

PROVINCIAL COURT OF NOVA SCOTIA

Citation: *R. v. Frost*, 2020 NSPC 6

Date: 20200120

Docket: Provincial Court No. 8230032, 8230033, 8230034, 8230035, 8230036
8230037, 8230038, 8230039, 8230042, 8230044, 8230046

Registry: Dartmouth

Between:

Her Majesty the Queen

v.

Wendie Caroline Marie Frost and
Christopher James Charter

LIBRARY HEADING

Judge: The Honourable Chief Judge Pamela S. Williams

Heard: August 19, 2019 and December 9, 2019 in Dartmouth, Nova Scotia

Written Decision: January 20, 2020

Subject: Possession of cocaine and hydromorphone for the purpose of trafficking contrary to section 5(2) of the *Controlled Drugs and Substances Act* and possession of a concealed weapon, a stun gun, which was possessed for a purpose dangerous to the public contrary to sections 86(1) and 88(1) of the *Criminal Code*

Summary: A search warrant was executed at Wendie Frost's residence; police seized quantities of cocaine, pills and a stun gun. Ms. Frost and Mr. Charter were charged with possession of drugs for the purpose of trafficking. Ms. Frost was also charged with

possession of a concealed stun gun, possessed for a dangerous purpose. The Crown's case was circumstantial.

Issues:

(1) Has the Crown proven Ms. Frost and/or Mr. Charter to have had the required knowledge and control to be in the possession of drugs and if so, was it for the purpose of trafficking?

(2) Has the Crown proven Ms. Frost to have been in possession of a concealed weapon (a stun gun) and was it possessed for a purpose dangerous to the public peace?

Result:

The only rational inference to be drawn from the evidence was that Ms. Frost and Mr. Charter were in the joint enterprise of drug trafficking. Both were found guilty of possession of cocaine for the purpose of trafficking. Ms. Frost was found guilty of possession of methamphetamine and possession of hydromorphone for the purpose of trafficking. She was also found guilty of possession of a concealed weapon, the stun gun, and she possessed it for a purpose dangerous to the public peace. Mr. Charter was found not guilty of possession of methamphetamine and hydromorphone for the purpose of trafficking.

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Judge:	The Honourable Chief Judge Pamela S. Williams,
Heard:	August 19, 2019 and December 9, 2019, in Dartmouth, Nova Scotia
Decision	January 20, 2020
Charge:	Sections 4(1) and 5(2) of the <i>Controlled Drugs and Substances Act</i> and Sections 88(1), 90(1) & 92(2) of the <i>Criminal Code</i> .
Counsel:	Karen Bailey, for the Public Prosecution Service of Canada Peter Kidston, for the Defence Counsel for Mr. Frost Drew Rogers, for the Defence Counsel for Mr. Charter

By the Court:

Introduction:

[1] On May 29, 2018 around 11:30 p.m., police entered Wendie Frost's apartment with a search warrant and seized cocaine, pills, cash, drug trafficking paraphernalia and a stun gun. Ms. Frost and Christopher Charter, seated in the living room area, were arrested and charged with drug possession, drug trafficking and weapons offenses.

[2] The weapons offences were withdrawn against Mr. Charter in June of 2018.

[3] Upon examination, the 800-type stun gun was found to be only partially serviceable and did not have enough energy to cause injury or harm. The Crown conceded it has not proven the prohibited weapons charge against Ms. Frost. Therefore, the charge contrary to section 92(2) of the *Criminal Code* is dismissed.

[4] The Crown also acknowledged there is insufficient evidence to convict Ms. Frost and Mr. Charter of trafficking in clonazepam contrary to section 5(2) of the *Controlled Drugs and Substances Act*. Accordingly, the charge is dismissed against both.

[5] Continuity of exhibits is not in question.

[6] The legality of the search is not contested.

[7] Wendie Frost was the sole tenant on the lease to the apartment.

[8] I must assess both credibility and reliability of the witnesses.

Issues:

1. Has the Crown proven Ms. Frost and/or Mr. Charter to have had the required knowledge and control to be in possession of drugs and if so, was it for the purpose of trafficking?
2. Has the Crown proven Ms. Frost to have been in possession of a concealed weapon (a stun gun) and was it possessed for a purpose dangerous to the public peace?

Position of the Parties:

[9] The Crown, who has the onus of proof beyond a reasonable doubt, argued that Ms. Frost and Mr. Charter were in the joint enterprise of trafficking in cocaine

and pills, given the quantity and location of drugs, trafficking paraphernalia and cash found in the apartment they occupied.

