

CANADA / JUDGMENT

R. v. Harris

2025 BCSC 2427

COURT

Supreme Court of British Columbia

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2025 BCSC 2427 R. v. Harris

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Harris,

2025 BCSC 2427

Date: 20251205

Docket: 43496

Registry: Campbell River

Rex

v.

Tony Arthur Robert Harris

Before: The Honourable Justice Layton

Oral Reasons for Judgment

Counsel for the Crown:

E.L. Reaume

Counsel for the Accused:

S.J. Runyon

Place and Date of Trial:

Campbell River, B.C.

October 21-24, 2025

Place and Date of Judgment:

Campbell River, B.C.

December 5, 2025

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Introduction

- [1] Mr. Harris is charged with three counts of possessing a controlled substance for the purpose of trafficking, contrary to s. 5(2) of the Controlled Drugs and Substances Act, S.C. 1996, c. 19 [CDSA]. The drugs are cocaine (count 1), fentanyl and a benzodiazepine, namely, bromazolam (count 2), and methamphetamine (count 3). Mr. Harris is also charged with one count of possessing a non-restricted firearm contrary to s. 91(1) of the Criminal Code, R.S.C. 1985, c. C-46.
- [2] The charges arise from drugs and a firearm found by police during a search of a vehicle in which Mr. Harris had been an occupant on December 13, 2023 in Campbell River. The other occupant was Deanna Sayers, who was not charged with any offence.
- [3] The witnesses called by the Crown to establish the facts underlying its circumstantial case were Cst. Matthew Watkins and Cpl. Ryan Warren. Cst. Watkins searched the vehicle, while Cpl. Warren dealt with Mr. Harris at the scene. Neither officer's credibility nor reliability was contested at trial.
- [4] The parties filed admissions addressing what was located in the vehicle and where. The admissions included the types and amounts of drugs found, and the fact that the firearm was non-restricted within the meaning of s. 84(1) of the Criminal Code.

- [5] The Crown also called Cst. Paul Jones, who was qualified as an expert to provide opinion evidence regarding the methods of packaging and concealment, trafficking, prices and usage with respect to fentanyl, cocaine and methamphetamine.
- [6] The defence did not call any evidence.
- [7] The only issues in dispute are whether Mr. Harris was in possession of the drugs and firearm, and if so whether he possessed the drugs for the purpose of trafficking.
- [8] In determining whether the Crown has met its onus of proving the elements of the charged offences beyond a reasonable doubt, I will begin with an overview of the evidence provided by the two investigating officers and contained in the admissions. I will then review the applicable legal principles, after which I will apply those principles in deciding the issue of guilt or non-guilt. I will refer to Cst. Jones' evidence in this latter section of my reasons.

Evidence of Investigating Officers and Admissions

- [9] At about 10:00 a.m. on December 13, 2023, Cst. Watkins responded to a report about a vehicle in a parking lot in downtown Campbell River. He drove his police cruiser to the parking lot. A colleague, Cst. Kelsie Marsden, also attended in her patrol car.
- [10] Cst. Watkins identified the vehicle, which was in a stall with its engine running and taillights on. He parked his cruiser with its front facing the driver's side of the vehicle, saw there was a driver inside, and prepared to conduct an impaired investigation based on the report he had received.
- [11] Cst. Watkins approached the driver's window of the vehicle, which was foggy, as if people had been inside for a time. Cst. Watkins could see figures in the vehicle, and saw the driver moving frantically. But given the fog on the window it was hard to see what was happening inside. Cst. Watkins announced himself, knocked on the window and asked the driver to roll it down. The driver did not respond.
- [12] Cst. Watkins opened the driver's door, and saw Ms. Sayers in the driver's seat. It was her vehicle.
- [13] Mr. Harris was in the passenger seat. He was trying to hide a piece of plastic tubing, which Cst. Watkins recognized as an item that drug users employ to consume drugs.
- [14] Mr. Harris was wearing clothes, at least on the upper half of his body, which is what Cst. Watkins could see. Ms. Sayers was also clothed.
- [15] Cst. Watkins told Ms. Sayers that he was conducting an impaired investigation. He then saw a sword sticking out from the centre console, wedged between the console and the passenger seat.
- [16] Based on seeing the sword, Cst. Watkins told Cst. Marsden to arrest Mr. Harris for possession of a dangerous weapon.

