

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Boyer*, 2018 NSSC 351

Date: 20180726

Docket: Halifax No. CR 463048

Registry: Halifax

Between:

Her Majesty The Queen

v.

Jeffrey Michael Boyer

LIBRARY HEADING

Judge: The Honourable Justice C. Richard Coughlan

Heard: in Halifax, Nova Scotia on

November 17, 22, 23, 24, 27, 28, 29 and 30, 2017;
December 1, 2017; January 23 and 25, 2018; March 26, 27,
28, and 29, 2018; April 3, 4, and 5, 2018; and May 1, 2, 3, 4,
7, 14, 28 and 29, 2018

Oral Decision: July 26, 2018

Subject: Criminal Law – Offences – Conspiracy to traffic in cannabis
marihuana.

Summary: The accused was charged with six offences arising out of the
interprovincial trafficking in cannabis marihuana.
A number of couriers travelled from British Columbia to
Halifax and other cities in eastern Canada. The couriers
travelled with marihuana in their checked luggage. They
delivered the marihuana, waited for the cash and returned to
Vancouver with cash in their checked luggage. On flights
east from Vancouver marihuana was tightly packed in the
luggage and on flights returning to Vancouver large amounts
of cash was in the luggage.

Issues: Is the accused guilty of the offences with which he is charged.

Result: It was established beyond a reasonable doubt the accused was a member of the conspiracy to traffic in cannabis marihuana. The Crown having proved beyond a reasonable doubt the essential elements of the offences, the accused is guilty of the offences.

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28 and 29, 2018

Oral Decision: July 26, 2018

Written Decision: January 6, 2020

Counsel: Susan Y. Bour, for the Crown
Stanley W. MacDonald, Q.C. and J. Paul Niefer for the Accused

By the Court:

[1] In January 2015, Det. Cst. Nathalie Parel-May of the Vancouver Police Department on loan to the Royal Canadian Mounted Police (RCMP) was stationed at the Vancouver International Airport, She started an investigation about the transporting of marihuana in suitcases. The subject of the investigation was a Reece Germaine. During the next number of months this investigation, which was know in British Columbia as “Operation E-Prefer” and in Nova Scotia as “Operation Hagrid”, became extremely busy with a number of couriers travelling from British Columbia to Halifax and other cities in eastern Canada.

[2] The couriers travelled with marihuana in their checked luggage. They would deliver the marihuana, wait for cash and return to Vancouver with cash in their checked luggage. On flights east from Vancouver marihuana was tightly packaged in the luggage and on flights returning to Vancouver large amounts of cash was in the luggage.

[3] Investigative techniques employed included surveillance in British Columbia and Nova Scotia, “sneak and peek” examination of luggage at airports, tracking devices on motor vehicles and interception of cell phone data.

[4] Eventually Nova Scotia RCMP assumed primary control of the investigation with Sgt. Nancy Mason as lead investigator.

[5] Jeffrey Michael Boyer is charged with six offences arising out of the investigation – conspiracy to commit the indictable offence of trafficking in cannabis marihuana; conspiracy to commit the indictable offence of transporting currency obtained as a result of trafficking in cannabis marihuana; conspiracy to commit the indictable offence of possession of currency exceeding \$5,000 obtained by commission of an offence punishable by indictment; trafficking in cannabis marihuana; transporting currency obtained by commission of the offence of trafficking in cannabis marihuana; and possessing currency exceeding \$5,000 obtained by an offence punishable by indictment.

The Law of Conspiracy

[6] The Crown’s submission is that Mr. Boyer together with Stephen John Lockett were at the head of a group in which five couriers transported marihuana from British Columbia to Nova Scotia and other places, with the marihuana going east and money returning to British Columbia. The first three charges on the Indictment before the Court have to do with conspiracy.

[7] Section 465 (1) (c) of the *Criminal Code* provides:

465 (1) Except where otherwise expressly provided by law, the following provisions apply in respect of conspiracy.

...

(c) every one who conspires with any one to commit an indictable offence not provided for in paragraph (a) or (b) is guilty of an indictable offence and liable to the same punishment as that to which an accused who is guilty of that offence would, on conviction, be liable;

[8] The nature of the offence of conspiracy was set out by Coady, J. in giving the judgment in **R. v. Colpitts**, 2018 NSSC 40 at paragraphs 458 to 462:

458 ...

The gist of the offence is the agreement by two or more persons to perform an illegal act or to achieve a result by illegal means: *R. v. O'Brien*, [1954] S.C.R. 666 (S.C.C.) at pp. 668-669.

459 The essential elements of conspiracy are: 1) an intention to agree, 2) the completion of an agreement, and 3) a common unlawful design: *United States v. Dynar*, [1997] 2 S.C.R. 462, [1997] S.C.J. No. 64 (S.C.C.), at para. 86. Further, there must exist an intention to put the common design into effect: *O'Brien*, at p. 668; *Dynar* at para. 86. The offence of conspiracy is entirely complete upon the formation of the agreement.

460 In conspiracy cases, the focus of the inquiry is not on acts done in furtherance of the agreement (if any), but on whether there was an agreement and, if so, on what was agreed: *R. v. Root*, 2008 ONCA 869, [2008] O.J.No. 5214 (Ont. C.A.), leave to appeal denied [2009] S.C.C.A. No. 282 (S.C.C.), at para 67. Acts done in furtherance, however, “may help to establish the core element of conspiracy – the agreement”: para.67. As Rinfret J. wrote for the Supreme Court in *R. v. Paradis* (1993), [1934] S.C.R. 165 (S.C.C.) at p. 168:

Conspiracy, like all other crimes, may be established by inference from the conduct of the parties. No doubt the agreement between them is the gist of the offence, but only in very rare cases will it be possible to prove it by direct evidence. Ordinarily the evidence must proceed by steps. The actual agreement must be gathered from ‘several isolated doings’, ... having possibly little or no value taken by themselves, but the bearing of which one upon the other must be interpreted; and their cumulative effect, properly estimated in the light of all surrounding circumstances, may raise a presumption of concerted purpose entitling the jury to find the existence of the unlawful agreement.

461 Similarly, in *R. v. F. (J.)*, 2013 SCC 12, [2013] 1 S.C.R. 565 (S.C.C.), at para 44, the Supreme Court of Canada noted:

[A]greement is a central element to the offence of conspiracy. Conversely, an act done in furtherance of the unlawful object is not an element of the offence of conspiracy. Although such acts can serve as circumstantial evidence to support the existence of a conspiracy, they are not themselves a component of the *actus reus* of conspiracy. Indeed, a conspiracy can be established in the absence of any overt acts done in furtherance of its unlawful object.

462 The individual participants in a conspiracy need not know each other, nor communicate directly with one another: *Root*, at para. 68. Their respective roles may vary in nature, importance and duration: *R. v. Bernard*, 2009 CarswellOnt 7828, [2009] O. J. No. 5366 (Ont. S.C.J.), aff'd 2013 ONCA 371 (Ont. C.A.), at para. 41. Each member need not know every detail of the common scheme, but each must be aware of the general nature of the common design and intend to adhere to it: *Root*, at para. 68.

[9] To obtain a conviction on any of the conspiracy charges, the Crown must establish beyond a reasonable doubt that there was an agreement among two or more persons to commit the particular indictable offence set out in the charge and that Mr. Boyer was a party to that agreement.

[10] The law with respect to the admissibility of evidence when a conspiracy is alleged was recently set out in **R. v. Kelsie**, 2017 NSCA 89 where Farrar, J.A., in giving the Court's judgment stated at paragraphs 140 to 145:

[140] In *R. v. Carter*, [1982] 1 S.C.R. 938, the Court set out a 3-step process for the admissibility of hearsay evidence and the use of that evidence by the trier of fact, when deliberating on a conspiracy charge. *Carter* was summarized by the Ontario Court of Appeal in *R. v. Gagnon*, 2000 O.J. No. 3410 as follows:

50 In *R. v. Carter* (1982), 67 C.C.C. (2d) 568, the Supreme Court of Canada set out the following three-tiered approach to apply in conspiracy cases:

Considering all the evidence, the trier of fact must conclude beyond a reasonable doubt that the conspiracy charged in the indictment existed. This determination is independent of any consideration as to whether an indicted or unindicted conspirator is actually a member of the conspiracy charged.

Once the trier of fact is satisfied beyond a reasonable doubt that the conspiracy charged existed, the trier of fact must determine, exclusively on the basis of "evidence directly receivable against the accused", whether the accused was probably a member of the conspiracy. The trier of fact is not to consider co-conspirator hearsay evidence at this stage of deliberations.

If the trier of fact concludes that an accused was probably a member of the conspiracy, the trier of fact must determine whether the Crown has proven that accused's membership in the conspiracy beyond a reasonable doubt. At this stage of deliberations, the trier of fact is entitled to consider hearsay acts and declarations of co-conspirators made in furtherance of the objects of the conspiracy. The trier of fact must be cautioned that the mere fact that the conclusion has been reached that an accused is probably a member of a conspiracy does not make a conviction automatic.

[Emphasis added]

[141] In *R. v. Mapara*, 2005 SCC 23, the Supreme Court of Canada affirmed the 3-step process set out in *Carter* and defined the co-conspirators' exception to the hearsay rule as follows:

8 The co-conspirators' exception to the hearsay rule may be stated as follows: "Statements made by a person engaged in an unlawful conspiracy are receivable as admissions as against all those acting in concert if the declarations were made while the conspiracy was ongoing and were made towards the accomplishment of the common object" (J. Sopinka, S. N. Lederman and A. W. Bryant, *The Law of Evidence in Canada* (2nd ed. 1999), at p. 303). Following *Carter*, co-conspirators' statements will be admissible against the accused only if the trier of fact is satisfied beyond a reasonable doubt that a conspiracy existed and if independent evidence, directly admissible against the accused, establishes on a balance of probabilities that the accused was a member of the conspiracy.

[Emphasis added]

[142] Step 1 in *R. v. Carter* is concerned with whether the Crown has proven the existence of the conspiracy. At this stage, it is not concerned with who the members of the conspiracy were. McIntyre, J. explained in *R. v. Barrow*, [1987] 2 S.C.R. 694:

74 ... It may often be true, that in determining beyond a reasonable doubt the existence of a conspiracy one may also determine the identity of some of the members. On some occasions and in respect of some conspirators it may not be necessary to have resort to the hearsay exception,

but this is not always so. It is entirely possible, and not uncommon, to be satisfied beyond a reasonable doubt on all the evidence that a conspiracy for the purposes alleged in the indictment existed while still being uncertain as to the identity of all the conspirators. Once this is understood it becomes evident that there is no substance to the appellant's argument. On this first step what is considered is the existence of the conspiracy, not individual membership. At this point the hearsay exception is inapplicable. This is in accordance with the view expressed by Martin J.A. in *R. v. Baron and Wertman* (1976), 31 C.C.C. (2d) 525, in reference to the conspirator's exception to the hearsay rule, where he said, at p. 544:

It only comes into play, however, where there is evidence fit to be considered by the jury that the conspiracy alleged between A and B exists. It is clear that where the fact in issue to be proved is whether a conspiracy exists between A and B, A's acts, or declarations implicating B cannot be used to prove that B was a party to the conspiracy, in the absence of some other evidence admissible against B to bring him within the conspiracy: see *Savard and Lizotte v. The King* (1945), 85 C.C.C. 254 at p. 262, [1946] 3 D.L.R. 468, [1946] S.C.R. 20 at p. 29.

