

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Butt*, 2010 NSCA 56

Date: 20100622

Docket: CAC 321080

Registry: Halifax

Between:

Her Majesty the Queen

Appellant

v.

Robert James Butt

Respondent

Judge: The Honourable Justice Nancy Bateman

Appeal Heard: June 8, 2010

Subject: **Sentence - Possession for the Purposes of Trafficking**

Summary: Mature offender with prior record, acting as middleman, facilitated receipt of two kilos of cocaine. In the two years between the charge and sentence (after a guilty plea) he said he had turned his life around, kicked a 20 year drug habit and planned to upgrade and take a course. The judge imposed a sentence of 3.5 years. The Crown sought leave on the basis that the sentence was unfit.

Issues: Was the sentence fit?

Result: Leave granted, appeal allowed. This Court has consistently recognized that involvement in the cocaine trade, at any level, attracts substantial penalties. Three factors apparently drove the judge to impose a sentence that was manifestly below the appropriate range for an offender operating at this level of the drug trade: (1) the judge believed Mr. Butt's assertion that he had reformed over the two years

since being charged with the offence; (2) the judge was mistaken about Mr. Butt's health situation; and (3) he mistakenly understood the Crown to be suggesting a sentence in the 4 to 5 year range.

How
ever, a
post-
senten
ce
report
reveal
ed
that
Mr.
Butt
had
contin
ued to
offen
d
after
the
posse
sion
charg
e,
comm
itting
severa
l
additi
onal
offenc
es for
which
he
was
not
convi
cted
and
senten
ced

until
after
being
senten
ced
on the
posse
sion
charg
e.
Additi
onally
, at
the
senten
cing
hearin
g in
the
Supre
me
Court
the
Crow
n had
actual
ly
revise
d its
earlier
recom
mend
ation
from
4 to 5
years
to 5 to
6
years.
Sente
nce

set
aside
and
the 5
year
senten
ce
sough
t by
the
Crow
n on
appea
l
substi
tuted.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 6 pages.