- [17] Cst. Watkins removed Ms. Sayers from the vehicle and arrested her for the same thing. Ms. Sayers tried to push by him, saying that she needed to get something in the vehicle, but he stopped her. Cst. Watkins escorted Ms. Sayers to his police cruiser, then returned to search the vehicle incident to the arrests.
- [18] Around this time, Cpl. Warren arrived in his police cruiser and took custody of Mr. Harris from Cst. Marsden. Cst. Watkins had either already started searching the vehicle or did so shortly after Cpl. Warren arrived.
- [19] I will next review what Cst. Watkins located during his search of the vehicle, which started at the front passenger side, the door of which was still open from Cst. Marsden having removed Mr. Harris from the vehicle.
- [20] Cst. Watkins saw a jacket on the front passenger seat, in a horseshoe shape, as though it had been removed by a person while still sitting there. A photo taken prior to the search commencing shows that the "arm" of the horseshoe closest to the driver's seat has less bulk and only extends about half-way along that side of the passenger's seat. By contrast, the "arm" closest to the passenger door comprises much more of the jacket and extends along that side of the passenger seat and down into the passenger footwell. In short, the horseshoe shape is distinctly asymmetrical, with most of it bunched up in the area alongside the passenger door.
- [21] Inside a pocket in the jacket Cst. Watkins located: (a) \$600 in cash (17 X \$20 bills, 5 X \$50 bills and 2 X \$5 bills); and (b) a .44 calibre rifle cartridge.
- [22] A small clear tub with a white lid was resting in plain view on the front passenger seat, nestled in the left inner side of the horseshoe shape made by the jacket. This tub contained 25.3 grams of crack cocaine.
- [23] Cst. Watkins lifted the jacket up to see if there was anything underneath, at which point he saw a .44 calibre lever-action rifle lying against the side of the seat closest to the passenger door and extending into the footwell. Given the asymmetrical shape of the horseshoe, I find it more likely than not that the jacket was intentionally arranged to hide the firearm, although I cannot say when this happened.
- [24] In that same front passenger footwell was a shoulder bag that was partly unzipped. Lying on top of the bag was a coffee cup, inside of which was: (a) a Ziploc bag containing a prescription pill bottle, inside of which were 12 grams of crystal methamphetamine; and (b) a prescription pill bottle containing 36 grams of GHB.
- [25] The shoulder bag contained the following items, which were in its main compartment unless otherwise indicated:
- (a) a prescription pill bottle containing 7.2 grams of rock cocaine;

- (b) a small clear tub with a white lid containing 5.21 grams of purple rock fentanyl, p-fluorofentanyl, bromazolam and caffeine;
 - (c) a prescription pill bottle containing 4.72 grams of powder cocaine and methamphetamine;
 - (d) a prescription pill bottle containing: (i) 1 gram of amphetamine pills; (ii) 5 grams of peach-coloured Quetiapine pills; (iii) 2.14 grams of red Quetiapine pills; (iv) 9.27 grams of white Escitalopram pills; and (v) 1.3 grams of yellow Mirtazapine pills;
 - (e) a green "dime bag" containing 1.86 grams of white hydromorphone pills;
 - (f) 318 grams of GHB in a glass jar;
 - (g) a Tupperware container holding 12.63 grams of an unidentified white powder;
 - (h) a torch;
 - (i) a black folding knife;
 - (j) in the back pocket of the shoulder bag: (i) a sandwich-sized Ziploc bag containing 40 grams of caffeine powder; (ii) a sandwich-sized Ziploc bag containing 98 grams of bromazolam and caffeine powder; and (iii) 5.21 grams of MDMA (packaging no longer known); and
 - (k) in a small front pocket on the shoulder bag: (i) 2 grams of crystal methamphetamine packaged in a "dime bag"; and (ii) 44.24 grams of orange coloured amphetamine pills.
- [26] Also in the passenger seat footwell was a Guess brand bag containing the following items:
- (a) 0.21 grams of rock cocaine and caffeine (packaging no longer known);
 - (b) 1.22 grams of orange Mirtazapine pills (packaging no longer known);
 - (c) a red folding knife;
 - (d) an orange lighter;
 - (e) steel wool; and
 - (f) two cell phones.
- [27] On the floor of the same footwell were: (a) one gram of hydromorphone pills; and (b) \$38.35 in Canadian coins, mostly in loonies and toonies.
- [28] Two lengths of plastic tubing were found in the front seat area of the vehicle, one in the front part of the centre console and the other in an unspecified location. These were similar to the plastic tubing that Cst. Watkins had earlier seen Mr. Harris trying to hide.
- [29] The radio in the vehicle was partly dislodged. Cst. Watkins removed the radio fully from the console, and inside saw a small, hand-held container of dog mace.
- [30] On the dashboard above the console was an iPhone. Cst. Watkins took a photo of the phone's illuminated screen, which I find indicates nothing suggestive of drug-related activity.