[10] Ms. Frost denied any and all knowledge or control over the drugs, associated paraphernalia or the stun gun.

[11] Mr. Charter did not testify. He maintains that the Crown has not proven that he had any knowledge or control over the drugs or paraphernalia.

Law:

Possession

[12] Possession as defined in section 2(1) of the *Controlled Drugs and Substances Act* adopts the meaning of possession in subsection 4(3) of the *Criminal Code*:

(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.

Knowledge and Control

[13] The crime of possession requires both proof of knowledge and control over the drugs and stun gun.

[14] The Supreme Court of Canada describes knowledge as it relates to possession, both personal and constructive: **R. v. Morelli** 2010 SCC 8 at paras. 16-17:

On an allegation of personal possession, the requirement of knowledge comprises two elements: the accused must be aware that he or she has physical custody of the thing in question, and must be aware as well of what that thing is...

Constructive possession is established where the accused did not have physical custody of the object in question, but did have it 'in the actual possession or custody of another person' or 'in any place, whether or not that place belongs to or is occupied by him, for the use or benefit of himself or another person' ...Constructive possession is thus complete where the accused: (1) has knowledge of the character of the object, (2) knowingly puts or keeps the object in a particular place, whether or not that place belongs to him, and (3) intends to have the object in the particular place for his 'use or benefit' or that of another person.

[15] Proof of knowledge, or even wilful blindness, demands a subjective inquiry: that is, 'What did the accused know?' But neither knowledge nor wilful blindness alone can establish possession. The Crown must also prove a measure of control over the thing said to be possessed: **R. v. Tyrell**, 2014 ONCA 517 at paras. 30 and 36.

[16] As noted in **R. v. Omer**, [2014] O.J. No. 3245 at para. 43, citing **R. v. Pham**, [2005] O.J. No. 5127 (CA) control is the ability to exert power or authority over the object in question. Possession cases are fact driven inquiries and each case turns on its own unique facts.

[17] It is to be noted that there is a significant difference between access to a location and control over it. Control requires proof of the ability to exercise a restraining or directing influence: **R. v. Singh**, 2011 ONSC 4162. In that case the Court held:

On the question of control, the Court must be satisfied that the accused could give or withhold consent to the illicit item or items being in the place they were located. Further, where the prohibited thing or substances are located in a place under the control of the accused, the Court must be satisfied that there is evidence from which an inference may reasonably be drawn that the accused was aware of the presence of the illicit items or substances.

Circumstantial Evidence

[18] Where the only evidence linking an accused to a crime is circumstantial, the Crown's evidence must lead to no rational conclusion other than the accused's guilt. If a reasonable inference can be drawn from the Crown's evidence that is consistent with the accused's innocence, whether or not there is evidence to

support such an inference, the Crown's evidence does not meet the standard of proof beyond a reasonable doubt: **R. v. Villaroman**, 2016 SCC 33 at paras 35-37. Stated otherwise, where there are competing inferences on the issue of knowledge and control, an acquittal must be entered: **R. v. Yowfoo**, 2013 ONCA 751.

[19] All accused persons are innocent until proven guilty.

[20] The Crown has the burden to prove all essential elements of the offence beyond a reasonable doubt. This does not require proof to an absolute certainty or beyond any doubt.

[21] I am instructed by the Supreme Court of Canada in **R. v. Lifchus** [1997] 3 SCR 320 para 39:

The accused enters these proceedings presumed to be innocent. That presumption of innocence remains throughout the case until such time as the Crown has on the evidence put before you satisfied you beyond a reasonable doubt that the accused is guilty. What does the expression "beyond a reasonable doubt" mean? The term "beyond a reasonable doubt" has been used for a very long time and is a part of our history and traditions of justice. It is so engrained in our criminal law that some think that it needs no explanation, yet something must be said regarding its meaning. A reasonable doubt is not an imaginary or frivolous doubt. It must not be based on sympathy or prejudice. Rather, it is based on reason and common sense. It is logically derived from the evidence or absence of evidence.

Even if you believe the accused is probably guilty or likely guilty, that is not sufficient. In those circumstances you must give the benefit of the doubt to the accused and acquit because the Crown has failed to satisfy you of the guilt of the accused beyond a reasonable doubt.

