

CANADA / JUDGMENT

R. v. Islam

2025 BCSC 161

COURT

Supreme Court of British Columbia

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2025 BCSC 161 R. v. Islam IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R. v. Islam, 2025 BCSC 161 Date: 20250210 Docket: 33912 Registry: Vancouver Rex v. MD Rafiqul Islam Before: The Honourable Justice MacNaughton Oral Reasons for Judgment Counsel for the Crown: T. Lattimer A. Russell Counsel for the Accused, MD Rafiqul Islam: M. James Place and Date of Trial: Vancouver, B.C. November 4, 6-7, 18-19, 22, and 27-28, 2024 Place and Date of Judgment: Vancouver, B.C. February 10, 2025 Table of Contents Introduction.. 4 The Admissions. 4 Taxi V41. 4 Project Tache. 5 1283 Howe. 6 933 Hornby. 6 Searches of Unit 3501 and Unit 1526. 6 Arrests of Mr. Islam and Mr. Flynn. 8 Subsequent Search of Taxi V41. 10 In-taxi CCTV Footage. 10 Mr. Islam's Cellphone. 11 Mr. Islam's Statement to Police. 12 Additional Admissions. 12 The Parties' Positions. 13 Governing Legal Principles. 14 Burden of Proof 14 Proof of Guilt in Circumstantial Cases. 14 Facts versus Elements of the Offence. 16 W.(D.) Instruction. 16 Possession. 17 Control 19 Knowledge. 19 Wilful Blindness. 20 Liability as a Party. 20 Application of the Law.. 22 Unit 1526 and Unit 3501 were Stash Houses in a Drug Trafficking Operation. 22 Taxi V41 was Used to Facilitate the Drug Trafficking Operation. 24 Police Surveillance Evidence. 24 In-taxi CCTV Evidence. 30 Conclusion on the Use of Taxi V41 by Mr. Trembley, Mr. Flynn, and UM104. 36 Mr. Islam's Evidence is Not Believable and Does Not Raise a Doubt 37 Taxi V41's Activities were not Normal 38 Mr. Flynn and Mr. Trembley were not Ordinary Clients. 39 Other Frailties in Mr. Islam's Evidence. 47 The Totality of the Evidence Establishes Mr. Islam's Guilt 49 Conclusions and Verdict. 51 APPENDIX. 53 Schedule A: Summary of Mr. Islam's Text Messages. 53 Schedule B: Summary of CCTV Footage Recorded in Taxi V41. 63

Introduction

- [1] MD Rafiqul Islam is charged with possession of cocaine for the purpose of trafficking, contrary to s. 5(2) of the Controlled Drugs and Substances Act, S.C. 1996, c. 19 [CDSA].
- [2] The charge stems from Mr. Islam's arrest by the Vancouver Police Department ("VPD") on June 24, 2021. Mr. Islam is a taxi driver. At the time of his arrest, Mr. Islam was driving a passenger named Charles Flynn. Mr. Islam and Mr. Flynn were both arrested in Mr. Islam's taxi. A police search incidental to their arrests located 211 grams of cocaine inside Mr. Flynn's backpack, which he had brought into Mr. Islam's taxi.

- [3] Counsel for Mr. Islam conceded that if possession is proven in this case, then the quantity of cocaine found in Taxi V41 would have been possessed for the purpose of trafficking, and not for personal use.
- [4] The VPD began the investigation that led to Mr. Islam's arrest after receiving a tip from a confidential informer that a Vancouver taxi was being used to distribute drugs around the Lower Mainland. The Admissions
- [5] Counsel for Mr. Islam entered into various admissions on his behalf for the purpose of trial, pursuant to s. 655 of the Criminal Code, R.S.C., 1985 c. C-46 [Code]. These admissions were entered as Exhibits 1 and 4 (collectively, the "Admissions"). I would summarize the Admissions as follows. Taxi V41
- [6] At the relevant time, Mr. Islam owned and operated Vancouver Taxi V41, an orange 2016 Toyota Sienna minivan with BC licence plate ND6048 ("Taxi V41"). Specifically, Mr. Islam owned a 50% interest in Taxi V41. His business partner owned the other 50%.
- [7] Mr. Islam admitted that a true and accurate copy of a photo of his driver's licence is attached as Tab 1 of the Admissions. Project Tache
- [8] The VPD opened an investigation on May 25, 2021, which they named "Project Tache". The investigation continued throughout June 2021, and culminated in the arrests of Mr. Islam and Mr. Flynn on June 24, 2021. On the same day, the police executed search warrants at two residences: · 1283 Howe Street, Vancouver, British Columbia ("1283 Howe"); and · 933 Hornby Street, Vancouver, British Columbia ("933 Hornby").
- [9] Mr. Islam admitted that he is the same individual who:
- (a) was arrested by Project Tache investigators in the 700 block of Helmcken Street in Vancouver, British Columbia, on June 24, 2021;
 - (b) was observed during surveillance conducted by Project Tache investigators on June 1, 3, 4, 8, 9, 10, 19, 21, and 24, 2021; and
 - (c) was captured in the driver's seat on closed-circuit television video ("CCTV") recorded inside Taxi V41 between June 18 and June 24, 2021.
- [10] Mr. Islam further admitted the identifies of Jordan Trembley and Charles Flynn (his former co-accuseds) as the individuals observed in the police surveillance conducted between June 1 and June 24, 2021.
- [11] As mentioned above, Project Tache investigators surveilled Taxi V41 on a number of dates in June 2021. Through this surveillance, police learned that Mr. Islam routinely drove Mr. Flynn and Mr. Trembley to and from 1283 Howe and 933 Hornby, to which I now turn. 1283 Howe