- [31] There is no indication in the evidence that the police connected any of the three phones in the vehicle to any particular person. There is also no suggestion that the police were able to or did review the contents of any of these phones, other than the screenshot to which I have just referred.
- [32] Cst. Watkins next searched the front driver's side of the vehicle. On the seat in the area nearest to the driver's door was a Ziploc baggie containing charger cords.
- [33] Cst. Watkins also searched the back-seat area of the vehicle. As depicted in the photos, this area was pretty much entirely covered with items. There was a shopping bag, a tote bag, a suitcase and an empty safe similar in size to a handgun case. None of these containers held any items suggestive of drug use or firearms.
- [34] The only item in the backseat of possible note in terms of drugs or firearms was a Puma backpack that contained:
- (a) seven .44 calibre rifle cartridges in a small top pocket;
 - (b) three millilitres of methadone;
 - (c) ten millilitres of testosterone; and
 - (d) a green fanny pack containing: (i) 19 loose amphetamine pills; and (ii) 12 grams of loose amphetamine pills.
- [35] Somewhere in the vehicle, at a location not specified in the evidence, Cst. Watkins found five Ziploc bags containing cocaine residue.
- [36] No identification information was found in the jacket on the front passenger seat or in any purse or bag in the vehicle. Nor were any score sheets found in the vehicle.
- [37] The last point I will deal with in reviewing the evidence from the scene relates to Cpl. Warren's interactions with Mr. Harris.
- [38] On arriving at the parking lot, Cpl. Warren took control of Mr. Harris and moved him to the area of Cst. Marsden's police car. Cpl. Warren then searched Mr. Harris incident to arrest.
- [39] During this search, Cpl. Warren found a folding pocketknife clipped to the front of Mr. Harris' pants on the right side.
- [40] Cpl. Warren next pulled Mr. Harris' waistband slightly away and gave it a shake, to ensure there was nothing tucked into the waistband. In doing so, Cpl. Warren accidentally caught a "snapshot glimpse" of Mr. Harris' pubic region and saw something on his penis. Cpl. Warren did not look any further because he knew that strip searching a person in public is unacceptable.

- [41] Cpl. Warren was confused by what he had seen during this "snapshot glimpse". He could not recall what he next said to Mr. Harris, but Cst. Watkins overheard the exchange, and testified that Cpl. Warren said something like, "why are you wearing this?", "why do you have that?", or "what the heck?" Mr. Harris replied that he had just had sex and that was why he was wearing a condom.
- [42] At the detachment. Mr. Harris removed the condom from his penis at the direction of police. It did not contain any drugs, nor were drugs found anywhere else on Mr. Harris' person.
- [43] The prisoner report filled out at the detachment indicated that Mr. Harris appeared "sleepy" and "wobbly", with "slurred" speech and a "placid" state of mind. His condition was attributed to suspected drug-impairment, which was consistent with Cst. Watkins' testimony that Mr. Harris appeared to be under the influence of drugs.
- [44] My understanding is that the defence is relying on the prisoner report for the truth of its contents, without objection from the Crown, and I have thus considered the report for that purpose.

Legal Principles

- [45] An accused is presumed innocent of the charged offence unless the Crown proves each element of that offence beyond a reasonable doubt. The demanding standard of proof beyond a reasonable doubt is explained in *R. v. Lifchus*, 1997 CanLII 319 (SCC) at paras. 13 and 22-39. The burden of proving every element of the offence on this standard never shifts from the Crown: *R. v. J.H.S.*, 2008 SCC 30 at para. 13.
- [46] The reasonable doubt standard does not, however, apply to individual pieces of evidence, as opposed to the ultimate issue of whether each element of the offence has been proved: *R. v. P.A.*, 2024 BCCA 93 at para. 42; *R. v. B.J.*, 2023 BCCA 166 at para. 73.

