

CS-48768 / 4102-07-0155

BETWEEN:

(CLAIMANT)

[REDACTED]

and

(ISSUING OFFICE)

Canada Border Services Agency  
Fort Erie – Commercial  
Fort Erie, ON

CASE SYNOPSIS AND REASONS FOR DECISION

The claimant is seeking a ministerial review of the above-noted enforcement action, which was issued by CBSA officials at Fort Erie - Commercial, on July 31, 2007.

The evidence in the reports made pursuant to section 128 of the *Customs Act* show that on July 31, 2007, officers examined shipment [REDACTED] at the UPS warehouse. The shipment declaration indicated "4 pocket knives". Officers found that if a button was pressed and a flick of the wrist, the knives would spring to the open position. It was this spring-loaded action that caused the knives to be prohibited entry. The knives were seized against the shipper.

Following the issuance of this enforcement action, the claimant submitted a request for a decision of the Minister in accordance with section 129 of the *Customs Act*. The claimant appealed this action stating that these knives are not "spring loaded prohibited knives" as described in the seizure documents. The claimant indicates that a misunderstanding of the "Speedsafe" system is at the origin of the seizure. As part of the claimant's submission, he included a portion of the manufacturers description of this system. Specifically, "Is a SpeedSafe knife a switchblade? NO! There are many unique features of Speedsafe knives that make them quite different than knives that are considered switchblade. Unlike a switchblade, Speedsafe knives DO NOT deploy with the push of a button in the handle or by gravity alone. Instead, the user must manually overcome the torsion bar's resistance—using the thumb stud or index-open protrusion on the blade itself—in order to engage the SpeedSafe system." The claimant also indicates that the knives are sold throughout Canada and the US and he has purchased these knives, both before and after this seizure action without any issues. As part of his submissions, the claimant included an online advertisement selling the knives in Canada.

To prove that he was the legal owner of the goods, the claimant provided copies of emails showing the e-mail confirming the sale on June 18<sup>th</sup>, 2007 and the method of payment for the same day. Finally, he states that he has regularly purchased this type of knife in the US and have never had these problems. He indicates that sometimes the CBSA has opened the shipments and inspected them but they have never been stopped.

On November 6, 2007, the Agency served upon the claimant a Notice, pursuant to section 130 of the *Customs Act*, informing the claimant that the enforcement action was taken as goods were unlawfully imported by reason of non-report. In this correspondence, we

requested an explanation as to why [REDACTED] was indicated as the shipper and on the receipt. The claimant was also informed that any further representations should be submitted within 30 days.

A postscript was sent to the issuing office requesting an explanation of whether the knives had been sent for determination and if so if they could submit a copy of that determination.

As requested, the issuing office forwarded additional submissions, including, a copy of the determination that indicates that the goods are not deemed to be "prohibited".

Following the Notice of Reasons for Action, the claimant submitted additional correspondence and representations. The claimant disputes the seizing officer's belief that the goods were prohibited and explained the name on the receipt. These representations were acknowledged by the Agency on December 13, 2007.

No further representations have been received to date.

Under the provisions of section 12 of the *Customs Act*, all goods imported into Canada must be reported in accordance with the *Regulations Respecting the Reporting of Imported Goods*.

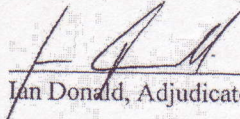
The evidence submitted by the issuing office does establish that goods were determined to not be prohibited weapons as defined in Section 84(1) of the Criminal Code and Customs D-Memorandum D19-13-2.

Under the provisions of section 131, the Minister shall consider and weigh the circumstances of this case and decide with respect to the Kershaw knives.

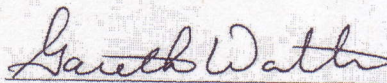
**BE IT DECIDED THAT:**

Under the provisions of section 131 of the *Customs Act*, there has not been a contravention of the *Customs Act* or the Regulations with respect to the goods seized.

Under the provisions of section 132 of the *Customs Act*, removal from custody of the seized Kershaw knives is hereby forthwith authorized. If release of the goods is not taken on the foregoing terms within 30 days from the date of this Notice, they will be considered as unclaimed and disposed of.

  
\_\_\_\_\_  
Ian Donald, Adjudicator

15/2/2008  
Date

  
\_\_\_\_\_  
~~Marilyn Fox, Manager~~ Senior Program Advisor

Feb 15/08  
Date