. No appearance on behalf of importer.

Decision

This publication was privately imported at Auckland on 4 January 1988, and seized by the Collector of Customs. The importer has disputed forfeiture and the book has therefore been referred to the Tribunal prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Following notification by the Indecent Publications Tribunal,

that this matter would be the subject of a public hearing, the importer wrote to the Tribunal that he would like to make submissions in respect of the matter before the Tribunal. The Tribunal received and considered a very lengthy typewritten submission from the importer but neither the time available for the preparation of decisions, nor the workload on the Tribunal permits that they care for analysis of that submission.

The Tribunal agrees with the Comptroller of Customs that this is a poor quality hardcore pornographic homosexual magazine that deals in a most explicit way with the practice of 'fisting' or the insertion of the hand into the anus and then forming a clenched fist. The Tribunal on a viewing of the publication was unanimous that it was clearly injurious to the public good to have such a publication available in this country and accordingly classifies this publication as unconditionally indecent.

Dated at Wellington this 21st day of June 1988.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.
go10513

Decision No. 6A/88

Reference No.: IND 5 and 6/86

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for a decision in respect of the following publications: *Knave*, Volume 17, No. 11 and 12; *Knave*, Volume 18, No. 1; *Fiesta*, Volume 19, No. 12; *Fiesta*, Volume 20, No. 1 and 2:

Chairman: Judge R. R. Kearney.

Members: R. Barrington, A. J. Graham, K. Hulme and Dr S. Middleton.

Hearing at Wellington on the 11th day of April 1988.

Appearances: G. F. Ellis for Publisher and Importer, M. Wotherspoon for Comptroller of Customs.

Decision of a Minority: Ms R. Barrington

The publishers and importers of these magazines sought a restriction order in respect of these publications under section 15A of the Indecent Publications Act 1963. The effect of the granting of such an order is that for a period of time not exceeding 2 years every issue of these magazines imported into New Zealand would automatically be given the same classification as that determined for these particular issues; that is indecent in the hands of persons under the age of 18 years. I oppose the granting of such an order for two sets of reasons; firstly relating to the consistency and content of the magazines; and secondly, to the way in which the distributors intend to market this magazine, and the lack of control over these outlets.

Firstly the consistency and content of *Knave* and *Fiesta*. The Tribunal had before it 18 past copies of *Knave* and 33 copies of *Fiesta* and three issues of each magazine intended for future distribution.

Counsel for the publishers outlined the "John Menzies Guidelines" and the Galaxy Publications Ltd. Advertising Guidelines with which it was agreed the magazines are required to comply when for sale in the United Kingdom. The detailed aspects of these guidelines include specifying what is allowable on the covers, in photographs, text and advertisements of the magazines, the distribution of the magazines and the display and sale of the magazines.

To expand upon these, the magazines should not on their covers "show a detailed photograph of the vaginal area, penis, testes, or anus, nor should it allow any sexual activity or over provocative pose by the model."

The advertising guidelines state that for photographs or