Assessing Guilt in a Circumstantial Crown Case

- [47] Given that the Crown case is circumstantial, the proper approach to assessing guilt or non-guilt is described in *R. v. Villaroman*, 2016 SCC 33. See also *R. v. Farac*, 2025 BCCA 238 at paras. 25-29.
- [48] The principles set out in *Villaroman* include:
- (a) in drawing inferences from circumstantial evidence, a trier of fact must guard against jumping to unwarranted conclusions or bridging gaps in the evidence (paras. 26-27, 29-30);
 - (b) the trier of fact must consider all plausible or reasonable possibilities arising from the evidence or the lack of evidence that are inconsistent with guilt, and unless those possibilities have been negated by the Crown the standard of proof beyond a reasonable doubt will not have been met (paras. 35-37, 41); and

- (c) only plausible or reasonable possibilities need be negated by the Crown, meaning possibilities based on logic and human experience, as opposed to possibilities based only on speculation or conjecture (paras. 37-38, 42, 50).

Elements of the Charged Offence

- [49] To convict Mr. Harris of possession of a non-restricted firearm under s. 91(1) of the Criminal Code, the Crown must establish beyond a reasonable doubt that, first, he possessed a non-restricted firearm, and second, that he was not the holder of a license under which he may possess it.
- [50] To convict Mr. Harris of possession of a controlled substance for the purpose of trafficking under s. 5(2) of the CDSA, the Crown must prove on the criminal standard that:
 - a) the substance was the controlled substance asserted in the count;
 - b) Mr. Harris was in possession of the substance, which requires knowledge of its nature and some measure of control; and
 - c) he possessed the substance for the purpose of trafficking.
- [51] Section 2(1) of the CDSA adopts the definition of possession found in s. 4(3) of the Criminal Code. Section 4(3) states:
 - (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.
- [52] The definition in s. 4(3) encompasses personal possession, constructive possession and joint possession: *R. v. Morelli*, 2010 SCC 8 at para. 15.
- [53] Here, the Crown relies on constructive possession to prove its case.
- [54] Constructive possession is established where an accused, although not having physical custody of an object, knowingly has the object in the actual possession or custody of another person or has it in a place for their own or another person's use or benefit: Criminal Code, s. 4(3)(a); *Morelli* at para. 17; *Farac* at para. 25.

- [55] The essential elements of constructive possession are thus knowledge and some measure of control. To establish these elements, the Crown must prove that the accused: (a) has knowledge of the object's character; (b) knowingly puts or keeps the object in a particular place, regardless of whether that place belongs to or is occupied by the accused; and (c) intends to have the object in that place for the use or benefit of the accused or another person. See Morelli at para. 15; R. v. Lights, 2020 ONCA 128 at para. 47; Farac at para. 25; R. v. Ahmadzai, 2012 BCCA 215 at para. 26; R. v. Fisher, 2005 BCCA 444 at paras. 22-24.
- [56] To establish some measure of control, all that is required is an ability to exercise some power, as opposed to proof that such power was actually exercised: R. v. Webster, 2008 BCCA 458 at paras. 42-44. Knowledge without a measure of control, sometimes called mere acquiescence or quiescent knowledge, is not sufficient to establish possession within the meaning of the criminal law: Fisher at paras. 21-22; R. v. Tahirsylaj, 2015 BCCA 7 at para. 26, quoting with approval from R. v. Pham, 2005 CanLII 44671 (ON CA), aff'd 2006 SCC 26.
- [57] An accused who occupies a place where an object is found is not presumptively in constructive possession of the object: Lights at para. 50; Farac at para. 25. Conversely, constructive possession does not require proof of manual handling or any proprietary interest in what is alleged to be possessed: Ahmadzai at para. 26; Fisher at para. 24.
- [2] As noted, a conviction for possession of a controlled substance for the purpose of trafficking requires not only proof of possession but also proof that the substance was possessed for the purpose of trafficking.
- [58] Section 2 of the CDSA defines "traffic" and the related term of "sell" as follows:
- "traffic" means, in respect of a substance included in any of Schedules I to V,
- (a) to sell, administer, give, transfer, transport, send or deliver the substance,
 - (b) to sell an authorization to obtain the substance, or
 - (c) to offer to do anything mentioned in paragraph (a) or (b),
- otherwise than under the authority of the regulations.
- []
- "sell" includes offer for sale, expose for sale, have in possession for sale and distribute, whether or not the distribution is made for consideration;
- [59] There is no closed list of factors that may assist in determining whether the inference can be drawn that an accused is in possession of a controlled substance for the purpose of trafficking. But factors of relevance in deciding this issue can include the quantity and value of the drugs possessed, the nature of their packaging, the absence or presence of items that may be associated with trafficking such as weigh scales or score sheets, and large amounts of cash in the accused's possession: R. v. Liu, 2011 BCSC 1269 at paras. 30-35; R. v. Karaim, 2023 BCSC 502 at para. 64; R. v. Howell, 2014 BCSC 2290 at para. 75.

