

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: R. v. Hatcher, 2008 NSSC 427

Date: 20081217

Docket: CRH 300099

Registry: Halifax

Between:

Her Majesty the Queen

versus

June C. Hatcher

Judge: The Honourable Justice C. Richard Coughlan

Heard: December 16, 2008, in Halifax, Nova Scotia

Decision: December 17, 2008 (Orally)

**Written Release
of Decision:** April 27, 2011

Counsel: Timothy McLaughlin, for the Federal Crown
Peter Thorning, for the defence

Coughlan, J.: (Orally)

[1] June C. Hatcher is charged:

THAT on or about August 30, 2007, at or near Dartmouth, Regional Municipality of Halifax, Province of Nova Scotia, she did unlawfully have in her possession for the purpose of trafficking, in excess of three kilograms, Cannabis (marihuana), a substance included in schedule II of the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19 and did thereby commit an offence contrary to Section 5(2) of the said *Act*.

[2] On August 29, 2007, a parcel with an address label addressed to "Junie Hatcher, 47 Albro Lake Road, Apt. # 3, Dartmouth, N.S., B3A 3Y2" arrived at the Purolator Airfreight Terminal at the Halifax International Airport. It was one of four parcels which came to the attention of the Royal Canadian Mounted Police (R.C.M.P.). The parcel had a return address of A. Lee, in Richmond, British Columbia. The entire parcel was wrapped in clear plastic. Gregory Fraser, a retired R.C.M.P. officer, a peace officer working for the R.C.M.P., stated the officers were looking for parcels which were heavily sealed as marihuana has a strong odour and parcels containing marihuana are usually heavily sealed.

[3] Police sniffer dog, Boris, examined the parcel, among other parcels, and indicated a positive result, that is, the presence of drugs. The parcel was referred to

the Postal authorities and the parcel was opened. The parcel contained a green garbage bag with 15 packages of cannabis marihuana. The parcel weighed 9.08 kilograms and each of the 15 packages of cannabis marihuana weighed 450 grams, approximately one pound.

[4] The cannabis marihuana was removed and one gram of marihuana was placed in the parcel, as well as other objects to bring the weight of the parcel back to its original weight.

[5] On August 30, 2008, Cpl. Robert Burton, posing as a Canada Post employee, delivered the parcel with the address label addressed to Junie Hatcher and a small portion of the marihuana. Around noon, Cpl. Burton got out of a Canada Post truck at 47 Albro Lake Road and went to apartment #3. The doorbell was not working. Cpl. Burton knocked on the door. June Hatcher opened the door. She was wearing pajamas. It appeared Ms. Hatcher had just woke up. Cpl. Burton advised the parcel was for Junie Hatcher. Ms. Hatcher said “yes”. Cpl. Burton delivered the parcel. Ms. Hatcher said “thank you” and Cpl. Burton left. Cpl. Burton did not smell marihuana when he delivered the parcel.

[6] At approximately 12:21 p.m. on August 30, 2008, Gregory Fraser was advised a lady was leaving the building at 47 Albro Lake Road. He went to Ms. Hatcher. She was wearing pink pajamas and a jacket. Mr. Fraser seized keys from Ms. Hatcher and opened the trunk of a car with one of the seized keys. The parcel delivered by Cpt. Burton was in the trunk. The address label to June Hatcher had been removed from the parcel.

[7] The Crown has proved identity, date and time of the offence and jurisdiction.

[8] There is no question the substance in the parcel seized was cannabis marihuana. The defence took no issue with the fact the substance was cannabis marihuana or with the continuity of exhibits.

[9] The offence of possession for the purpose of trafficking is set out in s. 5(2) of the *Controlled Drugs and Substances Act*:

Possession for purpose of trafficking - No person shall, for the purposes of trafficking, possess a substance included in Schedule I, II, III or IV.

[10] Traffic is defined in s. 2(1) of the *Controlled Drugs and Substances Act*:

“traffic” means, in respect of a substance included in any of Schedules I to IV,

(a) to sell, administer, give, transfer, transport, send or deliver the substance ...

[11] The defence submits on the facts of this case, there can be no presumption Ms. Hatcher knew the parcel contained a substance contained in Schedules I, II, III or IV of the *Controlled Drugs and Substances Act* for the following reasons: the parcel was not opened; the parcel was under Ms. Hatcher’s control for a brief period of time - 20 minutes to half an hour; the parcel did not have an odour and the person receiving it would not know what was in the parcel; just accepting a parcel does not mean a person knows what is inside the parcel. A person handling the parcel would not know what was inside it. Removal of the address label only shows the package was going to someone else.

[12] The Crown submits, considering the parcel was addressed to Junie Hatcher, she received the parcel and accepted it; she removed the label identifying herself as addressee; the parcel was clearly marked as to whom it was from; and Ms. Hatcher

was in control of the parcel. The inference to draw from all the evidence is that Ms. Hatcher was aware of the contents.

[13] Has the Crown established beyond a reasonable doubt Ms. Hatcher knew the substance was cannabis marihuana? In order for the Crown to prove such knowledge beyond a reasonable doubt, it must be established that such knowledge is the only reasonable inference to be drawn from the proven facts. The following are the proven facts: Ms. Hatcher was the named addressee of the parcel which contained 15 packages of cannabis marihuana, each weighing approximately one pound. The package was delivered to Ms. Hatcher at the address on the address label. The parcel had a name and address of the sender. Ms. Hatcher accepted the parcel. Ms. Hatcher was in her pajamas when she accepted the parcel.

Approximately 20 to 30 minutes after receiving the parcel, Ms. Hatcher, still in her pajamas and a jacket, had placed the parcel in the trunk of a car of which she had control. The address label with her name and address had been removed.

[14] I find the only reasonable inference to be drawn from the proven facts is Ms. Hatcher knew the parcel contained cannabis marihuana.

[15] Persons do not send the quantity of cannabis marihuana in the parcel to strangers. Ms. Hatcher was moving the parcel very quickly, not even taking the time to change out of her pajamas before putting the parcel in the car. The address label which connected the parcel to Ms. Hatcher had been removed.

[16] Ms. Hatcher knew the parcel contained cannabis marihuana.

[17] The evidence is clear the parcel delivered to Ms. Hatcher on August 30, 2007 contained a gram of cannabis marihuana.

[18] The quantity of cannabis marihuana contained in the parcel is clearly for the purposes of trafficking, not personal consumption. The defence does not dispute that point. Fifteen pounds of cannabis marihuana is too much for personal consumption. Such a quantity would have a value of \$20,000.00 or more. Ms. Hatcher had possession of the cannabis marihuana for the purpose of trafficking.

[19] Ms. Hatcher was transferring, transporting or delivering cannabis marihuana. She possessed cannabis marihuana, a substance named in Schedule II of the *Controlled Drugs and Substances Act*. Ms. Hatcher had the cannabis marihuana in

her possession for the purpose of trafficking. It does not matter Ms. Hatcher only had physical possession of one gram of cannabis marihuana. (see *R. v. Chan*, [2003] O.J. No. 3233 (Ont. C.A.))

[20] The Crown proved all essential elements of the offence beyond a reasonable doubt. On the evidence, I am satisfied beyond a reasonable doubt Ms. Hatcher had possession of the cannabis marihuana for the purposes of trafficking and find Ms. Hatcher guilty of the offence as charged.

Coughlan, J.