

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: R. v. Lively. 2008 NSSC 45

Date: 20080211
Docket: CR. No. 274575
Registry: Halifax

Between:

Her Majesty the Queen

-and-

Gordon Allison Lively

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Judge: The Honourable Justice Robert W. Wright

Heard: February 11, 2008 in Halifax, Nova Scotia

Oral

Decision: February 11, 2008

Written

Decision: February 14, 2008

Subject: Sentencing for offences under s. 5(2) of the *Controlled Drugs and Substances Act* and under s. 129(a) of the Criminal Code.

Summary: The offender was convicted of two counts of possession of controlled drugs for the purpose of trafficking (namely, cocaine and ecstasy respectively) as well as two related counts of resisting a peace officer in the line of duty. The offender was categorized as a petty retailer, having been apprehended in possession of 15 small baggies of cocaine powder and 19 ecstasy pills, carrying values of \$300 and \$380 respectively. Notwithstanding this relatively small quantity of drugs, a significant aggravating factor to be taken into account was the offender's criminal record of six prior convictions for trafficking, or possession for purposes of trafficking, in controlled substances spanning the past 10 years.

Issue: The determination of a fit and proper sentence for these offences.

Held: The court accepted the joint recommendation of Crown and defence counsel that the offender be sentenced to a term of three years imprisonment for both drug offences, to be served concurrently. In addition, the offender was sentenced to 30 days incarceration for both s. 129 counts for resisting a peace officer, again to be served concurrently with the other sentences. The court also order forfeiture of the sum of \$1,014 which the offender had in his possession at the time of arrest.

**THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S
DECISION. QUOTES MUST BE FROM THE DECISION, NOT THE COVER
SHEET.**