[Emphasis added]

[143] Of similar effect is the decision of *R. v. Jamieson*, [1989] N.S. J. No. 158 (N.S.S.C.A.D.) where Macdonald, J.A. held:

The co-conspirator's exception to the hearsay rule can only be applied when it is first established beyond a reasonable doubt that a conspiracy existed and, on a balance of probabilities on evidence directly admissible against the accused, that he was a member of the conspiracy. It is therefore obligatory that a trial judge instruct the jury that the hearsay evidence which was introduced pursuant to the co-conspirator's exception to the hearsay rule can be considered by them only after:

1. They are satisfied beyond reasonable doubt that the alleged conspiracy existed;
2. That, on a balance of probabilities based on evidence directly admissible against the accused, he was a member of the conspiracy.

[144] It is important to recognize that at Step 1 of the *Carter* analysis, the acts and declarations of what others may have said are not introduced for the truth of their contents but rather as circumstantial evidence of the existence of the

conspiracy. This was explained by Cromwell, J.A. (as he then was) in *R. v. Smith*; *R. v. James*, 2007 NSCA 19:

189 The distinction between hearsay and non-hearsay is both critical and difficult in conspiracy cases. The gist of the offence is the agreement to perform an illegal act or to achieve a result by illegal means: *R. v. Douglas*, [1991] 1 S.C.R. 301 at p. 316. The agreement can rarely be proved by direct evidence. As Rinfret, J. said for the Supreme Court in *R. v. Paradis*, [1934] S.C.R. 165 at p. 168:

The actual agreement must be gathered from "several isolated doings", ... having possibly little or no value taken by themselves, but the bearing of which one upon the other must be interpreted; and their cumulative effect, properly estimated in the light of all surrounding circumstances, may raise a presumption of concerted purpose entitling the jury to find the existence of the unlawful agreement.

190 It follows from this that in many instances, acts and declarations of alleged co-conspirators may not be hearsay but original circumstantial evidence of the existence of the conspiracy, but these same acts and declarations may be hearsay for the purpose of showing who were members of the conspiracy: [Authorities omitted].

[145] It is only at the third step of *Carter* that out-of-court statements by persons who have been proven to have been members of the conspiracy and which are made in furtherance of it are admissible against other probable members (*R. v. Smith*, ¶195).

[11] I will now follow the three step test set out by the Supreme Court of Canada in **R. v. Carter** and **R. v. Mapara**.

Step 1 – Proof of the Conspiracy

[12] In this step I must determine beyond a reasonable doubt whether the conspiracy charged in the Indictment existed. At this stage, the acts and declarations of alleged co-conspirators are not offered for their truth, but rather original circumstantial evidence of the existence of the conspiracy. (**R. v. Smith** paragraph 190).

[13] The individuals who were the subjects of the surveillance were:

Reece Germaine lived at 1505-150 West 15th Street, North Vancouver, British Columbia. During part of the investigation, Nadia Van Der Heyden lived with him. She was an employed paramedic. There was no evidence Mr. Germaine was employed. Ms. Van Der Heyden was the registered owner of two vehicles driven by her and Mr. Germaine, a black Chevrolet Tahoe and a BMW.

Stephen Lockett lived at 208-12635, 190A Street, Pitt Meadows, British Columbia with his wife Jennifer Lockett. Mr. Lockett drove a 2008 green Dodge Viper, B.C. licence 034 PAW registered to Darren Telford.

Jeffrey Michael Boyer lived at Unit 103-3467 Gislason Avenue, Coquitlam, British Columbia with Ashley Buss. Mr. Boyer and Ms. Buss were married in the State of California, United States on September 10, 2015. Mr. Boyer drove a grey Chrysler 300C motor vehicle, B.C. licence 356 WVP, registered to his father Calvin Boyer. Ms. Buss drove a white Mercedes.

Derek Pilling lived at 25010-108 Avenue, Maple Ridge, British Columbia. He was the registered owner of a 2013 black Chevrolet Cruze, B.C. licence 157 MSF and a grey 2007 Pontiac Torrent, B.C. licence AN5 82A.

Darren Telford lived at 11875 Stephens Street, Maple Ridge, British Columbia. He drove a 2004 white Ford F150 pickup truck, B.C. licence DS0 071.

Douglas Neumann lived at 23725-110 Avenue, Maple Ridge, British Columbia. He drove a 2010 grey Honda Civic, B.C. licence AL5 79J.

Ryan Franklin lived at 20574-113th Avenue, Maple Ridge, British Columbia as did Devendra Prasad. Mr. Prasad was the registered owner of a green 2009 Dodge Caravan, B.C. licence 723 MND and a white Cadillac Deville, B.C. licence AR3 18S.

Kirk Withrow lived at 806 Waverley Road, Nova Scotia. He drove a grey Toyota Camry.

[14] Mr. Boyer made admissions pursuant to *Section 655* of the *Criminal Code* concerning certain facts which occurred in Nova Scotia and the admissions were entered into evidence as Exhibit 78. Although I will be referring to the admissions

in my judgment, I incorporate the admissions as a whole in my judgment and attach a copy to my judgment as an Appendix.

[15] All authorizations required to collect evidence were obtained. For example, there was a general warrant to open suitcases on Air Canada and WestJet flights in Canada. An authorization pursuant to the *Criminal Code* to intercept private communications was granted. The record of airline flights, Exhibit 73, was entered into evidence by consent.

[16] The facts are as follows:

May 15, 2015

[17] Mr. Germaine left his residence at approximately 7:51 a.m. He was wheeling two suitcases. Mr. Germaine flew to Halifax arriving at about 22:15 hours. He had two large checked suitcases and he left the airport in a taxi.

May 16, 2015

[18] Mr. Germaine flew back to Vancouver from Halifax via Montreal.

May 17, 2015

[19] Mr. Germaine arrived at his residence at 12:31 a.m, he was wheeling a suitcase.

May 21, 2015

[20] At 11:48 a.m. Mr. Germaine was in the lineup at the T.D. Bank branch in North Vancouver. He gave cash to a teller. Det. Cst. Parel-May estimated he gave the teller approximately \$500.00 in 20 dollar bills and approximately \$500.00 in \$100 bills.

[21] At 12:46 p.m. Mr. Germaine walked up to the front door of a townhouse Unit 103-3467 Gislason Avenue, Coquitlam, the residence of Mr. Boyer. The Chevrolet Tahoe was backed into the driveway and was parked next to the grey Chrysler. At 13:26 a white Ford F150 registered to Darren Telford was parked in front of Unit 103 behind a white Mercedes. At 13:29 an unknown male exited the

area of Unit 103 and went to the Ford F150. Approximately a minute later the male was let into the front door of Unit 103.

[22] Det. Cst. Parel-May observed Mr. Germaine and Ms. Van Der Heyden having lunch and she walked by the Chevrolet Tahoe they were driving at 14:29 and saw two black suitcases in the Tahoe, one of which had a Heys logo on it.

[23] No one saw Mr. Boyer that day. No suitcases or anything was seen going in or out of Unit 103 that day.

May 22, 2015

[24] Mr. Germaine flew to Toronto. He arrived at Vancouver airport with two hard shelled suitcases.

May 30, 2015

[25] The tracking device on the Chevrolet Tahoe registered to Ms. Van Der Heyden showed the vehicle travelled to the area of 3455 Gislason Avenue, Coquitlam arriving at 12:01:26 and leaving at 12:09:07 (a stop of 7 minutes 41 seconds) and then travelled to 25010-25022-108 Avenue, Maple Ridge (the area of Derek Pilling's residence).

May 31, 2015

[26] The Tahoe travelled to the area of Derek Pilling's residence arriving at 7:44:56 p.m. and leaving at 7:48:30 p.m.

June 3, 2015

[27] The Tahoe travelled to the area of Mr. Pilling's residence arriving at 4:43:48 p.m. and leaving at 5:04:33 p.m.

June 4, 2015

[28] At 12:52 p.m. Mr. Germaine backed the Tahoe up to the garage at Unit 103-3467 Gislason Avenue. Mr. Germaine was seen by the Tahoe, but it was not known where he went. It is unknown whether the garage door of the Unit 103 was open or not. The Chrysler 300C registered to Calvin Boyer and driven by Jeffrey

Boyer was parked just east of Unit 103. Mr. Boyer was not seen nor was anyone seen driving the Chrysler. Nothing was seen going from Unit 103 to the Tahoe, nothing was seen coming out of the front door of Unit 103. The Tahoe was at Unit 103 for approximately ten minutes. At 13:02 the Tahoe left the 3400 block of Gislason Avenue.

[29] Mr. Germaine then went to Douglas Neumann's residence at 23725-110 Avenue, Maple Ridge. Stephen Lockett and his wife previously lived there. Jennifer Lockett owned the property. Mr. Germaine backed the Tahoe to within a yard or two of the garage. A grey Honda Civic was parked in the street. Mr. Germaine went into the garage. After a short time Mr. Germaine left. He then went to Derek Pilling's residence at 25010-108 Avenue, Maple Ridge. After approximately nine minutes, Mr. Germaine left.

June 5, 2015

[30] Mr. Germaine flew from Vancouver to Halifax via Montreal. He checked in two large black hard shelled suitcases.

June 6, 2015

[31] Mr. Germaine returned to Vancouver from Halifax via Toronto with checked bags

June 10, 2015

[32] Mr. Germaine flew from Vancouver to Halifax arriving at about 22:52 hours. He retrieved two large black wheeled suitcases from the baggage carousel and exited the airport. He met Kirk Withrow who was driving a grey Camry. They left the airport and Mr. Withrow dropped Mr. Germaine at the Country Inn and Suites in Dartmouth. Mr. Withrow left with the two large black wheeled suitcases and drove to a residence at 1 Valleyfield Road, Dartmouth, N.S.

[33] At approximately 17:40 hrs a Buick Murano was in front of Unit 103-3467 Gislason Avenue. Later at 18:50 the Buick returned and a white male and female walked out of the Unit, then went back in. At 21:41 a white Ford F150 with Alberta licence plates parked in front of Unit 103 and a white male with tattoos on both arms walked to the front door.

June 11, 2015

[34] Mr. Germaine flew from Halifax to Vancouver via Toronto with checked bags. At approximately 4:04 p.m., Mr. Germaine in his Tahoe was at a Chevron Station. At 4:16 p.m. a green Dodge Viper pulled up next to the Tahoe. The Viper was registered to Darren Telford, but was being driven by Stephen Lockett. Mr. Lockett got out of the Viper and went into the Station. Mr. Germaine got out of the Tahoe and put a bag in the front driver's side of the Viper through an open window. Mr. Lockett came back and he and Mr. Germaine had conversation. At about 4:20 p.m., Mr. Germaine got back into his vehicle and the two men were still speaking through open car windows. At 4:21 p.m. Mr. Germaine drove away from the gas station. For a while the Tahoe and the Viper appeared to be driving in tandem, but the vehicles separated.

[35] At approximately 6:04 p.m. Mr. Germaine and Devendra Prasad went into a restaurant. At 6:18 p.m. they walked to the Tahoe and put a shoebox in the vehicle and they returned to the restaurant. At 6:45 (sic) p.m. they left the restaurant and drove to Mr. Prasad's residence. At approximately 8:39 p.m. Messrs. Germaine and Prasad were at the rear of the Tahoe and looked at the contents of the box. At 9:03 p.m. Mr. Prasad took an item out of the green Toyota Highlander in his driveway. At 9:08 p.m. Mr. Germaine left.