Analysis

- [60] The disputed issues are: first, whether Mr. Harris had possession of the rifle and the drugs specified in the counts with which he is charged, and second, if so whether he possessed the drugs for the purpose of trafficking.
- [61] Section 117.11 of the Criminal Code operates so that if I conclude that Mr. Harris was in possession of the rifle, the onus is on him to prove that he possessed an authorization, license or registration certificate for it. As there is no evidence upon which Mr. Harris could meet this onus, if he is found to have been in possession of the rifle then the Crown will have established his guilt on the firearms offence in s. 91(1).

Possession

- [62] In my view, Mr. Harris had possession of the rifle and specified drugs because he was sitting in the front passenger seat of Ms. Sayers' vehicle, and given his proximity and connection to these items the only reasonable inference is that he knew about and had the ability to exercise control over them so as to constitute constructive possession.
- [63] I have concluded that Mr. Harris was in the passenger seat because that is where he was sitting when Cst. Watkins opened the door of the vehicle.
- [64] In closing submissions, the defence argued that Mr. Harris may have only gotten into the passenger seat after Cst. Watkins knocked on the driver's side window, and prior to that point may not have been sitting at that location. However, I have concluded that Mr. Harris was sitting in the front passenger seat before Cst. Watkins arrived at the scene.
- [65] For one thing, the car belonged to Ms. Sayers, making it more likely that she would be its driver, and thus would have always been sitting in the driver's seat. For another, I do not accept that Mr. Harris was sitting somewhere else in the car prior to Cst. Watkins arriving at the scene. I will not review all of the defence scenarios posited in support of this suggestion, but I do not view any of them as reasonably possible.
- [66] For example, the defence suggested that Mr. Harris might initially have been sitting in the driver's seat, or have been sitting in no seat at all and just met up with Ms. Sayers, after which they got into the backseat and had sex, and then when Cst. Watkins arrived Mr. Harris scrambled into the passenger seat for the first time and Ms. Sayers got into the driver's seat.
- [67] But this scenario is far-fetched. The items covering the backseat of the vehicle, including a suitcase and a large plastic tote, make it highly improbable that Mr. Harris and Ms. Sayers would have had sex there. Moreover, when Cst. Watkins first approached the driver's window it was fogged up but he nonetheless could see that someone was in the driver's seat.
- [68] The defence also suggests that, when Cst. Watkins first arrived, Mr. Harris might have been in the driver's seat, with Ms. Sayers in the passenger seat, after which they switched positions prior to Cst. Watkins opening the driver's door.

