

NOVA SCOTIA COURT OF APPEAL

Clarke, C.J.N.S.; Hart and Chipman, JJ.A.

Cite as: R. v. Robins, 1993 NSCA 108

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

- and -

BRYAN JOSEPH ROBINS

Respondent

) James C. Martin
) for the Appellant

) Roger A. Burrill
) for the Respondent

) Appeal Heard:
) April 6, 1993

) Judgment Delivered:
) April 6, 1993

THE COURT: Appeal allowed and sentence for possession of a narcotic for the purpose of trafficking (cocaine) increased to eighteen months imprisonment, per oral reasons for judgment of Clarke, C.J.N.S.; Hart and Chipman, JJ.A. concurring.

The reasons for judgment of the Court were delivered orally by:

CLARKE, C.J.N.S.:

We grant leave to the Crown to appeal from a sentence of eight months imprisonment followed by two years probation after the respondent pled guilty to possession of a narcotic for the purpose of trafficking (cocaine) contrary to s. 4(2) of the **Narcotic Control Act**.

During a search by the police they seized 23.57 grams of cocaine, valued at \$2,350.00, a number of coke decks, some of which had cocaine residue, scales covered with residue and a sum of money.

The trial judge was impressed by the mitigating circumstances of the offender upon which he placed great emphasis. He characterized the case as one having exceptional circumstances that caused him to impose a sentence considerably lighter than that which this Court has been advocating in its decisions where cocaine is involved, principally beginning with **R. v. Byers** (1989), 90 N.S.R. (2d) 263. The position of this Court, repeated in many of our decisions since **Byers**, is that there are no exceptional circumstances where cocaine is involved. We are persuaded that general deterrence must be prominently addressed if the public is to be protected from the nefarious trade that has developed in this drug that is so crippling to our society.

We find little in the circumstances here to differentiate from the penalty

which was affirmed by this Court in **R. v. Downey** (1989), 94 N.S.R. (2d) 71.

As a result, in our opinion the sentence imposed by the trial judge is not fit and is inadequate. Accordingly we allow the appeal and vary the sentence imposed upon the respondent to eighteen months imprisonment. We are satisfied from reading the record that a period of probation will not be required.

The appeal is allowed.

C.J.N.S.

Concurred in:

Hart, J.A.

Chipman, J.A.