June 14, 2015

[36] The Tahoe's tracking device showed it was in the area of Mr. Pilling's residence twice this day.

June 17, 2015

[37] At approximately 1:32 p.m. Mr. Germaine left the elevator in the parkade at his residence with a suitcase, small gym bag and satchel. Driving the Tahoe, he went to Mr. Pilling's residence. At 2:55 p.m. Mr. Germaine was seen leaving Mr. Pilling's residence. At 3:07 p.m. Mr. Germaine was observed getting out of a black Dodge Caravan and walking back to his Tahoe. Mr. Germaine and an unknown male got into the Tahoe and left the area. At 3:45 p.m. Mr. Germaine's Tahoe was seen in the underground parkade at Mr. Lockett's residence parked in front of a storage locker. At approximately 3:48 p.m. Mr. Germaine was outside the entrance to the parkade speaking to Stephen Lockett through the window of his

Tahoe. Then Mr. Lockett went to a branch of the T.D. Bank. At approximately 4:10-4:16 p.m. Mr. Germaine arrived at Mr. Prasad's residence. Shortly thereafter Mr. Prasad came out and got in the passenger seat of the Tahoe. A minute later Mr. Germaine got out and removed something the size of a greeting card. Messrs. Germaine and Prasad went into the house. Later Mr. Germaine and another male were in the driveway of 20311-123B St., Maple Ridge. The tracking device shows the Tahoe returned to the area of Mr. Prasad's residence.

June 19, 2015

[38] Mr. Germaine arrived at the Halifax airport at around 00:21 hours. He picked up two large black suitcases from the baggage carousel and exited the airport. He was picked up by Kirk Withrow, who dropped Mr. Germaine at the Hampton Inn in Dartmouth. Mr. Withrow drove off with the two large black suitcases and went to his residence. At 01:27 hours, Cst. Shawn Moores of the RCMP walked past the residence and smelled a strong smell of a substance he believed to be marihuana.

June 20, 2015

[39] Mr. Germaine flew from Halifax to Vancouver arriving at approximately 11:30 a.m. Observed at 11:55 a.m., Mr. Germaine picked up a large suitcase with a red strap from the luggage carousel. He seemed to be waiting. Air Canada announced as the airplane was too heavy, some luggage was left behind and would be arriving on the next flight. Mr. Germaine went to Maple Ridge and then met a man at 1231 Fletcher St., Maple Ridge. At approximately 2:43 p.m. Mr. Germaine arrived at Mr. Prasad's residence. Mr. Germaine got out of his Tahoe and walked to the front door. The door opened. Mr. Germaine went back to his vehicle, picking something up, went back to the door and entered the residence. At approximately 4:00 p.m. Mr. Germaine was in the farm area of Pitt Meadows speaking with two men. He walked back to his Tahoe with something in his hand.

[40] At approximately 4:40 p.m. a silver Chrysler 300 British Columbia licence plate 356 WVP was seen in the vicinity of Mr. Lockett's residence. At approximately 4:42 p.m. Mr. Germaine's Tahoe was in the visitors' parking area at the building associated with Mr. Lockett. About ten minutes later, Mr. Germaine and an unidentified male exited the front door. The unidentified male was described as being 6' to 6'1" tall, weighing 170 lbs. They went to the Tahoe.

They had a conversation between the parked cars. Mr. Germaine got into the Tahoe. The unidentified male got into the Chrysler 300. The Chrysler was parked near the Tahoe. The conversation was not long. The cars drove out in tandem, Mr. Germaine first and the Chrysler second.

July 3, 2015

[41] The tracking device in the Tahoe driven by Mr. Germaine showed the Tahoe had three brief stops in the vicinity of Stephen Lockett's residence.

July 4, 2015

[42] The tracking device in the Tahoe showed the Tahoe stopped in the area of Mr. Prasad's residence for approximately two hours.

July 5, 2015

[43] Mr. Germaine flew from Vancouver International Airport with two large black Heys suitcases which had padlocks and arrived at the Halifax airport at 19:15 hours. He picked up the two large suitcases from the baggage carousel. Mr. Withrow arrived and helped Mr. Germaine put the two large suitcases in the trunk. Mr. Withrow drove Mr. Germaine to the Hampton Inn. Mr. Germaine entered the hotel without the two large suitcases. Mr. Withrow drove his car to his home and backed into the garage.

July 6, 2015

[44] Mr. Germaine left the Hampton Inn. He had two large suitcases with him. Mr. Germaine flew to Vancouver. He had checked two large suitcases with the airline. The police searched the suitcases. The tags on the luggage confirmed they were Mr. Germaine's luggage. The suitcases were unlocked. One of the suitcases had a smaller grey suitcase inside it. The small suitcase was unlocked. There was a knotted bag inside. Det. Cst. Parel-May unknotted the bag. Inside there was an unknotted plastic bag which contained twelve bundles of cash – seven large bundles of \$20 bills, two large bundles mostly \$20 bills, some \$50 bills, two smaller bundles of \$50 bills and one small bundle of \$100 bills. The second suitcase contained clothes. The small grey suitcase had an Air Canada tag with the

name Reece Germaine on it. Mr. Franklin flew to Halifax from Vancouver that day.

July 7, 2015

[45] Kirk Withrow met Mr. Franklin at the Ramada Inn in Dartmouth. Mr. Withrow removed a large suitcase from the trunk of his Camry and he and Mr. Franklin entered the Ramada together. After ten minutes Mr. Withrow and another person left the Ramada without any suitcases. Mr. Franklin flew to Vancouver with checked luggage.

July 8, 2015

[46] Mr. Pilling flew from Vancouver to Halifax. Kirk Withrow met Mr. Pilling at the Halifax Airport. Mr. Pilling had two large suitcases. Mr. Withrow put the suitcases in the trunk of his Camry and drove Mr. Pilling to the Hampton Inn. Mr. Withrow drove off with the two large suitcases.

July 9, 2015

[47] Mr. Pilling flew from Halifax to Vancouver with checked bags.

July 12, 2015

[48] Mr. Germaine flew from Vancouver to Halifax. At Vancouver Airport he checked two Heys suitcases which were padlocked. The Police searched the suitcases. The padlocks on the suitcases were unlocked. The first suitcase was brand new. The primary side of the first suitcase contained six long heat sealed packages which contained 26 ziplock bags. The secondary side contained seven long heat sealed packages with 35 ziplock bags. A sample was taken of 4.1 grams from one of the ziplock bags, which had a gross weight of 239.8 grams. When the bag was opened it had a strong smell of dry marihuana. Two other ziplock bags were weighed – one was 240.1 grams and the other 240.3 grams, both gross weight. The second suitcase was opened and the primary side contained six long heat sealed packages which contained 28 ziplock bags and the secondary side contained 9 long heat sealed packages which contained 42 ziplock bags. The approximate total weight of the 131 ziplock bags was 65.5 lbs. The sample was tested and determined to be cannabis marihuana. Det. Cst. Funk testified the

packaging observed was consistent with this file, but different from other files with which he had been involved. The packaging was neat and fit in the suitcases. The suitcases were returned to the airline.

July 13, 2015

[49] Mr. Germaine arrived at the Halifax airport at about 3:05 a.m. He picked up the two large black suitcases from the baggage carousel. He took a taxi from the airport to the Hampton Inn. At 10:00 a.m. Mr. Withrow entered the hotel and ten minutes later he left the hotel with Mr. Germaine, each had a black suitcase they put into the trunk of Mr. Withrow's Camry. At 10:34 a.m. Mr. Withrow left the Hampton Inn alone in his Camry with the suitcases. At 5:00 p.m. Mr. Withrow drove to the Hampton Inn. At 5:12 p.m. Messrs. Withrow and Germaine were talking together in the parking lot at the rear of the hotel. At 5:20 p.m. Mr. Withrow left and Mr. Germaine entered the hotel with two large black suitcases. At 6:24 p.m. Mr. Withrow picked Mr. Germaine up and Mr. Germaine loaded his two large black suitcases into the Camry's trunk. Mr. Withrow drove Mr. Germaine to the Halifax airport. Mr. Germaine checked the two large suitcases which were searched by the R.C.M.P., a silver/grey carry-on sized suitcase was inside one of the suitcases. Inside the carry-on suitcase were twelve bundles of Canadian currency. The suitcases were repacked and returned to be placed on the airplane. Det. Cst. Allan Hughes, a member of the Halifax Regional Police, who had been working on proceeds of crime investigations, estimated there to be \$120,000.00 in Mr. Germaine's suitcase.

July 15, 2015

[50] Mr. Pilling returned to Vancouver from Halifax. He got two large blue suitcases from the baggage carousel. He left the airport at approximately 12:40 p.m. and drove directly to Mr. Boyer's residence, Unit 103-3467 Gislason Avenue, arriving at approximately 1:57 p.m. A grey Chrysler 300 licence plate 356 WVP was parked east of Mr. Boyer's residence in a visitors' parking spot. Mr. Pilling removed two large suitcases from his Chevrolet Cruze and took them into the open garage of Unit 103. Mr. Pilling came out of the garage and retrieved papers from the Cruze and went back into the garage. At 2:13 p.m. Sgt. Shailver Singh walked by the open garage of Unit 103 and observed two suitcases – one open and empty and the other closed. Mr. Pilling left at approximately 2:05 p.m. After Mr. Pilling left, a white Dodge Ram pickup arrived. At 2:25 p.m. an unidentified male came

out of the garage of Unit 103. He opened the rear door of the Dodge Ram. Then at approximately 2:30 p.m. the man again came out of the Unit 103 and drove away in the Dodge Ram. No one saw Mr. Boyer that day. Sgt. Singh did not see any cash or marihuana that day.

July 16, 2015

[51] At 12:20 p.m. Messrs. Germaine and Pilling were observed eating lunch. Mr. Pilling's vehicle was next to Mr. Germaine's BMW. Messrs. Germaine, Pilling and Lockett came out of the restaurant together. Mr. Lockett left in a Land Rover. Messrs. Germaine and Pilling stayed behind.

July 18, 2015

[52] Mr. Withrow's Camry was at the Halifax airport. It left at 18:11 hours. At 18:41 hours Mr. Withrow and Mr. Pilling were at the Hampton Inn.

July 23, 2015

[53] At approximately 1:55 p.m. Messrs. Lockett and Pilling were sitting in Mr. Pilling's Chevrolet Cruze. Mr. Lockett got out and Mr. Pilling gave him a piece of paper. Mr. Lockett left in his Land Rover and then Mr. Pilling left.

July 25, 2015

[54] Cpl. Jasuinder Bindra and Sgt. Singh were involved in a search of Mr. Germaine's luggage. The luggage was searched, but they were unable to obtain a sample.