On the other hand, you must remember that it is virtually impossible to prove anything to an absolute certainty and the Crown is not required to do so. Such a standard of proof is impossibly high. In short, if based on the evidence before the Court, you are sure that the accused committed the offence, you should convict since this demonstrates that you are satisfied of his guilt beyond a reasonable doubt. An accused person bears no burden to explain why their accuser made the allegations against them.

Credibility and Reliability

[22] I am guided by the Supreme Court of Canada in **R. v. WD** [1991] 1 SCR 742 in assessing credibility:

If I believe the evidence of the accused, I must acquit. If I do not believe the accused but I am left with a reasonable doubt that her version of events could be true, I must acquit. If I am not left with a reasonable doubt that her version could be true, I must then consider whether, on the remainder of the evidence before me, I am convinced of the guilt of the accused, beyond a reasonable doubt.

[23] I am mindful of the task ahead. As the Nova Scotia Court of Appeal explains in **R. v. D.D.S.** 2006 NSCA 34 at para. 77:

. . . Experience tells us that one of the best tools to determine credibility and reliability is the painstaking, careful and repeated testing of the evidence to see how it stacks up. How does the witness's account stand in harmony with the other evidence pertaining to it, while applying the appropriate standard of proof in a criminal trial?

[24] With respect to the demeanour of witnesses, I am mindful of the cautious approach to be taken. There are a multitude of variables that could explain or contribute to a witness' demeanour while testifying. As noted in **D.D.S.** at para. 77, demeanour can be considered by a trier of fact when testing the evidence but standing alone it cannot be determinative.

[25] Credibility and reliability are different. Credibility has to do with whether a witness is being honest. Reliability has to do with the ability to accurately observe, recall and recount events in issue: **R. v. H.C.**, 2009 ONCA 56 at para. 41. Any witness whose evidence on an issue is not credible cannot be considered reliable evidence on the same point.

[26] But a credible witness may give unreliable evidence. Reliability relates to the worth of the item of evidence, whereas credibility relates to the sincerity of the witness. A witness may be truthful in testifying, but may, however, be honestly mistaken.

[27] The effect of inconsistencies upon the credibility of a crucial witness was described by the British Columbia Court of Appeal in **R. v. B. (R.W.)** (1993), 40 W.A.C. 1 at pp. 9-10:

It is essential that the credibility be tested in the light of all of the other evidence presented. While it is true that minor inconsistencies may not diminish the credibility of a witness unduly, a series of inconsistencies may become quite significant and cause the trier of fact to have a reasonable doubt about the reliability of the witness's evidence. There is no rule as to when, in the face of

inconsistency, such doubt may arise, but at least the trier of fact should look to the totality of the inconsistencies in order to assess whether the witness's evidence is reliable. This is particularly so when there is no supporting evidence on the central issue...

[28] The Court is entitled to believe all, some, or none of a witness' testimony. I am entitled to accept parts of a witness' evidence and reject other parts. Similarly, I can afford different weight to different parts of the evidence that I have accepted.

Evidence and Analysis:

Background

[29] Police executed a search warrant at Wendie Frost's apartment at 11:35 p.m., after doing more than two hours of surveillance. Ms. Frost was the target of the search. Police gained entry to the apartment by use of a key, supplied by the superintendent.

[30] A hand-drawn diagram of the layout of Ms. Frost's modest two-bedroom apartment, shows a kitchen, living room, master bedroom, spare room and a bathroom. The apartment is all on one level.

[31] Ms. Frost and Mr. Charter were seated on separate couches in the living room area. Police were surprised to find Mr. Charter there. He was not 'on their radar'.

[32] According to Ms. Frost, Mr. Charter had been living with her for a couple of weeks prior to the search. Mr. Charter's Correctional Service Canada papers confirm his statutory release date from prison as having been May 1, 2018. Ms. Frost stated that Mr. Charter occupied the master bedroom while she slept on the couch.

[33] Both Ms. Frost and Mr. Charter were arrested for drug related offences and searched. There were two bundles of cash located in Ms. Frost's left front pants pocket; one bundle contained \$845.00 and the other \$1,000.00.

[34] Quantities of cocaine, pills and a stun gun were found in Ms. Frost's purse, in the living room. Dime bags of cocaine were in a duffel bag also containing Mr. Charter's wallet, identification and personal papers, located in the master bedroom. A block of cocaine was in a dresser drawer of the same room. Scales with cocaine

residue and a notebook/scoresheet were found on a shelf in the living room coffee table.