- [69] However, I find that this scenario is also highly improbable. I can discern no plausible reason why Mr. Harris and Ms. Sayers would have switched seats in this way. Moreover, on initially looking into the driver's window, Cst. Watkins saw a person in the driver's seat who was moving frantically. There is no suggestion that he saw two people moving frantically, which I would have expected had Mr. Harris and Ms. Sayers been in the process of switching seats.
- [70] Having concluded that Mr. Harris was sitting in the passenger seat prior to Cst. Watkins' arrival, I find that the jacket curled around the back and sides of that seat in an asymmetrical shape belonged to Mr. Harris. I draw this inference because, as Cst. Watkins testified and is established by the photo evidence, the jacket's position is consistent with it having been taken off by a person sitting in the passenger seat, namely, Mr. Harris. I am confident in this conclusion even though no identification documents relating to Mr. Harris or anyone else were found in the jacket.
- [71] Given that the jacket belonged to Mr. Harris, I find that he was aware of the \$600 and the .44 calibre rifle cartridge in a pocket in the jacket, and that these items belonged to him. The presence of this cartridge in turn leads me to infer that Mr. Harris knew about and was able to exercise control over the .44 calibre rifle, the butt of which was wedged between the front passenger door and the front passenger seat, and the rest of which extended into the front passenger footwell.
- [72] I have no difficulty in drawing this inference, even though Mr. Harris' jacket was covering the rifle, because I find that he put the jacket in that position in the first place. In fact, given the asymmetrical positioning of Mr. Harris' jacket, so as to mostly if not entirely cover the rifle, even the part extending into the passenger seat footwell, I find that he put the jacket there in an attempt to hide the rifle from anyone who might be looking into the car from outside, whether through the front passenger side window or if the front passenger door was open.
- [73] Mr. Harris' presence in the front passenger seat is also central to my finding that he had knowledge of and some measure of control over the drugs specified in the counts with which he is charged under the CDSA.
- [74] The front passenger seat was the epicenter of the bulk of the drugs in the vehicle, with some of the drugs in plain view. The small clear tub with a white lid containing 25.3 grams of crack cocaine was found on the very seat in which Mr. Harris had been sitting. It is inconceivable that he would not have known about it. Plus, at his feet was the shoulder bag containing, also in plain view, the same type of container, within which was 5.21 grams of fentanyl, bromazolam and caffeine. Also in this bag were two pill bottles, one with 7.2 grams of rock cocaine and the other 4.72 grams of powder cocaine and methamphetamine. And resting on top of the bag was a coffee cup, within which was a pill bottle containing 12 grams of methamphetamine.

- [75] I find implausible any scenario under which Mr. Harris could have been sitting in the front passenger seat either unaware of these drugs or aware of the drugs but lacking the ability to exercise some control over them.
- [76] Cst. Jones' evidence establishes that the drugs were quite valuable. If they belonged only to Ms. Sayers, it would make no sense for her to invite Mr. Harris, who on the evidence I find to have been a drug user, into the front passenger seat of her vehicle, for example to sell him some drugs as part of a street-level transaction. It would also have been very awkward for Ms. Sayers to engineer a drug transaction in the circumstances, given that many of the drugs were in the passenger seat footwell, and therefore not within her easy reach.
- [77] Moreover, I have found that Mr. Harris was in possession and control of the rifle wedged between his seat and the front passenger door. Based on Cst. Jones' evidence, as well as common sense, I find that the weapons in the vehicle, such as the rifle, sword and three knives, were there to prevent anyone from trying to steal the valuable drugs. In the circumstances, Mr. Harris' possession of the rifle establishes that he was using it for exactly this purpose.
- [78] In this respect, I note that the location of the rifle, and also the sword albeit perhaps to a lesser extent, is most consistent with the person in the front passenger seat being responsible for preventing the drugs from being stolen. It would make little sense for Ms. Sayers to place a large sword and a rifle on either side of the passenger seat, and then to permit someone unconnected with the drugs to sit in that seat, in particular given that most of the drugs were on that seat and in the footwell associated with it.
- [79] Another scenario posited by the defence is that Mr. Harris and Ms. Sayers were in a sexual relationship, and that he was in the vehicle as a result of this relationship and not because he had any knowledge of or control over the drugs. In support of this submission, the defence relies on Mr. Harris' statement to Cpl. Warren that he had just had sex with Ms. Sayers.
- [80] But this sort of closer relationship, which I accept probably existed, does not support a reasonable doubt as to whether Mr. Harris knew about and had the ability some measure of control over the drugs. For the reasons already stated, Mr. Harris must have known about the drugs given their location and that some of them were in plain view. The location of the drugs together with Mr. Harris' possession of the firearm concomitantly and overwhelmingly shows that he was exercising control over the drugs.
- [81] To conclude, I find that the Crown has established on the criminal standard that Mr. Harris was in possession of the specified drugs, and that he was also in possession of the firearm.
- [82] The question becomes, did Mr. Harris possess the drugs for the purpose of trafficking?