July 27

[55] Mr. Germaine flew from Vancouver to Halifax. He had checked two suitcases. The R.C.M.P. conducted a search of his luggage. In the first suitcase on the primary side there were seven large vacuum sealed packages which contained 25 smaller ziplock bags, the second side contained eight large vacuum sealed packages containing 40 smaller ziplock bags. The second suitcase on the primary side contained five large vacuum sealed packages with 24 smaller ziplock bags, the second side contained nine large vacuum sealed packages with 42 smaller bags. A sample was taken from one small bag of 1.6 grams. The packages were quite snug

and neatly packed. The product appeared to be double vacuum sealed and then in ziplock bags. Each bag was approximately 239 grams in weight. The packaging was consistent with other searches in this investigation. The suitcases were secured with at least one lock. Two small ziplock bags were weighed, one was 239.2 grams and one 239.4 grams. The sample was tested and was cannabis marihuana.

July 28, 2015

[56] Mr. Withrow arrived at the Halifax airport at 9:38 a.m. At 11:00 a.m. Mr. Withrow was pushing two large black suitcases out of the exit doors with Reece Germaine walking with him. Mr. Withrow placed the suitcases in the trunk of his car. Mr. Germaine gave Mr. Withrow keys from his keyring. Mr. Withrow left with the suitcases. Mr. Germaine went back into the airport. Later Mr. Withrow returned with a black laptop style bag and two large black suitcases. The two large black suitcases were given to Mr. Germaine. At 5:08 p.m. Mr. Germaine checked the two large black suitcases and went to security. The suitcases were searched and a silver carry-on sized suitcase was found that contained twelve stacks of Canadian cash. Cst. Ryan Berry of the R.C.M.P., who has been involved in proceeds of crime investigations for two years, estimated the amount of cash at \$120,000.00.

August 4, 2015

[57] Mr. Germaine was flying from the Vancouver airport. He checked two suitcases. The R.C.M.P. searched the suitcases. The bags had Mr. Germaine's name on them. In the first suitcase, the primary side had five large packages, which contained 25 smaller ziplock bags. The second side had six large packages containing 30 smaller ziplock bags. A sample weighing 0.5 grams was taken. The ziplock bag the sample came from weighed 239.2 grams with the sample it would have weighed 239.7 grams. The second suitcase, on the primary side contained five large packages with 25 smaller bags and the second side contained six large packages containing 30 smaller bags. The suitcases were repacked and returned to the airline. The sample was tested and was cannabis marihuana.

August 5, 2015

[58] Mr. Germaine flew to Vancouver from Toronto. His luggage was searched. Currency was found. The first suitcase searched contained a smaller suitcase which contained individual bundles of cash: two bundles of \$100 bills measuring 2.0285”; one bundle of \$100 bills measuring 0.9050”; one bundle of \$100 and \$50 bills measuring 0.4320”; one bundle of \$20 and \$100 bills measuring 0.5340”; one bundle of \$20 and some \$50 bills measuring 1.8485”; and one bundle of \$20 and \$50 bills measuring 1.1145”. The currency was inside a vacuum sealed package which had 105 written on it. The suitcases were returned to the airline.

[59] At 18:38 hours Mr. Germaine picked up the two suitcases from the luggage carousel and went to his home. Mr. Germaine went to his Unit with one suitcase. At 20:12 hours, Mr. Germaine left his residence. At 21:11 hours Mr. Germaine and an unidentified male arrived at Mr. Boyer’s residence. Mr. Germaine parked his BMW in the driveway of the Unit and the two men went into the residence. At 21:13 hrs Mr. Germaine, the unknown male and a male (believed to be Mr. Boyer) were seen through a window speaking in the kitchen. At 21:25 Mr. Germaine and the unknown male exited Unit 103 and left. Nothing was seen going in or out of Mr. Boyer’s residence. Later Mr. Germaine and the unknown male were seen at a restaurant texting. Then Mr. Germaine parked the BMW in the driveway at 230th St. Maple Ridge and at 22:53 hours Mr. Germaine parked at a 7-11 store. He met with 4 or 5 individuals associated with a dark vehicle.

[60] At around 11:29 hours Kirk Withrow met Mr. Telford at the Halifax airport. They put two large purple hard-sided suitcases in the trunk of Mr. Withrow’s Camry. Mr. Withrow drove Mr. Telford to a hotel and left with the two suitcases still in his car. At about 15:00 hours Mr. Withrow picked Mr. Telford up at the hotel and drove him to the airport. At the airport Mr. Telford took two hard-sided suitcases from the trunk and went into the airport. Mr. Telford flew from Halifax to Vancouver. Upon arrival Mr. Telford picked up two blue hard shelled suitcases from the luggage carousel. He placed the suitcases in his white Ford F150 pickup truck. Mr. Telford drove to Pitt Meadows. At 22:39 hours the truck was at the building where Stephen Lockett lived. Mr. Telford came out of the building and left in his pickup truck.

August 8, 2015

[61] Mr. Germaine was flying from Vancouver to Halifax. He checked two suitcases. The R.C.M.P. searched the luggage. The first suitcase contained on the

primary side six large packages holding 27 smaller ziplock bags, the second side contained 8 large packages with 40 smaller ziplock bags. Each smaller bag weighed approximately one half pound for a total of 33.5 lbs. The second suitcase on the primary side held six large packages with 24 smaller bags, the second side held eight large packages with 40 smaller bags. The smaller bags weighed approximately one half pound each for a total of 32 lbs. A sample of 0.4 grams was taken. The bags were repacked and returned to the airline. The sample was tested and was cannabis marihuana. In Halifax, Mr. Germaine was picked up by Mr. Withrow around 18:06 hours. Mr. Germaine had two black suitcases that went into the trunk of Mr. Withrow's Camry and they drove to Mr. Withrow's house.

August 9, 2015

[62] At about 10:52 hours Mr. Withrow drove Mr. Germaine to the Halifax airport. Mr. Germaine checked in for a 12:00 o'clock flight to Vancouver. He checked two black Heys brand hard plastic suitcases. The R.C.M.P. searched Mr. Germaine's checked luggage. The first suitcase was locked with a padlock. In one half it contained clothing, the other half held a small blue blanket and inside the blanket was a large amount of Canadian cash – one stack of \$100 bills; two stacks of \$50 bills and nine stacks of \$20 bills (a couple of them had mixed bills throughout). Cst. Ryan Berry estimated the amount of cash at \$124,000.00.

August 12, 2015

[63] Mr. Pilling arrived on an incoming flight at Vancouver airport. He had a checked piece of luggage, a small soft sided satchel. The R.C.M.P. searched the bag. It contained a red plastic bag with five bundles of currency: two bundles of primarily \$20 bills and some \$50 bills measuring 1.22" and 2.383"; one bundle primarily \$20 bills with some 5,10 and 50 dollar bills measuring 0.54"; one bundle of \$20 bills measuring 3.482" and one bundle even \$50 and \$100 bills measuring 0.125". There was a second white bag with a bundle primarily \$20 bills with some \$5 and \$50 bills measuring 4.097" and loose currency not bundled primarily 50 and 20 dollar bills, some \$100 bills. More \$20 bills making some bundles larger.

[64] Around 02:30 hours Mr. Franklin arrived at the Halifax airport. Mr. Franklin, who had a large black suitcase and a smaller black carry-on, took a taxi to a hotel. At 13:34 hours, Mr. Franklin met with two males in front of his hotel.

The large black suitcase was put into a red utility truck and the three men drove to a residence where the truck was backed into a detached garage. Later, Mr. Franklin was dropped off at the hotel.

August 14, 2015

[65] Mr. Germaine was flying from Vancouver to Halifax. He checked two pieces of luggage. The R.C.M.P. searched his luggage. The first suitcase contained 16 large packages with 66 smaller bags and the second suitcase contained 12 large packages with 65 smaller bags. A sample of 5.2 grams was taken. The packaging was the same as in the other covert searches in this investigation. The suitcases were repacked and returned to the airline. The sample was tested and determined to be cannabis marihuana.

[66] At about 03:58 hours Mr. Franklin took a taxi to the Halifax airport. He checked in, placed a large black suitcase on the luggage belt and went through security.

[67] Mr. Germaine arrived at the Halifax Airport at about 21:09 hours. He picked up two large black suitcases. Mr. Germaine was met by Mr. Withrow. Mr. Germaine's luggage was placed in Mr. Withrow's Camry and they drove away from the airport.

August 15, 2015

[68] At 13:34 hours Mr. Germaine arrived at the Halifax Airport. He checked in two large black suitcases and flew to Vancouver. Upon his arrival in Vancouver, the R.C.M.P. searched his checked luggage. In the first suitcase, seven bundles of currency were found wrapped in a blue blanket: three bundles of \$20 bills; one bundle primarily \$20 bills with \$5 and \$10 bills; two bundles primarily \$20 bills, with \$50 and \$100 bills and one bundle of \$100 bills which measured 2.75". The luggage was repacked and returned to the airline.

August 16, 2015

[69] Mr. Pilling was flying from Vancouver to Halifax. He checked luggage with the airline. The R.C.M.P. identified and searched his luggage. It had his name on it. The first suitcase on the primary side contained six large packages with 24 smaller bags, the second side contained eight large packages with 40

smaller bags. In the second suitcase, the primary side contained five large packages with 25 smaller bags and the second side contained seven large packages with 36 smaller bags. The contents of the bags looked and smelt like marihuana. Cpl. Bindra estimated the first suitcase contained 32 lbs of marihuana and the second suitcase contained 30.5 lbs for a total of 62.5 lbs of marihuana. A sample of 1.0 grams was taken. The suitcases were repacked and returned to the airline. The sample was tested and was cannabis marihuana. The packaging in this search was the same as the packaging in Mr. Germaine's suitcases.

August 17, 2015

[70] Mr. Pilling arrived at the Halifax airport at 00:10 hours and got two large suitcases from the baggage carousel. Mr. Withrow met Mr. Pilling. The suitcases were put in Mr. Withrow's car. Mr. Withrow dropped Mr. Pilling off at the Hampton Inn and then Mr. Withrow went home with the two black suitcases.

[71] At 15:35 hours Mr. Withrow picked up Mr. Pilling who only had two carry-on bags and took him to the airport. At the airport, Mr. Withrow took two large black suitcases from his car's trunk and gave them to Mr. Pilling, who checked the suitcases. Cst. Mark Flanagan of the R.C.M.P. searched Mr. Pilling's two large black suitcases and found in the first suitcase, there was a large amount of Canadian cash inside a small blue blanket. The suitcases were returned to the airline. Cst. Ryan Berry estimated the Pilling suitcase contained \$132,000.00.

August 18, 2015

[72] At 11:10 hours Mr. Withrow's Camry arrived at the Halifax airport. At 12:30 hours Mr. Withrow and Darren Telford were observed together and Mr. Telford was dropped off at the Best Western Hotel in Dartmouth. At 18:00 hours Mr. Withrow picked Mr. Telford up. Mr. Telford was carrying only a black carry-on piece of luggage. They drove to the Halifax airport. The two large blueish-purple suitcases were taken from the trunk of the Camry. Mr. Withrow left and Mr. Telford entered the airport, checked in for his flight and checked the two large suitcases.

September 4, 2015

[73] At 11:30 hours Mr. Withrow's Camry was at the Halifax airport. At 11:43 hours, he was observed as he drove to the rear of the Hampton Inn in Dartmouth with Douglas Neumann in the passenger seat. Then Mr. Withrow left the hotel in his Camry alone. At 16:56 hours Mr. Withrow picked Mr. Neumann up at the hotel and they drove to the airport. Mr. Neumann removed two suitcases from the Camry. Mr. Neumann checked the two large blue suitcases. The police searched the suitcases. The first suitcase contained 13 large brick bundles of Canadian cash and the second suitcase also contained 13 large brick bundles of Canadian cash. Cst. Berry estimated the two suitcases contained a total of \$300,000.00.