Location and Quantity of Drugs, Paraphernalia and Stun Gun

[35] The Crown's case against Ms. Frost and Mr. Charter is based on circumstantial evidence. An analysis of the evidence relating to the location and quantity of drugs and paraphernalia is central to the issue of knowledge and control.

Wendie Frost's Purse in Living Room

Wendie Frost's black purse, on the living room floor next to the couch she was sitting on, contained pieces of her identification, her bank card and her prescription pill bottle. However, also in the purse were five loose baggies of cocaine residue, a wooden box with five packets of cocaine, totalling 3.2 grams, four pill bottles with the following contents: one tablet of ICE (methamphetamine), 33 clonazepam tablets, 23 eight mg pills of hydromorphone, 98 four mg pills of hydromorphone, two cellphones and a stun gun.

Living Room Coffee Table

[36] A working scale with cocaine residue was in a drawer of the living room coffee table near the couches where Ms. Frost and Mr. Charter had been seated. A notebook with names and numbers was found on the lower shelf of the coffee table.

Black Duffel Bag in Master Bedroom

[37] The black duffel bag on the floor next to a dresser in the master bedroom contained items belonging to Mr. Charter – in the left pocket was his wallet and identification together with \$620 in cash. The main compartment contained a naloxone kit. The right pocket contained Mr. Charter's Correctional Services Canada documents and a white container with 15 baggies of what the Crown says is cocaine – with a total weight of 7.8 grams. Three random baggies, sent for analysis, were determined to be cocaine.

Dresser Drawer in Master Bedroom

[38] A block of cocaine, weighing 49.2 grams was found in the second drawer of the dresser containing women's underwear. The dresser was next to the duffel bag.

Wendie Frost's Evidence

[39] In assessing Ms. Frost's testimony for credibility and reliability, I consider all the evidence before me. I may accept all, some or none of her evidence.

[40] At the outset I remind myself that Ms. Frost has a criminal record, albeit dated, for crimes of dishonesty – namely theft and fraud.

[41] I am troubled by that portion of her evidence where Ms. Frost readily admitted she would break her lease and phone contract, if need be, in order to move to a new address. She appears to have no regard for her legal obligation to provide notice.

[42] I am also mindful that Ms. Frost is at great jeopardy of facing a lengthy period of incarceration, should she be convicted, and therefore may have a motive to lie.

[43] I do accept Ms. Frost's evidence that Mr. Charter had been staying with her for at least a couple of weeks. This is confirmed by Mr. Charter's presence in the apartment, during the late evening hours, his papers and personal belongings found in the black duffel bag (which confirm his date of release from prison), and the men's clothing hanging in closet.

[44] However, I reject Ms. Frost's testimony concerning the timing of her return to the apartment from her workplace during the evening hours of May 29, 2018. Ms. Frost would have me believe that she returned home briefly during her 3:30 to 11:30 p.m. work shift, at somewhere between 9:45 and 10:15 p.m. and then later at 11:30 p.m. In direct examination she could not provide an explanation for her early return, only that she was nervous. On cross-examination she said that she didn't want Mr. Charter's son in the apartment although there was no reason to believe he was there. She also said she worried that Mr. Charter "was back to his old ways" – which I took to mean drug dealing. Both times she said she gained entry via the front entrance of the apartment building.

[45] The difficulty with her evidence is that police began surveillance on the apartment building shortly after 9:00 p.m. and continued up to the point of entry

which occurred at 11:35 p.m. There was no evidence they saw Ms. Frost enter the building during that time period. In fact, Detective Constable Stevens said he saw lights on in her apartment and saw Ms. Frost inside her apartment well before the search. Neither Sergeant Thompson nor Officer Graham saw anyone enter the apartment in the couple of hours leading up to the search. I accept the surveillance evidence as reliable. Detective Constable Stevens, Sergeant Thompson and Officer Graham each took separate surveillance details. They had just come from a briefing where the plan was to do surveillance prior to executing the search warrant. They would have been on the look out for anyone entering the front entrance of the building. There was nothing in their evidence to suggest their views were obscured. They saw no one enter.

[46] I find that Ms. Frost's testimony on this point was an attempt by her to show she had just walked in the door when police arrived, giving her no opportunity to discover what was in her purse, her dresser or the duffel bag.