Purpose of Possession

- [83] In my view, the Crown has proven beyond reasonable doubt that Mr. Harris possessed each of the specified drugs for the purpose of trafficking. I come to this conclusion for a number of reasons.
- [84] First, the value of the drugs found in the immediate vicinity of the front passenger seat was considerable and the quantity significant. To provide some examples, Cst. Jones testified and I accept that:
- (a) although daily drug consumption is idiosyncratic and thus varies by user, the vehicle contained what for a heavy user would be about a 5-to-11-day supply of crack cocaine, a 1-day supply of powder cocaine, and a 45-to-56-day supply of methamphetamine; and
 - (b) if bought in bulk the 5.21 grams of fentanyl was worth between \$525 and \$600, the 7.2 grams of rock cocaine about \$400 to \$450, and the total amount of methamphetamine would have cost roughly \$175 to \$250, and while Cst. Jones did not give an estimated bulk value for the 25.3 grams of crack cocaine on the front seat, based on the pricing he provided for rock cocaine I infer it was worth well over \$500.
- [85] I further accept Cst. Jones's testimony that heavy drug users who do not also sell drugs usually buy them on a dose-by-dose basis, because they often lack the funds to buy larger amounts, and if they do so they risk losing everything if the drugs are seized by police or lost in another way. I infer that, by contrast, the business of drug trafficking usually requires keeping larger amounts of product on hand, the purchase of which can be financed by re-selling the drugs in smaller amounts.
- [86] The defence argued that possessing these quantities of the specified drugs is not consistent only with guilt because one or both of Mr. Harris and Ms. Sayers may have had a high tolerance for drugs either developed through heavy use, due to their metabolic idiosyncrasies, and/or as the result of medications that blocked their opioid receptors. Part of this argument lacks an evidentiary foundation - in particular, Cst. Jones had no knowledge about the relationship between medications used to treat drug dependency and tolerance to drugs. But even leaving aside this evidentiary problem, I find that the quantity and value of the drugs in the vehicle is more consistent with Mr. Harris possessing them for the purpose of trafficking than with possession being only for his and Ms. Sayers' personal use.
- [87] Second, Cst. Jones testified, and I accept, that drug dealers often keep several types of drugs available to meet the varying needs and desires of customers. Here, Mr. Harris possessed fentanyl, crack cocaine, powder cocaine and methamphetamine.

- [88] It is true that an individual may use more than one kind of drug, and that two individuals may between them use multiple kinds of drugs. But as I will explain in more detail shortly, drug paraphernalia associated with the most common methods of consuming fentanyl and methamphetamine were not found in the vehicle.
- [89] And although not necessary to my conclusion regarding the purpose for which the specified drugs were possessed, I also find that Mr. Harris possessed several other types of drugs not specified in the counts, which were found in the front passenger footwell: GBH, MDMA and prescription pills like hydromorphone.
- [90] Third, Cst. Jones testified that drug traffickers often keep weapons on hand to protect against being ripped off by users or other drug traffickers. The presence of weapons in Ms. Sayers' vehicle, in particular the firearm and sword, but also the knives on Mr. Harris' waistband and in the bags at his feet, thus supports the inference that the drugs were being held for the purpose of sale.
- [91] Although Cst. Jones testified that drug users who are not traffickers may also carry weapons for a protective purpose, I find it unlikely that individuals would purchase significant amounts of drugs for substantial amounts of money, and then carry those drugs around in a car for personal use, storing most of them on the front passenger seat and in the front passenger footwell, with some of the drugs in plain view.
- [92] The defence suggested that Mr. Harris and Ms. Sayers may have been homeless and living in the vehicle, hence explaining why they would keep all of the drugs there and need weapons to protect the drugs from being stolen. But if this were the case, I would not expect Mr. Harris and Ms. Sayers to keep most of the drugs on the front passenger seat and in the front passenger footwell. Moreover, being homeless suggests significant poverty that is inconsistent with being able to purchase large quantities of expensive drugs for personal use only.
- [93] Fourth, Mr. Harris had \$600 cash in his jacket pocket, which is a large amount for a person to carry. As Cst. Jones testified, this amount of cash in the denominations in question is consistent with drug trafficking, and I therefore find this evidence supportive of the conclusion that Mr. Harris possessed the drugs for resale.
- [94] The defence suggested that Mr. Harris may have been on social assistance and not have had a bank account, hence the large amount of cash. I have considered this possibility, but for reasons similar to those already provided in addressing the possibility that Mr. Harris was homeless, I find it unlikely that a person on social assistance would have \$600 in their pocket and also be able to purchase significant amounts of drugs at a substantial cost unless they were reselling at least some of the drugs to provide a net profit.
- [95] Fifth, the shoulder bag at Mr. Harris' feet contained a Ziplock bag with 40 grams of caffeine, and another Ziploc bag with 98 grams of bromazolam mixed with caffeine. I accept Cst. Jones' evidence that caffeine is frequently used by drug traffickers to increase profits by