September 7, 2015

[74] At 11:30 hours Mr. Withrow's Camry was at the Halifax airport and then he drove to the Best Western Hotel in Dartmouth. On arrival at the hotel, Mr. Germaine was observed with Mr. Withrow. At 17:13 hours Mr. Withrow drove from his home to the Best Western, removed two large dark suitcases and rolled them into the hotel. Messrs. Withrow and Germaine left the hotel without the suitcases. Then Mr. Withrow dropped Mr. Germaine back at the hotel and went home.

September 8, 2015

[75] Mr. Withrow picked Mr. Germaine up from the Best Western at 7:19 hours. Mr. Germaine exited the hotel with two large hard shelled blue suitcases which were placed in the trunk of Mr. Withrow's car. They drove to the airport. Mr. Germaine checked the two blue suitcases. The police searched the suitcases and found both of Mr. Germaine's suitcases contained bundles of Canadian cash, which Cst. Berry estimated was \$288,000.00.

September 9, 2015

[76] The tamper alarm affixed to the tracking device on Mr. Withrow's Camry went off and the device shut down. The tracking device was compromised and the tracking information for the vehicle was no longer received.

September 14, 2015

[77] Ryan Franklin arrived at the Halifax airport at 13:00 hours. He got two dark suitcases from the baggage carousel and then took a taxi to the Future Inn in Halifax. At 14:43 hours Troy Lee arrived at the hotel, removed a large black suitcase from his car and took it into the hotel. At 14:57 hours Messrs. Lee and Franklin left the hotel with one large rolling style suitcase, a black shoulder bag and a blue gym bag. Mr. Lee put the luggage in the trunk of his vehicle and left in his car. Mr. Franklin returned to the hotel.

September 15, 2015

[78] Mr. Franklin arrived at the Halifax airport at 4:15 hours. He checked his luggage and walked through security. The police searched the luggage and found two bundles of Canadian cash in one of the suitcases. Cst. Ryan Berry estimated the total amount of cash was \$10,000.00.

September 16, 2015

[79] Darren Telford arrived at the Halifax airport at 11:07 hours from Vancouver. He had a checked bag which was searched by police before it went to the baggage carousel. The suitcase contained only a small amount of clothing. Mr. Telford picked up the checked suitcase and took a taxi to the Coastal Inn in Dartmouth. At 13:00 hours Matthew Oldford arrived and entered the hotel with a carry-on sized black suitcase and he left empty handed after nine minutes. At 18:34 hours Mr. Telford left the Coastal Inn and went by taxi to the Halifax airport with the large black hard shelled suitcase and a smaller carry-on suitcase. Mr. Telford checked the large black suitcase and walked through security. The police searched Mr. Telford's checked suitcase and found it contained a small black with red trim, carry-on suitcase, which contained several bundles of Canadian cash. Cst. Ryan Berry estimated the total amount of cash was \$280,000.00.

[80] On the same day, Jeffrey Boyer, who was in Tahiti, called Stephen Lockett and they had a conversation.

September 17, 2015

[81] At 1:16 a.m. Mr. Telford was observed at the Vancouver airport walking toward his Ford F150 pickup truck. He placed a suitcase and a smaller bag in the vehicle. At 2:31 a.m. the F150 was in the area of Stephen Lockett's residence.

September 20, 2015

[82] Mr. Boyer called Mr. Lockett on the telephone.

September 21, 2015

[83] Douglas Neumann flew back to Vancouver with two checked bags. The R.C.M.P. searched the bags. The first suitcase contained a smaller grey/silver hard sided suitcase. Both exterior and interior suitcases were locked. Typically during searches in this case, the suitcases were locked and the officers searching would call a special entry team to get in the suitcases. The smaller suitcase contained two knotted bags containing stacks of \$20 bills. There were 13 stacks about an inch thick. The second suitcase contained clothing. The suitcases were repacked and returned to the airline. At approximately 19:27 hours Mr. Neuman collected the checked luggage from the baggage carousel and left the airport in his grey Honda Civic. At approximately 20:11 hours the grey Honda Civic was in front of Mr. Lockett's residence. At 20:33 hours Mr. Neumann exited the building containing Mr. Lockett's residence, placed a grey hard shelled suitcase in his Honda and left.

September 24, 2015

[84] Darren Telford flew into Vancouver from Toronto. He had checked two suitcases. Upon arrival in Vancouver his luggage was searched by the police. The suitcases were locked. They were opened. The first suitcase, on the second side, contained 24 bundles of cash of various denominations. The suitcase also contained a pillow, towels and a bit of clothing. The second suitcase was empty. The suitcases were repacked and returned to the airline. Mr. Telford picked up the luggage and at approximately 9:12 a.m. he left the terminal with the luggage. Mr. Telford was followed to a parking lot in Pitt Meadows. Stephen Lockett's Jeep was parked there. At 10:19 a.m. Mr. Telford parked. He gave Stephen Lockett a hard shelled suitcase and Mr. Lockett walked away with the suitcase.

[85] Derek Pilling arrived at the Halifax airport from Vancouver. He had checked two large purple Heys hard plastic suitcases. Upon arrival in Halifax the police searched the suitcases, both of which were locked. The first suitcase, half of it contained 8 large vacuum sealed bags of marihuana. The zippered half contained 4 large vacuum sealed bags of marihuana. In the second suitcase, half of the suitcase contained 8 large vacuum sealed bags of marihuana. The zippered half

of the suitcase contained 4 large vacuum sealed bags of marihuana. The total approximate weigh of the marihuana was 97 lbs. The suitcases were returned to the airline.

[86] Mr. Pilling left the airport with the suitcases and went to the Lord Nelson Hotel, entered the hotel with the suitcases and checked in. At 16:41 hours Melissa Murphy arrived at Mr. Pilling's room with one large blue and one large black suitcase and then left empty handed.

September 25, 2015

[87] At 8:45 hours Mr. Pilling left the Lord Nelson Hotel with two large purple suitcases and took a taxi to the Halifax airport. He checked the two large suitcases which the police searched. The first suitcase contained a leather bag which held a large amount of Canadian cash and the second suitcase contained a shoe box which held plastic shopping bags containing a large amount of Canadian cash. There were 32 bundles of cash. Cst. Ryan Berry estimated the total amount of cash was \$160,000.00. The suitcases were returned to the airline.

[88] Douglas Neumann flew into Vancouver. The police intercepted his two checked suitcases. Inside one of the suitcases was another suitcase. There was a large amount of cash approximately 25 bundles of cash which were vacuum sealed. The police seized the suitcase and money. The cash was inside two layers – the packaging was very similar to the packaging of the marihuana in this case. The cash was counted and totalled \$116,780.00.

September 26, 2015

[89] Darren Telford arrived at the Halifax airport from Vancouver. Upon arrival the police searched his two checked suitcases which were locked. The first suitcase contained 11 large vacuum sealed bags of marihuana. The second suitcase contained 12 large vacuum sealed bags and 1 smaller bag of marihuana for a total of 13 bags. The suitcases were returned to the airline. Mr. Telford left the airport and went to the Lord Nelson Hotel and entered his room with the two large black suitcases. At 18:28 hours Andrew Gauthier arrived at the hotel. Mr. Telford met him and put the two suitcases in Mr. Gauthier's vehicle. Mr. Gauthier left with the suitcases.

September 27, 2015

[90] Mr. Telford checked out of the Lord Nelson Hotel.

October 1, 2015

[91] Mr. Boyer was observed at 17:37 hours getting out of the grey Chrysler 300 he used which was registered in his father's name.

October 7, 2015

[92] Mr. Franklin was flying from Vancouver to Toronto and then St. John's. In Vancouver he checked a large black Heys suitcase, which was locked. The police opened and searched it. The primary side had seven packages containing 29 ziplock bags and second side eight packages with 31 ziplock bags. The packaging was the same as with the searches of Mr. Germaine's luggage. One of the ziplock bags weighed 237 grams. The bags were one half pound bags. A sample weighing 3.8 grams without packaging was taken. The material smelt like marihuana. The sample was tested and was cannabis marihuana. The suitcase also contained packages with a mercedes logo.

October 8, 2015

[93] Mr. Germaine was flying from Vancouver to Toronto. He checked two large black Heys suitcases. The police searched the suitcases. The first suitcase, the primary side held five packages with 20 ziplock bags, the second side held seven packages with 26 ziplock bags. The second suitcase, the primary side held seven packages with 28 ziplock bags and the second side five packages with 20 ziplock bags. The ziplock bags were approximately one half pound each – one was weighed and was 237.4 grams with packaging. A sample weighing 1.2 grams was taken. The material smelt like marihuana. The packaging was well done – custom packaging to fit the suitcase. Each ziplock bag contained equal quantities. Large vacuum sealed packages nicely fitted in the suitcases. The packaging was the same packaging as in the searches of Mr. Germaine's luggage. The sample was tested and was cannabis marihuana.

October 9, 2015

[94] Upon Mr. Lockett returning to Vancouver from Halifax, his luggage was searched. It contained a box wrapped in white and pink polka dotted paper. The box was not opened.

October 10, 2015

[95] Mr. Boyer called Mr. Lockett on the telephone. Mr. Boyer told Mr. Lockett he was at the front door and Mr. Lockett told Mr. Boyer he would meet him at the front door in “two secs”.

October 20, 2015

[96] At 9:56 a.m. Mr. Boyer was driving the Chrysler 300, B.C. licence 356 WVP. Later that morning he went to a fitness centre. At 12 noon he and Stephen Lockett left the fitness centre together.

October 28, 2015

[97] This was the day warrants were executed in British Columbia and Nova Scotia. In British Columbia, it took place at approximately 8 or 9:00 a.m. Det. Cst. Parel-May, who was involved in a “take down” in the Vancouver area, testified it was early in the morning, 9:15 a.m. At 9:12:31 a.m. Stephen Lockett called Jeffrey Boyer by telephone. Mr. Neumann was arrested in his Honda Civic, which was being driven from his residence to the area of Mr. Lockett’s residence.

[98] Det. Cst. Jason Funk executed the search warrant at Stephen Lockett’s residence. Among the items located in the residence were three phones, three digital scales, two money counters, a radio frequency bug detector/scanner, a zip zag bag of marihuana weighing 87 grams, a ziplock bag of marihuana with two ziplock bags inside with a gross weight of 213 grams. Cash was located, \$1500 in \$20 bills and \$145.00 cash. The Viper motor vehicle driven by Mr. Lockett was located in stall 90 and in the storage unit associated with stall 90 \$68,820.00 in cash was found in a black “Ogio” canvass carry-all gym bag. Notices of assessment from Canada Revenue Agency were seized which showed Mr. Lockett’s income for 2014 was \$7,077.00 and Jennifer Lockett’s 2014 income was \$27,867.00. Another bag of marihuana with a gross weight of 104 grams was located in the storage area and bags of marihuana were located in a deep freezer. The storage unit also contained nine suitcases including a Heys suitcase. A

cardboard box was found on top of a safe, which was half full of stacks of blank paper bundles.