[47] I find Ms. Frost's denial of knowledge of the contents of her purse, the coffee table, the duffel bag and the dresser drawer implausible for the following reasons:

1. The dresser drawer containing the block of cocaine also contained her underwear and she had, by her own admission, gone into the underwear drawer that morning. The 46.4-gram packaged block of cocaine was sizeable and readily accessible.
2. Although admitting that she sometimes took her purse to work, Ms. Frost said she left it home on May 29th as she did not need her identification, her health card or bank card at work. According to her, Ms. Frost took a tote bag to work that day – providing no reason for doing so and providing no explanation what had been in the tote bag. There is no indication that a tote bag was found in the apartment. Had Ms. Frost just returned home, one would expect to find the tote bag in the living room or one of the other rooms.
3. Ms. Frost recognized the wooden box found in her purse. She said it had belonged to her former roommate but could provide no explanation as to how it ended up in her purse, containing the five packets of cocaine.
4. Ms. Frost went into the master bedroom daily to get clothing and would have seen Mr. Charter's bag on the floor. She said she had

‘concerns’ that Mr. Charter might have returned to drug trafficking and that she was planning to move out. Ms. Frost would have had ample opportunity to search the apartment for drugs while Mr. Charter was at work – he worked day shifts while she worked late afternoon/evening shifts. Yet, she didn’t search her apartment for drugs, despite her misgivings. She easily could have searched the duffel bag, the master bedroom and the coffee table. She did not.

[48] Likewise, I reject Ms. Frost’s explanation for the two bundles of cash (\$845 and \$1,000) secured by elastics in her pants pocket. She said she was going to get a new apartment as she felt intimidated by Mr. Charter and his son although she admitted that Mr. Charter had not threatened or intimidated her. She needed \$1,200 for the damage deposit and first months rent. She indicated that she had withdrawn the funds from her bank account, a week earlier, but did not produce any documents to support this. When asked why she would not have done a direct withdrawal for funds, she said she was also looking at a flat and the fastest way to get it was with ‘good old fashion cash’. Despite having withdrawn the money, Ms. Frost admitted she had no applications in for apartments – yet she wanted to move by June 1, 2018, only two days hence. Similarly, Ms. Frost could provide no cogent explanation as to why she had two secured bundles of money in her pocket.

[49] Having rejected Ms. Frost’s testimony regarding her lack of knowledge and control of the cocaine, pills, drug trafficking paraphernalia as well as her explanation for the bundles of cash in her pocket, I now turn to the remainder of the evidence to determine whether the Crown has proven the joint enterprise of drug trafficking and Ms. Frost’s possession of a concealed stun gun and possession of a weapon for a purpose dangerous to the public peace.

[50] Looking at the totality of the evidence, a drug trafficking enterprise was being conducted out of Ms. Frost’s apartment. This is supported by the evidence of Constable Phil Apa, an expert qualified to give opinion evidence in trafficking of cocaine and hydromorphone, who testified as follows:

1. Dime bags, like the ones found in Ms. Frost’s purse and the black duffel bag, are typical packaging for cocaine which is generally sold in .5 to 1 gram lots. The writing on the dime bags is indicative of a trafficker keeping track of the pre-packaged weight of the cocaine. Possession of 15 dime bags of cocaine is not typical for a user and is more consistent with trafficking.

2. The block of cocaine, weighing 46.4 grams and valued at \$4,000 is not for personal use. It is consistent with trafficking.
3. The five dime bags in the wooden box, totalling 3.2 grams is typical of an eight-ball divided into 5 dime bags. It would not be for personal use. It is consistent with trafficking. These are typical quantities of cocaine sold individually on the street.
4. The scale with cocaine residue was used to weigh quantities. Users do not weigh out what they will use. The scale and cell phone are the most important tools of traffickers.
5. Hydromorphone is an opioid used for pain relief but can be used intravenously for an immediate high. The pills find their way to the street as a result of pharmacy robberies or patients selling their prescriptions. A user of hydromorphone typically purchases one to three pills. There is no deal for buying in bulk. Containers or Ziplock bags are used for packaging. The hydromorphone pills in the black purse were in non-prescription bottles. The packaging and quantity are consistent with trafficking.
6. Scoresheets are a means of keeping track of drugs that are being 'fronted', to be paid for later. Some are very detailed, others are not. The scoresheet on the shelf of the coffee table is consistent with cocaine trafficking.
7. The lone ICE pill (methamphetamine) is consistent with personal use.
8. Cash, drugs, paraphernalia and weapons go hand in hand with the drug trade.
9. It is not uncommon for drug traffickers to have more than one bundle of cash – one to buy drugs and the other for profit and making change. Traffickers bundle cash with elastics to keep them separate.
10. Drug traffickers are known to have multiple phones – here, one phone was in the kitchen, a second was in the living room and two more were in the black purse.
11. The drug trade can be violent, and traffickers often arm themselves with brass knuckles, bear spray, knives, gun. Tasers (stun guns) are not common but have been used, on occasion.