- [12] 1283 Howe is a 40-storey, multi-unit condominium building located in downtown Vancouver, on the west side of Howe Street, near the corner of Howe and Drake Streets. Entry points to 1283 Howe are accessed by electronic key fob. Each fob has a unique identifying number and is associated to a specific unit within the building. A fob is required in the elevator to access the unit's respective floor.
- [13] Between June 11, 2021, and June 24, 2021, a key fob associated to unit #3501 of 1283 Howe ("Unit 3501") was used by Mr. Trembley on every day that he attended at 1283 Howe. 933 Hornby
- [14] 933 Hornby is a 24-storey, multi-unit condominium building located in downtown Vancouver, on the southwest corner of Smithe Street and Hornby Street. The building has a second civic address of 938 Smithe Street. Units above the 12th floor use the latter civic address. Both 933 Hornby Street and 938 Smithe Street were used during Project Tache to refer to the same building.
- [15] Entry points to 933 Hornby are accessed by electronic key fob. Each fob has a unique identifying number and is associated to a specific unit within the building. A fob is required in the elevator to access the unit's respective floor.
- [16] Between June 11 and June 24, 2021, a fob associated to unit #1526 of 933 Hornby ("Unit 1526") was used by either Mr. Flynn, Mr. Trembley, or a third unidentified target observed in Project Tache ("UM104"), when they attended at 933 Hornby. Searches of Unit 3501 and Unit 1526
- [17] On June 24, 2021 (the same date of Mr. Islam's arrest, as discussed below), the VPD executed search warrants at Unit 3501 and Unit 1526. Without admitting knowledge of the items seized pursuant to these warrants, Mr. Islam admitted that the police located the following items:
- (a) in Unit 3501:
 - i. a motor vehicle violation ticket in Mr. Trembley's name; ii. 627 grams of fentanyl and caffeine, with a purity of 58%; iii. 766 grams of cocaine; iv. 914 grams of phenacetin (a cutting agent);
 - v. 466 grams of benzocaine (a cutting agent); vi. 1.1 kilograms of caffeine; vii. a small digital scale covered in white powder residue; viii. empty Ziploc baggies; ix. a blender and metal plates;
 - x. a pink and grey respirator mask; xi. a "Maximum" brand 10-tonne hydraulic press; xii. a "Foodsaver" vacuum-sealing machine; and xiii. two money counters.
 - (b) in Unit 1526:
 - i. 12.47 kilograms of fentanyl and fentanyl-mixtures; ii. 3.88 kilograms of cocaine; iii. 9.83 kilograms of methamphetamine; iv. 15.38 kilograms of caffeine (a cutting agent);

