

United States v. Hollinshead, [495 F.2d 1154 \(9th Cir. 1974\)](#).

Location: Transportation of property in California stolen in Guatemala.

Applicable Laws: [National Stolen Property Act](#) (NSPA) ([18 U.S.C. §§ 2314 et seq.](#))

Where Laws Apply: *National Stolen Property Act*: Applies to “goods, wares, merchandise, securities, or money” valued at \$5,000 or more, which have been “stolen, converted or taken by fraud” then ***transported, transmitted, or transferred in interstate or foreign commerce***. (*Emphasis added*) (jurisdiction is over the trafficking in the United States – property may be stolen in the United States or abroad).

Holding: Enforcement of the NSPA was upheld in this California case in which property was stolen from outside of the United States. The government only needs to prove that the defendant knew that the property was stolen. The government does not need to prove that the defendant knew from where the property was stolen much less the laws of the place from where the property was in fact stolen.

General Facts:

Hollinshead, a dealer in Pre-Columbian art based out of California, helped finance the smuggling of pre-Columbian artifacts from Central America to the United States. The artifact at the center of the controversy in this case was a pre-Columbian stele – a large stone tablet decorated with often very elaborate engravings – from a Mayan ruin in Guatemala. Hollinshead and several other co-conspirators cut the stele into several pieces and packaged it at Fell’s fish packing plant in Belize. The boxes were then shipped to Miami, Florida and the co-conspirators made several attempts to sell the stele to museums and art dealers. Eventually the stele was shipped to California where Hollinshead himself attempted to sell it.

Procedural Posture:

Hollinshead and Fell were prosecuted under the National Stole Property Act (NSPA) for conspiring to transport stolen property in interstate commerce and for causing the transportation of such property in interstate commerce. The United State District Court for the Central District of California found Hollinshead and Fell guilty of violating the NSPA for their conspiracy to transport the stele in foreign commerce.

Court Holding and Reasoning:

Hollinshead and Fell appealed their conviction arguing that the judge had “erroneously instructed the jury that there is a presumption that every person knows what the law forbids”—in more specific terms, that Hollinshead and Fell were aware that under the law of Guatemala the stele was considered stolen property. The Ninth Circuit court held that, although the judge’s instruction may have been in error, the error was not prejudicial. Under the NSPA, the

government was required to prove only that Hollinshead and Fell knew that the stele was stolen—several witnesses testified at trial that both Hollinshead and Fell knew that the stele was considered stolen property. Under the NSPA, the government did not need to prove that Hollinshead and Fell knew from where the stele was stolen. Therefore, the government did not need to prove that Hollinshead and Fell knew the law of the place from where the stele was stolen. The defendants' knowledge of Guatemala law was only relevant to the extent required to show that Hollinshead and Fell were aware that the stele was stolen.

The Ninth Circuit upheld the convictions of Hollinshead and Fell for conspiracy to transport stolen property and for causing the transportation of stolen property in interstate commerce in violation of the NSPA. As stated in the NSPA, “whoever transports, transmits, or transfers in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of \$5,000 or more, knowing the same to have been stolen, converted or taken by fraud...Shall be fined under this title or imprisoned not more than ten years, or both.”