[99] Cst. Link was the site commander for the execution of the search warrant at the residence of Mr. Germaine. She understood Mr. Germaine resided there until the night before execution of the warrant. Among the items located in the search were two food savers, phones including an iPhone, china mobile, two blackberries and an LG, a Heys suitcase, a blue/grey strap to go around a suitcase as used by Mr. Germaine when he travelled, a receipt from the Best Western Hotel in Dartmouth, a grow calendar, a money counter, a number of score sheets and keys for the Tahoe and BMW, and the Tahoe driven by Mr. Germaine. Also located was a large quantity of food saver bags, the same type the marihuana was packaged in when observed during police searches.

[100] Cst. Harvey Quam was the site commander for the execution of the search warrant at Mr. Telford's residence. Among the items located in the search were six cell phones, insurance documents for the Dodge Viper driven by Stephen Lockett, an Air Canada Elite card in Mr. Telford's name, key for Mr. Telford's Ford F150 truck and 150 marihuana plants. Cash in the amount of \$6,500.00 was found in the T.V. room.

[101] Cst. Michael Everitt was site commander for the execution of the search warrant at Douglas Neumann's residence. Among the items seized were numerous telephones and weapons, in excess of 47 kg of marihuana which was double packaged in bags inside vacuum sealed bags, as well 2016 grams of shatter (a concentrated marihuana derivative), a large quantity of vacuum sealed packaging and ziplock bags, digital scales, a food saver vacuum sealer, a blue Heys soft sided suitcase and an Air Canada Altitude Elite 50K card in Mr. Neumann's name. Three medical marihuana licences were found, including one in the name of Jennifer Alice Lockett, Stephen Lockett's wife, which had Mr. Neumann's address as the registered storage site.

[102] Some of the ziplock bags were examined for fingerprints and one of the large ziplock bags contained two fingerprints, which were Jeffrey Michael Boyer's fingerprints.

[103] Sgt. Michael Kwan was the team commander for the execution of the search warrant at Jeffrey Boyer's residence. Among the items located were a number of cell phones, a back Heys suitcase with the name tag, Ashley Buss, on it, a money

counter, a food sealer, Jeffrey Boyer's passport and a copy of an application for certified copy of a marriage certificate showing Jeffrey Michael Boyer and Ashley Dawn Buss were married in California on September 10, 2015. In a crawlspace underneath the stairs downstairs a safe and a M & N nylon bag were located. The bag contained five bundles of \$20 bills totalling \$10,000.00, a smaller bundle of 90 \$20 bills totalling \$1,800.00, and the safe that contained a bundle of 100 \$20 bills totalling \$2,000.00. The sum of \$1,390.00 was found in the kitchen.

[104] The Chrysler 300 contained the registration for the vehicle, an expired medical marihuana licence in the name of Jeffrey Boyer and a box of plastic nitro gloves. During the search, Mr. Boyer was cooperative at all times. No marihuana or score sheets were found during the search. Nothing illegal to possess was found.

[105] Mr. Boyer registered a business name JMB Construction and Renovations with the British Columbia Registry Services on October 4, 2004. He had a medical marihuana licence which allowed indoor production of 146 plants and a storage quantity of 6570 grams and a storage address of 408-22290 North Avenue, Maple Ridge, British Columbia. Mr. Boyer did not travel to Halifax or Montreal during the course of this investigation.

[106] Lisa Papez rented a condo Unit 408- 22290 North Avenue, Maple Ridge, from Jeffrey Boyer and Ashley Boyer (formerly Ashely Buss) from October 2014 to September or October 2016. She did not see any marihuana stored there or anyone come to pick up marihuana. She parked a vehicle in the parking area for the unit. She did not know if the unit had a storage unit – she does not think it did, because she did not use it. She believed there was a bike storage area – she did not use it. Behind the building there were houses and behind the houses a tent area for homeless people.

[107] On September 14, 2015, the following text message “778-919-3607 reeces new number delete old one pls” was sent from Mr. Germaine's phone to Jeffrey Boyer, Stephen Lockett and phones used by Devendra Prasad and Ryan Franklin. On the same day the following message was sent to an unknown party “Reece new number 778-919-3607”. Between September 15 and October 14, 2015 text messages concerning Mr. Germaine's new number were sent to seven other phones.

[108] Tracking devices were placed on vehicles of some of the targets of the investigation. The devices are not precise, they show the general location of a vehicle, an area or block of a street, the vehicle visited. They devices track vehicles, they do not identify the person in the vehicle.

[109] In this case, vehicles were tracked to the area of North Avenue, Maple Ridge shown as the storage area of Mr. Boyer's marihuana licence. As a result of the evidence of Ms. Papez and the nature of the tracking devices, I make no finding as to the purpose of the visits to North Avenue.

[110] Flight records of Air Canada and WestJet flights between May 15, 2015 and October 12, 2015 of persons connected to this investigation were entered into evidence. The records show that during the period covered, Reece Germaine, Derek Pilling, Ryan Franklin, Douglas Neumann and Darren Telford made frequent short trips to Halifax and other cities including St. John's and Toronto from Vancouver. They would return to Vancouver the same day or in the next day or two. The records document that during this period Mr. Telford travelled to Halifax 14 times, Mr. Geramine 12 times, Mr. Neumann nine times, Mr. Pilling seven times, and Mr. Franklin five times.

[111] The evidence shows an ongoing scheme of couriers consistently travelling to Halifax, being met by Mr. Withrow and after the tracking device was discovered on his Camry by others, the presence of the drugs and money was confirmed by the police searches of the couriers' luggage.

[112] I find the Crown has proved beyond a reasonable doubt the existence of a conspiracy as charged in the Indictment, namely to traffic in cannabis marihuana, to transport currency with the intent to conceal or convert the currency, knowing and believing that it was obtained as a result of trafficking in cannabis marihuana, and to possess currency exceeding \$5,000.00 knowing it was obtained by the commission of an offence punishable by Indictment.

Step 2

[113] At this stage, the trier of fact must determine, exclusively on the basis of "evidence directly receivable against the accused" whether the accused was probably a member of the conspiracy. The trier of fact is not to consider co-conspirator hearsay evidence at this stage of deliberations. It is also at this stage,

the determination is made whether others were probable members of the conspiracy.

[114] The evidence directly receivable against Mr. Boyer is as follows:

June 4, 2015

[115] Mr. Germaine backed into the driveway of Mr. Boyer's residence. Mr. Boyer was not seen that day. It is not known whether the garage door of the residence was open and nothing was seen going in or out of the residence .

June 20, 2015

[116] Mr. Germaine arrived in Vancouver at 11:30 a.m. and went to various places. At approximately 4:40 p.m. Mr. Germaine and the Chrysler 300 which Mr. Boyer drove was seen in the vicinity of Mr. Lockett's residence. About 10 minutes later, Mr. Germaine and an unidentified male exited the front door. The unidentified male was described as being 6' to 6'1" tall and weighing 170 lbs. Det. Cst. Yee had no recollection of the unidentified male having tattoos. They had a conversation between the parked cars and then Mr. Germaine got into his Tahoe, the male into the Chrysler and they drove out in tandem. Mr. Germaine first and then the Chrysler.

July 15, 2015

[117] Mr. Pilling returned to Vancouver from Halifax and drove directly to Mr. Boyer's residence. He took two suitcases into the open garage of Mr. Boyer's residence. Two suitcases were observed in the garage, one open and empty and the other closed. No one saw Mr. Boyer that day. No marihuana or cash was seen that day.

August 5, 2015

[118] Mr. Germaine returned to Vancouver with a large amount of cash. He left the airport at 6:38 p.m. and went home. At 9:11 p.m. Mr. Germaine and an unidentified male arrived at Mr. Boyer's residence. At 9:13 p.m. Mr. Germaine, the unidentified male and another male (believed to be Mr. Boyer) were seen through a window speaking in the kitchen. At 9:25 Mr. Germaine and the unknown male left. Nothing was seen been taken into the residence or out of the

residence by Mr. Germaine or the unidentified male. Sgt. Kwan stated Mr. Boyer had a sleeve of tattoos on his left arm.

September 2, 2015

[119] Mr. Boyer's Chrysler was seen in the vicinity of Mr. Newman's residence.

September 16, 2015

[120] Mr. Boyer, who was in Tahiti, called Mr. Lockett. During the course of the conversation, they discussed business in which they were both involved. When speaking about people, they did not use names. The following exchanges took place. Mr. Boyer is Voice 1 and Mr. Lockett is Voice 2:

VOICE 1: What, um, tsk, you, you know the, the Hami guy?

VOICE 2: Yeah, yeah

VOICE 1: What's he sayin'?

VOICE 2: Uh, he's ready next week again

VOICE 1: Okay, we can do, like, uh. Yeah, okay

VOICE 2: Yeah, so I'll hit him with that and then he's askin' for more. You remember that other thing we, we gave him?

VOICE 1: Yeah

VOICE 2: He's askin' for double that

VOICE 1: He wants more of it

VOICE 2: So ____

VOICE 1: He was happy with it?

VOICE 2: Yeah, yeah. So I, I doubled, he wants double that so I put the order in for that. That's gonna be ready next week. So that'll go out too

VOICE 1: Okay, good. You, you talked to my buddy _____. 'Kay, if, if my other buddy asks don't let him know that we're doing this right now, like, if, uh

VOICE 2: No, I won't, I won't

And

VOICE 1: And did, did you ever talk to the Asian guy?

VOICE 2: Ah, no, he didn't fuckin' buzz me at all

VOICE 1: What's that?

VOICE 2: He, he hasn't

VOICE 1: _____

VOICE 2: Buzzed me at all the Asian guy. No. Uh, which, which is Asian guy I cant' remember

VOICE 1: Okay, hit him up, hit him up then

VOICE 2: Okay. Wh-which, which is he again?

VOICE 1: China

VOICE 2: Oh China. Ah, that's right. Yeah, yeah. Okay, okay. Yeah, I'll hit him up see what the fuck's goin' on with him

VOICE 1: So hit him up. I already told him that you would be talkin' to him and he said no problem

And

VOICE 2: Buddy's out in H now and, uh, he's gonna be about thirty short but I said, whatever, just get what you can

VOICE 1: Whatever I don't care

VOICE 2: Yeah, I just thought I fuckin' better get somethin' here, man. Who knows what's gonna happen

VOICE 1: We just gotta get it out of there, right

VOICE 2: Yeah, (Short laugh) exactly. Exactly, so

VOICE 1: (Laughs)

VOICE 2: So at least it will be close anyway, right

VOICE 1: Okay, chippin' away at least. Chippin' away. What about, uh

VOICE 2: Yeah, exactly

VOICE 1: Black guys

VOICE 2: I'm still grabbin stuff

VOICE 1: What about the black guys?

VOICE 2: Uh, the black guys. Yeah, he's sayin' any day too. And I'll, I'll be fine I'll uh

VOICE 1: Oh, okay, that's okay then.

VOICE 2: That's, that's for him

VOICE 1: This is all right

VOICE 2: Yeah, yeah, it's just, you know, when, when, when H goes down, fuck, I mean, that's what takes all your time so I'm fuckin' bored. But it's been good

September 20, 2015

[121] Mr. Boyer called Mr. Lockett on the telephone. Mr. Lockett is Voice 1 and Mr. Boyer Voice 2. The following conversation took place:

VOICE 1: Yo

VOICE 2: Hey, _____. Sorry, meeting ran long. You fuckin' home?

VOICE 1: Yeah, I'm home, buddy. How long

VOICE 2: Just

VOICE 1: Ya _____?