12. An absence of usage paraphernalia – needles, spoons, straws is consistent with drug trafficking. No drug paraphernalia was found in the apartment. Ms. Frost denied being a drug user.

[51] I return to the evidence of the location and quantity of cocaine and paraphernalia found.

[52] Mr. Charter's wallet, identification and documents were found in the same black duffel bag that contained 15 dime bags of cocaine ranging in weights of .1 to one gram each for a total of 7.8 grams. In fact, his Correctional Services Canada paperwork was in the same pouch as the cocaine. The only rational inference is that the black duffel bag, in the master bedroom where Mr. Charter was sleeping, was his and that he had both knowledge and control over the bag and its contents. Mr. Charter possessed the cocaine for the purpose of trafficking.

[53] Although only three random samples were tested and proven to be cocaine, I accept this random sampling and I draw the inference that the balance of the samples contained cocaine: **R. v. Herman**, [1966] O.J. No. 188 (C.A.); **R. v. Cripps** (1969), 68 W.W.R. 456 (B.C.C.A.); **R. v. Flett** (1970), 73 W.W.R. 699 (B.C.C.A.); **R. v. Malenfant**, [2015] B.C.J. NO. 2595 (S.C.). There is no other evidence that could raise a reasonable doubt as to the nature of the substances not analyzed.

[54] It was no coincidence that Mr. Charter's bag was next to the dresser containing the block of cocaine. The block was used by him to hive off dime bag portions, which were then weighed and packaged for sale. The scale with cocaine residue would have been used for this purpose. The scoresheet would have been used to record drugs which had been fronted. I am convinced beyond a reasonable doubt that Mr. Charter was in possession of cocaine for the purpose of trafficking. In coming to this conclusion, I place no weight on the assertion that Mr. Charter had just served a period of incarceration for drug trafficking. Given Ms. Frost's lack of credibility and no other information to confirm this, at best I can say that Mr. Charter had serve a recent term of imprisonment.

[55] Ms. Frost's purse contained five loose baggies of cocaine residue and a wooden box with five packages of cocaine ranging in weight from .4 grams to 1.1 grams for a total of 3.2 grams. Ms. Frost denied being a user and the quantity and packaging were consistent with trafficking. The purse was centimeters from where she had been seated prior to police arrival. Ms. Frost's purse is a place where she

kept personal items – items such as her identification, her health card, bank cards, medication, keys, and cell phones. She would have had knowledge and control over the purse and its contents. It is inconceivable that Ms. Frost would be unaware of the nature and quantity of contraband held in her purse. There wasn't a single baggie or a single pill bottle. The wooden box, the pill bottles and the stun gun would all have taken up considerable room in the purse. That together with the two bundles of cash in her pocket lead to the inescapable conclusion that Ms. Frost was in possession of cocaine and hydromorphone for the purpose of trafficking. She would have had access to the block of cocaine in the dresser and used it to package smaller quantities of cocaine after having weighed it on the scale in the drawer of the coffee table. Again, the scoresheet would be used to record fronted drugs. It is implausible that someone would have 'planted' those items in her purse and that she had not seen the block of cocaine in her dresser when she opened it that morning to get underwear.

[56] I have not however placed any weight on the suggestion raised by counsel for Mr. Charter that Ms. Frost was dealing drugs at the Detox Centre. I accept there were complaints lodged against Ms. Frost but there is insufficient information to place any weight on this evidence.

[57] Mr. Charter may have known and had control of the hydromorphone for the purpose of trafficking but that is not the only rational inference to be drawn. Although there is ample evidence to support the finding that the two were in the joint enterprise of cocaine trafficking, the same cannot be said for the pills. As a result, I am left with a reasonable doubt as to Mr. Charter's knowledge and control over the pills found in Ms. Frost's purse.

[58] Based on the foregoing I find both Ms. Frost and Mr. Charter guilty of possession of cocaine for the purpose of trafficking. I find Ms. Frost guilty of possession of methamphetamine and possession of hydromorphone for the purpose of trafficking. I also find her guilty of a concealed weapon, the stun gun and possession of it for a purpose dangerous to the public peace. I find Mr. Charter not guilty of possession of methamphetamine and hydromorphone for the purpose of trafficking.

Pamela S. Williams, JPC.