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COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Shepherd, 2020 ONCA 565

DATE: 20200911

DOCKET: C67127

Juriansz, Tulloch and Jamal JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Ryan Shepherd

Appellant

Hubert Gonzalez, for the appellant

Bari Crackower, for the respondent

Heard: in writing

On appeal from the judgment of Justice David Salmers of the Superior Court of Justice, dated June 7, 2019, dismissing certiorari and upholding the order of Justice John F. Adamson of the Ontario Court of Justice, dated July 19, 2018.

REASONS FOR DECISION

[1] This is an appeal from the decision of a motion judge dismissing the appellant's application to quash his committal for trial on charges of trafficking in cocaine and possession of cocaine for the purpose of trafficking.

[2] On March 17, 2017, an undercover police officer went to the residence of John Fielding to purchase cocaine. He gave Fielding \$140 of pre-marked police buy money. Fielding told the officer “his guy” would be there soon. The appellant arrived at the residence and handed Fielding three bags, saying that there was “two half and a full”. Fielding gave the appellant an unknown amount of money and gave one of the bags to the officer. That bag contained cocaine.

[3] On March 29, 2017, the officer met with Fielding in a parking lot and purchased additional cocaine and provided additional pre-marked police buy money. The appellant had arrived at Fielding’s address before he left to meet with the officer and departed Fielding’s residence only after Fielding had returned. The appellant was arrested after he left Fielding’s residence and was found to be in possession of some of the police buy money the officer had earlier used to buy the cocaine from Fielding.

[4] Upon executing a search warrant at an address registered as the appellant’s in Ontario Ministry of Transportation records, the police found, in a locked bedroom, 8.9 g of cocaine, drug paraphernalia, and a notice of trial in the appellant’s name. The police had seized the key to the locked bedroom from the appellant on his arrest.

[5] The appellant points out that the motion judge mistakenly stated that Fielding was at the appellant’s address on March 29. The evidence was that the

appellant was at Fielding's address. We are not persuaded this difference is material. Fielding was with the appellant before and after the drug transaction and gave some of the police buy money to him.

[6] We agree with the motion judge's conclusion that a properly instructed jury acting reasonably could return verdicts of guilty on both counts.

[7] The appellant's possession of the police buy money following his departure from the Fielding residence shortly after the drug transaction was reasonably capable of supporting committal on the trafficking charge.

[8] The appellant's possession of the key to the locked bedroom at his registered address in which were found cocaine, drug paraphernalia and the notice of trial in his name was reasonably capable of supporting committal on the possession of cocaine for the purpose of trafficking charge.

[9] The appeal is dismissed.

"R.G. Juriansz J.A."

"M. Tulloch J.A."

"M. Jamal J.A."