VOICE 2: Fuckin', I can be there in two seconds. Just come

VOICE 1: Okay

VOICE 2: Uh, I'm just like on uh, Harris Road right now. If you wanna pop down, I'll just pick ya up

VOICE 1: Okay. I'll come down right now

VOICE 2: _____. 'Kay, bye

VOICE 1: 'Kay ____

October 10, 2015

[122] Mr. Boyer called Mr. Lockett on the telephone. Mr. Lockett is Voice 1 and Mr. Boyer is Voice 2. The following conversation took place:

VOICE 1: Yo

VOICE 2: Yo what's goin' on?

VOICE 1: Ah pulling into my underground why what's goin' on?

VOICE 2: Ah okay

VOICE 1: Ah what's goin' on?

VOICE 2: I'm at the front door

VOICE 1: Ah, I'm pulling in the underground, I'll meet you in at the front door in two secs

VOICE 2: Okay bye

VOICE 1: Okay bye

October 20, 2015

[123] Mr. Boyer was seen with Mr. Lockett.

October 28, 2015

[124] The search warrants were executed in British Columbia and Nova Scotia. In British Columbia the operation occurred at approximately 8 to 9:15 a.m. At 9:12:31 a.m. Stephen Lockett called Jeffrey Boyer. Mr. Boyer is Voice 1 and Mr. Lockett is Voice 2 and the following conversation took place:

VOICE 1: What's goin' on, buddy?

VOICE 2: _____ goin', bud

VOICE 1: Uh, yeah, have a look

VOICE 2: Got nothin'

VOICE 1: I'll, I'll talk to ya. What?

VOICE 2: I don't know. Oh, _____ there's uh got it in my hand.

VOICE 1: One sec.

VOICE 2: Oh, yeah, okay

VOICE 1: Okay, buddy. Bye

VOICE 2: 'Kay, bye

[125] During the search at Douglas Neumann's residence a large ziplock bag was seized which when examined for fingerprints was found to contain among other fingerprints, two of Mr. Boyer's fingerprints.

[126] I have previously set out what was found during the search of Mr. Boyer's residence.

[127] Det. Sgt. John Babiar of the Toronto Police Service was qualified to give opinion evidence in relation to the packaging, pricing, quantities and use of cannabis marihuana, the inter-provincial trafficking of drugs, various methods used to covertly store drugs and /or money for transport, drug hierarchies, distribution methods of drug traffickers, drug networks, drug couriers, "stash houses", street jargon, street terminology, convert codes, modes of communication, counter

surveillance techniques and evidence in relation to currency obtained by crime and money laundering.

[128] I found Det. Sgt. Babiar to be knowledgeable in his field and his evidence to be of great assistance. He described how drug dealers operate under the assumption their phone is being monitored by police, they attempt to limit discussions concerning incriminating activities over the phone. The more sophisticated individuals will only use the phone to establish a meeting time/location and will only discuss such matters in person. Their conversations are frequently guarded and lack the flow of normal conversations. Locations may be referred to by initials, for example, Toronto may be "T".

[129] In reviewing the above mentioned conversations between Messrs. Boyer and Lockett, the conversations were guarded, names were not used. A location was referred to as "H". I note on the date of the conversation about "H" September 16, 2015, the reference to "H" was "Buddy's out in H now, and, uh, he's gonna be about thirty short but, I said, whatever, just get what you can".

[130] The conversations of September 20 and October 10, 2015 were brief arranging face to face meetings, nothing was discussed on the phone. The conversation of October 28, 2015 was brief and guarded containing no explanation about what was going on.

[131] In the search of Mr. Boyer's residence a money counter and food saver were located. Although Det. Sgt. Babiar testified at the upper levels of drug operations, money counters are present and in this operation the drugs were transported in bags sealed by sealers such as food savers, such items are widely available and have innocent uses.

[132] The \$10,000.00 found in the search of Mr. Boyer's residence could be in connection with the business name he registered JMB Construction and Renovations.

[133] Considering the evidence directly receivable against Mr. Boyer, I am satisfied on a balance of probabilities that Mr. Boyer was a member of the conspiracy.

[134] I am also satisfied on a balance of probabilities that Reece Germaine, Derek Pilling, Douglas Neumann, Darren Telford and Stephen Lockett were members of the conspiracy.

[135] Messrs Germaine, Pilling, Newman and Telford were shown by the flight records of Air Canada and WestJet to have made frequent short trips to Halifax and other cities including St. John's and Toronto from Vancouver. They would return to Vancouver the same day or in the next day or two. The luggage of the men was searched and each of them had luggage which contained large quantities of marihuana or cash. The marihuana carried by the various couriers were packaged in the same manner.

[136] The evidence also shows on the balance of probabilities that Stephen Lockett was a member of the conspiracy.

Step 3

[137] At this stage the trier of fact must determine whether the Crown has proved the accused's membership in the conspiracy beyond a reasonable doubt. At this stage the trier of fact is entitled to consider the hearsay acts and declarations of co-conspirators made in furtherance of the objects of the conspiracy.

[138] The standard "beyond a reasonable doubt" is very different from the standard of "a balance of probabilities". The Crown is required to prove each essential element of an offence beyond a reasonable doubt.

[139] This case involves circumstantial evidence. The test for dealing with circumstantial evidence was set out in **R. v. Villaroman** 2016 SCC 33 where Cromwell, J. in giving the Court's judgment stated beginning at paragraph 35:

[35] ... In assessing circumstantial evidence, inferences consistent with innocence do not have to arise from proven facts: *R. v. Khela*, 2009 SCC 4, [2009] 1 S.C.R. 104, at para. 58; see also *R. v. Defaveri*, 2014 BCCA 370, 361 B.C.A.C. 301, at para. 10; *R. v. Bui*, 2014 ONCA 614, 14 C.R. (7th) 149, at para. 28. Requiring proven facts to support explanations other than guilt wrongly puts an obligation on an accused to prove facts and is contrary to the rule that whether there is a reasonable doubt is assessed by considering all of the evidence. The issue with respect to circumstantial evidence is the range of reasonable inferences that can be drawn from it. If there are reasonable inferences other than guilt, the Crown's evidence does not meet the standard of proof beyond a reasonable doubt.

[36] I agree with the respondent's position that a reasonable doubt, or theory alternative to guilt, is not rendered "speculative" by the mere fact that it arises from a lack of evidence. As stated by this Court in *Lifchus*, a reasonable doubt "is a doubt based on reason and common sense which must be logically based upon the evidence or lack of evidence": para. 30 (emphasis added). A certain gap in the evidence may result in inferences other than guilt. But those inferences must be reasonable given the evidence and the absence of evidence, assessed logically, and in light of human experience and common sense.

[37] When assessing circumstantial evidence, the trier of fact should consider "other plausible theor[ies]" and "other reasonable possibilities" which are inconsistent with guilt: *R. v. Comba*, [1938] O.R. 200 (C.A.), at pp. 205 and 211, per Middleton J.A., aff'd [1938] S.C.R. 396; *R. v. Baigent*, 2013 BCCA 28, 335 B.C.A.C. 11, at para. 20; *R. v. Mitchell*, [2008] QCA 394 (AustLII), at para. 35. I agree with the appellant that the Crown thus may need to negative these *reasonable* possibilities, but certainly does not need to "negative every possible conjecture, no matter how irrational or fanciful, which might be consistent with the innocence of the accused": *R. v. Bagshaw*, [1972] S.C.R. 2, at p. 8. "Other plausible theories" or "other reasonable possibilities" must be based on logic and experience applied to the evidence or the absence of evidence, not on speculation.

[38] Of course, the line between a "plausible theory" and "speculation" is not always easy to draw. But the basic question is whether the circumstantial evidence, viewed logically and in light of human experience, is reasonably capable of supporting an inference other than that the accused is guilty.

[39] I have found two particularly useful statements of this principle.

[40] The first is from an old Australian case, *Martin v. Osborne* (1936), 55 C.L.R. 367 (H.C.), at p. 375:

In the inculcation of an accused person the evidentiary circumstances must bear no other reasonable explanation. This means that, according to the common course of human affairs, the degree of probability that the occurrence of the facts proved would be accompanied by the occurrence of the fact to be proved is so high that the contrary cannot reasonably be supposed. [Emphasis added.]

[41] While this language is not appropriate for a jury instruction, I find the idea expressed in this passage — that to justify a conviction, the circumstantial evidence, assessed in light of human experience, should be such that it excludes any other reasonable alternative — a helpful way of describing the line between plausible theories and speculation.

[42] The second is from *R. v. Dipnarine*, 2014 ABCA 328, 584 A.R. 138, at paras. 22 and 24-25. The court stated that “[c]ircumstantial evidence does not have to totally exclude other conceivable inferences”; that the trier of fact should not act on alternative interpretations of the circumstances that it considers to be unreasonable; and that alternative inferences must be reasonable, not just possible.

[43] Where the line is to be drawn between speculation and reasonable inferences in a particular case cannot be described with greater clarity than it is in these passages.

[140] In a phone conversation between Reece Germaine and Stephen Lockett on September 8, 2015, the following exchange took place. Mr. Germaine is Voice 1 and Mr. Lockett is Voice 2:

VOICE 2: Just come, just come by, ma-maybe just come by after the traffic, eh?

VOICE 1: Yeah, that’s what I might do. I’m gonna go home, chill, drop my shit off, shower and then I’ll come out

VOICE 2: Yeah

VOICE 1: That way. Should I come to your house or go to Major’s?

VOICE 2: Yeah, come to me. No, he, he’s away for two weeks buddy

VOICE 1: Oh, where is

VOICE 2: _____

VOICE 1: He?

VOICE 2: Yeah, he went, he ____ married and then he’s goin’ on a honeymoon

VOICE 1: Oh right. He went to uh

VOICE 2: Yeah

VOICE 1: Ta-tahiti or somethin’

VOICE 2: Yeah

VOICE 1: Like that

VOICE 2: Yeah, he's goin' to California first to get married there and then they're goin' to Tahiti

VOICE 1: Wow

[141] The evidence shows Mr. Boyer was married in California on September 10, 2015 and his passport and his conversation with Mr. Lockett of September 16, 2015 establish he was in Tahiti. I find Mr. Boyer is the "Major" referred to in the above conversation.

[142] In the phone conversation between Reece Germaine and Stephen Lockett on September 7, 2015, the following exchange took place. Mr. Germaine is Voice 1 and Mr. Lockett is Voice 2:

VOICE 1: Hello

VOICE 2: Buddy, where's your computer?

VOICE 1: Uh, it's on my, on the bed

VOICE 2: Oh, you're sleeping. Okay, well have, have a look at it.

VOICE 1: Yeah I am, I am. Um, what's goin' on, everything okay?

VOICE 2: Yeah, it's fine but just look at it

VOICE 1: Uh, _____

VOICE 2: (Clears throat)

VOICE 1: _____. Uh, uh, tonight?

VOICE 2: Yeah, that's the only thing under, like, two, 2K (Short laugh)

VOICE 1: Holy Jesus

VOICE 2: H-have you talk to him is he gonna be there? Is he gonna be back here soon or what, what's he doin'?

VOICE 1: I don't know the fuckin' guy partied last night, man

VOICE 2: Oh fuck. Who's the Taxi?

VOICE 1: _____. No, not

VOICE 2: Who

VOICE 1: The Taxi. Taxi guy doesn't even drink, he's good.