diluting the concentration of fentanyl, and that drug traffickers often add both bromazepam (a depressant) and caffeine to fentanyl. I also note that Cst. Jones was not aware of bromazepam and caffeine being sold for consumption on their own, as opposed to being mixed with fentanyl.

- [96] The presence of these two Ziplock bags, in the same shoulder bag as was found the small tub containing fentanyl mixed with bromazepam and caffeine, is thus particularly powerful evidence that Mr. Harris was engaged in drug trafficking. Given all the circumstances, I can think of no plausible exculpatory explanation as to why Mr. Harris would be in possession of these two Ziplock bags.
- [97] Sixth, I accept that Mr. Harris and Ms. Sayers were both drug users, as indicated by: (a) indicia of impairment in the prisoner report and the testimony of Cst. Watkins and Cpl. Warren; and (b) the presence in Ms. Sayers' vehicle of a torch, clear plastic tubing and steel wool (i.e., things that Cst. Jones testified are commonly used to smoke crack cocaine). But Cst. Jones also testified, and I accept, that drug traffickers are often users because selling drugs can finance the considerable expense of a drug habit, which I find describes the situation in this case. Furthermore, drug paraphernalia associated with the most common - albeit not the only - methods of consuming fentanyl and methamphetamine were not present, for example charred tinfoil or needles (to smoke or inject fentanyl) or pipes with bulbs (to smoke methamphetamine).
- [98] Seventh, although no score sheets, electronic scales or clean packaging were located in the vehicle, these are not necessary preconditions for trafficking. Nor is the presence of different colours of the same drug, in particular fentanyl. Accordingly, while I have considered the non-presence of these items in determining whether the Crown has proved guilt on the criminal standard, it does not cause me to have a reasonable doubt when I consider all of the evidence as a whole.
- [99] Similarly, as noted by the defence there is no surveillance evidence indicating that Mr. Harris, Ms. Sayers or the vehicle engaged in conduct suggestive of drug trafficking, such as the sort of brief encounters with multiple people that Cst. Jones testified are typical of dial-a-dope operations. I have considered this absence of evidence in determining whether the Crown has met its onus, but it does not support a reasonable doubt when the evidence is viewed in totality.
- [100] Finally, I have considered all of the scenarios advanced by the defence to explain why Mr. Harris and Ms. Sayers, or for that matter Mr. Harris alone, might have possessed these drugs only for personal use. I have already mentioned some of these scenarios in my reasons to this point. But when the evidence is viewed as a whole, none of the scenarios is plausible so as to support a reasonable doubt. Although not the only factor I have considered in coming to this conclusion, none of the exculpatory scenarios can plausibly account for the presence of the two Ziplock bags, one with caffeine and the other with bromazepam and caffeine, in the same shoulder bag as was found the small tub containing

fentanyl mixed with bromazolam and caffeine.

Conclusion

[101] The evidence that I have accepted establishes beyond a reasonable doubt that on December 13, 2023 in Campbell River: (a) Mr. Harris was in possession of a non-restricted firearm without an authorization, license or registration certificate; and (b) he was in possession of the specified drugs for the purpose of trafficking.

[102] Neither the evidence nor any gaps in it support a reasonable doubt as to whether Mr. Harris knew about or had some measure of control over the firearm or these drugs, or whether he possessed the drugs for the purpose of trafficking.

[103] Mr. Harris, please stand up.

[104] For the reasons I have stated, I find you guilty of all four of the offences with which you are charged.

"D. Layton J."

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