

Action No.: 070116371Q3

E-File No.: [REDACTED]

Appeal No.: _____

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE OF CALGARY

HER MAJESTY THE QUEEN

v.

[REDACTED]

Accused

TRIAL
EXCERPT

Calgary, Alberta
September 17, 2009

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1 Proceedings taken in the Court of Queen's Bench of Alberta, Calgary Courts Centre,
2 Calgary, Alberta

4 September 17, 2009

Afternoon Session

6 The Honourable
7 Mr. Justice Hawco

Court of Queen's Bench
of Alberta

9 B. Holtby, Q.C.

For the Crown

10 P. Fagan Q.C.

For the Accused

11 K. Izoria

Court Clerk

12 Linda Kimball, CSR(A)

Official Court Reporter

15 **Reasons for Judgment**

17 THE COURT:

This case has a terrific amount of circumstantial

18 evidence. When a court is faced with circumstantial evidence, there must be no other
19 reasonable conclusion to draw from the inferences sought to be or from the facts to the
20 inferences that the Crown must establish and have the court accept.

21
22 We are all aware of the Supreme Court's pronouncements on reasonable doubt and
23 pronouncement upon pronouncement of -- of reasonable doubt. Reasonable doubt is the --
24 the Crown is not, of course, required to establish anything to a certainty but has to
25 establish it such that the jury or the trier of the fact, as in this case I am, must be sure that
26 the evidence leads to the conclusion that this person is guilty of both the trafficking and
27 the possession. I am not satisfied beyond a reasonable doubt that Mr. [REDACTED] is guilty of
28 either of these offences, so I find him not guilty of both.

29
30 The evidence with respect to Mr. [REDACTED] presence in the garage is simply insufficient
31 to enable the court to reach a conclusion beyond a reasonable doubt. He was not
32 unequivocally seen. All that were seen on the day in question, that is the 26th, was a pair
33 of pants that looked similar to the pants that the accused was wearing. That is certainly
34 not sufficient to base a conviction.

35
36 As I said, I find the accused not guilty. Thank you.

38 MR. HOLTBY:

Thank you, My Lord.

40 MR. FAGAN:

Thank you, My Lord

41

1 MR. HOLTBY:
2 the Crown.

I wonder if the exhibits could be forfeited to

4 THE COURT:

Of course.

6 MR. FAGAN:

By consent.

8 THE COURT:

Thank you.

11 JUDGMENT CONCLUDED

1 Certificate of Transcript

2
3 I, Linda Kimball, certify that the foregoing pages are a complete and accurate transcript of
4 the proceedings, taken down by me in shorthand and recorded by a sound-recording
5 machine and transcribed from my shorthand notes to the best of my skill and ability.
6

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10 Order No. 9504-14-1
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