

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Steeves*, 2007 NSCA 130

Date: 20071228

Docket: CAC 282671

Registry: Halifax

Between:

Her Majesty The Queen

Appellant

v.

Matthew Weldon Steeves

Respondent

Judge: Honourable Justice Linda Lee Oland

Appeal Heard: November 23, 2007

Subject: *Sentencing - Possession for the purpose of trafficking cocaine and ecstasy - s. 5(2) Controlled Drugs and Substances Act - Admission of Fresh Evidence*

Summary: The 29 year old respondent, who was found with 77 grams of cocaine and 100 pills of ecstasy, pled guilty to possession for the purpose of trafficking both drugs. While this was his first drug-related offence, he had been convicted of other offences previously. He has a neurological disorder and receives a disability pension. There was no suggestion that his medical needs would not be met if he were sentenced to a penitentiary term of incarceration. The judge sentenced him to two years less a day, to be served in the community. The Crown appeals the conditional sentence and sought to admit fresh evidence regarding a theft conviction in New Brunswick.

Issue:

- (i) Whether to allow the application for fresh evidence.
- (ii) Whether, in ordering a conditional sentence, the judge failed to apply the proper principles of sentencing.

Result: Application for admission of fresh evidence denied. The Crown did not establish that the respondent had pled guilty to theft, or that a conviction had been entered, in New Brunswick prior to the imposition of the conditional sentence under appeal.

The appeal against sentence is allowed and a term of imprisonment of two years and six months imposed. The sentencing judge failed to apply the proper principles of sentencing. In particular, there was no indication in his decision that he considered the principles of general and specific deterrence, or the historical ranges of sentences for trafficking cocaine or ecstasy. Moreover, in imposing a conditional sentence, he failed to direct his mind to the approach described in *R. v. Proulx*, [2001] 1 S.C.R. 61.

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 10 pages.