VOICE 2: No

VOICE 1: But, like

VOICE 2: Okay, yeah, that's fine but who cares about _____

VOICE 1: (Clears throat)

VOICE 2: He's an idiot

VOICE 1: But, but the fuckin' guy that partied last night, uh, Taxi's tryin' to get a hold of him to grab files

VOICE 2: Ah, he's such a fuckin' idiot, isn't he?

VOICE 1: No, my God, like

VOICE 2: God, he's annoyin'. And he

VOICE 1: I know

VOICE 2: Knew you were coming too. I already talked to him. What a f-. ah, he's so annoyin'

VOICE 1: Yeah, and then he, and then he, and then he, he fuckin' pretended like he didn't. Told Taxi, like, oh, yeah, I didn't know he's coming today

VOICE 2: Oh he

VOICE 1: Pretended like he

VOICE 2: Knew. I talked to him

VOICE 1: I know

VOICE 2: Major talked _____

VOICE 1: I know he knew. I talked to him yesterday

[143] In this conversation the language is guarded, for example, Mr. Lockett telling Mr. Germaine to look at his computer, not telling him what to look for. At line 26 of page 3 of 6 reference to Taxi guy trying to grab “files”. Mr. Lockett makes reference that Major talked.

[144] I find the above conversations were made while the conspiracy was ongoing and were made in furtherance of the conspiracy.

[145] It is clear from the phone conversation between Messrs. Lockett and Boyer on September 16, 2015 they were involved in business together. In the conversation Mr. Lockett said “Buddy’s out in H now.” People do not speak like that. A person may say, Buddy’s in Hamilton or Hawaii or wherever. Using the initial was an attempt to hide what was being said. Det. Sgt. Babiari described how drug dealers use initials instead of the name of a place. In fact at the time of the conversation, Mr. Telford was in Halifax. I find the conversation dealt with drug trafficking in Halifax.

[146] All the phone conversations between Messrs. Boyer and Lockett were guarded. The conversation on October 28, 2015 was at the time the search warrants were being executed.

[147] On July 15, 2015, Mr. Pilling, after flying back to Vancouver from Halifax, went directly to Mr. Boyer’s residence and took two suitcases into the open garage of Mr. Boyer’s residence. Two suitcases were observed in the garage: one open and empty and the other closed.

[148] Mr. Boyer’s fingerprints were on a large ziplock bag at Mr. Neumann’s residence. Two fingerprints were on the same bag. There were other fingerprints on the bag. It was submitted the fingerprints may have got on the bag for reasons other than in connection with the offences charged, for example, personal use of drugs at the Neumann residence.

[149] In the conversation between Messrs. Boyer and Lockett on September 16, after pleasantries about his trip, it was Mr. Boyer who asked the first question about business:

What, um, tsk, you, you know the Hami guy?

Mr. Boyer goes on asking Mr. Lockett questions to be brought up to date about the business. Mr. Boyer then gives directions to Mr. Lockett. Mr. Boyer appears to be senior to Mr. Lockett in the organization. In his report, Det. Sgt. Babiak addresses the controlling minds of the drug operation stating:

In large scale drug distribution schemes there is generally an individual or individuals working cooperatively directing the operation(s). ... Those making the decisions overseeing the operations are at the top end of the hierarchy.

The evidence shows this was a large scale drug operation. The searches of the couriers' luggage establish large quantities of cannabis marijuana were involved worth hundreds of thousands of dollars. I find that Mr. Boyer was a person directing the operation along with Mr. Lockett.

[150] In considering the evidence as a whole, I must assess the circumstantial evidence, as Cromwell, J. stated in **R. v. Villaroman**, in the light of human experience to determine if there are reasonable inferences other than guilt, in which case the Crown would not have established its case beyond a reasonable doubt.

[151] Considering all of the evidence, I find the Crown has proved beyond a reasonable doubt that Jeffrey Michael Boyer was a member of the conspiracy.

[152] Count 1 – Mr. Boyer is charged:

Between May 15, 2015 and October 9, 2015, at or near Halifax, Nova Scotia and other areas of and in Canada, he did conspire together with Stephen John Lockett and with others: Reece Peter Germaine, Derek Nichlaus Pilling, Douglas Kurtiss Neumann and Darren Ernest Telford, to commit the indictable offence of trafficking in a substance included in Schedule II to wit, cannabis marijuana, contrary to section 5(1) of the **Controlled Drugs and Substances Act** thereby committing an offence contrary to section 465(1)(c) of the **Criminal Code** of Canada;

[153] The evidence shows and I find, the Crown has proved beyond a reasonable doubt that Jeffrey Michael Boyer conspired with the other persons named in the Count to commit the indictable offence of trafficking in cannabis marijuana, contrary to Section 5(1) of the **Controlled Drugs and Substances Act**. The Crown having proved all essential elements of the offence beyond a reasonable doubt, I find Jeffrey Michael Boyer guilty of Count 1 of the Indictment.

[154] Count 2 - Mr. Boyer is charged:

AND FURTHER THAT AT THE SAME TIME AND PLACE AFORESAID, Jeffery Michael Boyer did conspire together with Stephen John Lockett and with others: Reece Peter Germaine, Derek Nichlaus Pilling, Douglas Kurtiss Neumann and Darren Ernest Telford, to commit the indictable offence of transporting property; to wit: currency with the intent to conceal or covert that property or proceeds knowing or believing that all or part of the property or proceeds was obtained as a result of the commission in Canada of the designated offence of trafficking in a substance included in Schedule II to wit: cannabis marihuana contrary to Section 5(1) of the *Controlled Drugs and Substances Act* contrary to Section 462.31(1) of the *Criminal Code* thereby committing an offence contrary to Section 465 (1)(c) of the *Criminal Code*;

[155] The evidence shows and I find, the Crown has proved beyond a reasonable doubt that Jeffrey Michael Boyer conspired with the other persons named in the Count to commit the indictable offence of transporting property, currency with the intent to conceal or convert the currency knowing the currency was obtained as a result of the commission in Canada of the designated offence of trafficking in cannabis marihuana contrary to Section 5(1) of the *Controlled Drugs and Substances Act* contrary to Section 462.31(1) of the *Criminal Code*. The Crown having proved all essential elements of the offence beyond a reasonable doubt, I find Jeffrey Michael Boyer guilty of Count 2 of the Indictment.

[156] Count 3 – Mr. Boyer is charged:

AND FURTHER THAT AT THE SAME TIME AND PLACE AFORESAID, Jeffrey Michael Boyer did conspire together with Stephen John Lockett and with others: Reece Peter Germaine, Derek Nichlaus Pilling, Douglas Kurtiss Neumann and Darren Ernest Telford, to commit the indictable offence of possession of property or proceeds to wit: currency of a value exceeding five thousand dollars knowing that all part (sic) of the property or proceeds was obtained directly or indirectly by the commission in Canada of an offence punishable by indictment contrary to Section 354(1)(a) of the *Criminal Code* thereby committing an offence contrary to Section 465 (1)(c) of the *Criminal Code*;

[157] The evidence shows and I find, the Crown has proved beyond a reasonable doubt that Jeffrey Michael Boyer conspired with the other persons named in the Count to commit the indictable offence of possession of property or proceeds, currency of a value exceeding \$5,000 knowing that the property or proceeds were obtained by the commission in Canada of an offence punishable by indictment

contrary to Section 354(1)(a) of the *Criminal Code*. The Crown having proved all essential elements of the offence beyond a reasonable doubt, I find Jeffrey Michael Boyer guilty of Count 3 of the Indictment.

[158] Count 4 – Mr. Boyer is charged:

AND FURTHER THAT Jeffrey Michael Boyer between May 15, 2015 and October 9, 2015, at or near Halifax, Nova Scotia, did traffic in a substance included in Schedule II to wit: cannabis marihuana contrary to Section 5(1) of the *Controlled Drugs and Substances Act*;

[159] Section 21 of the *Criminal Code* provides:

21(1) Every one is a party to an offence who

- (a) actually commits it;
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or
- (c) abets any person in committing it.

(2) Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to that offence.

[160] And Section 4(3) of the *Criminal Code* provides:

4(3) For the purposes of this Act,

(a) a person has anything in “possession” when he has it in his personal possession or knowingly

(i) has it in the actual possession or custody of another person, or

(ii) has it in any place, whether or not that place belongs to or is occupied by him, for the use or benefit of himself or of another person; and

(b) where one of two or more persons, with the knowledge and consent of the rest, has anything in his custody or possession, it shall be deemed to be in the custody and possession of each and all of them.

[161] The evidence shows, and I find, Mr. Boyer was a person who directed this operation. He and Mr. Lockett directed the couriers in the transport of cannabis marihuana to eastern Canada including Nova Scotia and the return of the proceeds from the sale of the marihuana to Vancouver. Mr. Boyer knew the substance was cannabis marihuana. He had the courier transport the marihuana for his use and the use of others. Mr. Boyer had constructive possession of the cannabis marihuana. He intentionally trafficked in the cannabis marihuana between May 15, 2015 and October 9, 2015 at or near Halifax, Nova Scotia. The Crown having proved all essential elements beyond a reasonable doubt, I find Jeffrey Michael Boyer guilty of Count 4 of the Indictment.

[162] Count 5 – Mr. Boyer is charged:

AND FURTHER THAT Jeffrey Michael Boyer between May 15, 2015 and October 9, 2015, at or near Halifax, Nova Scotia, did transport property; to wit: currency with the intent to conceal or convert property or proceeds knowing or believing that all or part of the property or proceeds was obtained as a result of the commission in Canada of the designated offence of trafficking in a substance included in Schedule II to wit: cannabis marihuana contrary to Section 5(1) of the *Controlled Drugs and Substances Act* contrary to Section 462.31(1) of the *Criminal Code*.

[163] The evidence shows Mr. Boyer and Mr. Lockett directed the couriers in the transport of the proceeds of the sale of the cannabis marihuana from Nova Scotia to Vancouver. Mr. Boyer had constructive possession of the proceeds. The proceeds, the currency, was obtained by crime, the sale of cannabis marihuana. Mr. Boyer knew the currency was obtained by the commission of a crime. Mr. Boyer intended to conceal and convert the proceeds to his own use. The offence was committed at the time and place set out in the Count. The Crown, having proved all essential elements of the offence beyond a reasonable doubt, I find Jeffrey Michael Boyer guilty of Count 5 of the Indictment.

[164] Count 6 – Mr. Boyer is charged:

AND FURTHER THAT Jeffrey Michael Boyer between May 15, 2015 and October 9, 2015, at or near Halifax, Nova Scotia, did possess property or proceeds to wit: currency of a value exceeding five thousand dollars knowing that all or part of the property or proceeds was obtained directly or indirectly by the commission in Canada of an offence punishable by indictment contrary to Section 354(1)(a) of the *Criminal Code*.

[165] The evidence shows Mr. Boyer had constructive possession of the proceeds. The proceeds, currency, was obtained by the commission of a crime in Canada. Mr. Boyer knew the currency was obtained by the commission of a crime, the sale of cannabis marihuana, which is an offence punishable by indictment. The searches of the couriers luggage clearly show the currency exceeding the value of \$5,000. The offence was committed at the time and place set out in the Count. The Crown, having proved all essential elements of the offence, I find Jeffrey Michael Boyer guilty of Count 6 of the Indictment.

J.