- v. 19.8 kilograms of phenacetin (a cutting agent); vi. \$323,372 in Canadian currency and two money counters; vii. personal protective equipment such as gloves, goggles, and a respirator; viii. various plastic baggies and packaging material; ix. an airsoft B8 gun, in its original packaging;
 - x. multiple scales, some with white residue; xi. a blender and three strainers; xii. three suspected scoresheet notebooks, including a spiral notebook opened to a page labelled "June 24" (Exhibit G5); xiii. a whiteboard with writing on it (Exhibit 119); and xiv. five cellphones on the kitchen counter, including a blue Motorola cellphone with phone number 236-622-3780. Arrests of Mr. Islam and Mr. Flynn
- [18] On June 24, 2021, the VPD surveilled Taxi V41. At 8:10 p.m., Mr. Islam parked Taxi V41 in the 800 block of Hornby Street. At 8:12 p.m., Mr. Islam left the taxi and went for a short walk. He then returned to the taxi, stood next to the driver's side, and texted on his phone.
- [19] At 8:30 p.m., the VPD observed Mr. Flynn exiting Unit 1526, carrying a beige/brown backpack. At 8:32 p.m., the police observed Mr. Flynn walking north on Hornby Street. He entered the rear driver's-side door of Taxi V41. Mr. Islam entered the driver's seat and drove north on Hornby Street.
- [20] At 8:38 p.m., members of the VPD's Emergency Response Team conducted a traffic stop of Taxi V41 in the 700 block of Helmcken Street. During the traffic stop, Mr. Islam was the driver and Mr. Flynn was his sole passenger, seated in the rear.
- [21] The police then arrested Mr. Flynn and Mr. Islam for trafficking in a controlled substance and for possession of a controlled substance for the purpose of trafficking.
- [22] The police searched Mr. Islam incident to his arrest. They found \$300 in Canadian currency in his left shirt pocket (VPD Ex. 13).
- [23] Mr. Flynn was also searched incident to his arrest. The police found a folding knife in his left jean pocket (VPD Ex. 8).
- [24] The police further searched the front of Taxi V41 incident to the arrests. They located the following items:
- (a) a blue bag containing a wallet with Mr. Islam's driver's licence (VPD Ex. 1);
 - (b) a Samsung cellphone from a holder near the steering wheel (VPD Ex. 6); and
 - (c) \$1,390 in Canadian currency inside Mr. Islam's wallet (VPD Ex. 12).
- [25] The police also searched the rear of Taxi V41 incident to the arrests, and located the following items:
- (a) two cellphones on the rear passenger floor where Mr. Flynn had been seated: a Motorola cellphone with phone number 236-622-2307 (VPD Ex. 4) and an iPhone with phone number 250-215-7908 (VPD Ex. 5);

- (b) a brown canvass backpack at the foot of the rear seats (VPD Ex. 1), inside of which police located:
 - i. a plastic bag labelled "Terry" containing 86.3 grams of cocaine, inside a paper bag (VPD Ex. 1.1); ii. a vacuum-sealed bag labelled "Doll" containing 3.75 grams of cocaine, inside a paper bag (VPD Ex. 1.4); iii. a vacuum-sealed bag labelled "Ace" containing 58.66 grams of cocaine, inside a paper bag (VPD Ex. 1.8); iv. a plastic bag containing 31.45 grams of cocaine, inside a paper bag labelled "Chris" (VPD Ex. 1.11);
 - v. \$150 (15 x \$10 bills) in Canadian currency (VPD Ex. 1.3); vi. \$588 in Canadian currency and Mr. Flynn's identification in a brown wallet (VPD Ex. 9); and
- (c) a white, letter-sized envelope labelled "Yogi", located on the rear seat and containing 31.39 grams of cocaine (VPD Ex. 2).

[26] Thus, the total amount of cocaine located in and seized from Taxi V41 was 211.55 grams.

[27] Finally, police located a set of keys for Unit 1526 and a key fob for 933 Hornby, which Mr. Flynn had dropped on the ground outside Taxi V41 (VPD Ex. 3). Subsequent Search of Taxi V41

[28] The VPD maintained continuity of Taxi V41 and its contents from when it was seized on June 24, 2021, to July 7, 2021. On that date, the police executed a search warrant on Taxi V41 at the VPD's property office.

[29] The police located the following items through their search of Taxi V41 on July 7, 2021:

- (a) a piece of rubber tubing with residue and a black lighter in the driver's door pocket (VPD Ex. A1);
- (b) \$140 in Canadian currency folded in the driver's visor;
- (c) a yellow sticky note with a phone number, also in the driver's visor;
- (d) a piece of paper with "#3-1020 E 38th Street, Vancouver" written on it, on top of a jacket on the front passenger seat;
- (e) two cameras, one on the windshield and one on the rear window. In-taxi CCTV Footage

[30] The police obtained the CCTV footage captured inside Taxi V41 for the period of June 18 to June 24, 2021. In that respect, Mr. Islam agreed that:

- (a) Taxi V41 was equipped with front and rear dash CCTV cameras inside the taxi.
- (b) The CCTV cameras in Taxi V41 took a burst of photographs when the vehicle doors were opened or closed, and when the taxi meter was turned on or off. If the taxi was idle, or driving with a passenger, a photo was taken every five minutes.
- (c) The CCTV photos captured in Taxi V41 were stored by West Coast Meters.

- (d) On July 7, 2021, Detective Inderjit Waraich served a production order on Jasmail Dhanda, the manager of West Coast Meters, for the recorded interior dash cameras in Taxi V41 between June 18, 2021, and June 24, 2021;
 - (e) A USB containing the CCTV images from "Camera 2", one of the front dash cameras inside Taxi V41, was attached to the Admissions.
 - (f) The authenticity and accuracy of the CCTV images from inside Taxi V41, on the USB, is admitted Mr. Islam's Cellphone
- [31] On October 1, 2021, Special Constable Fred Leon examined VPD Ex. 6 (the Samsung cellphone seized from Taxi V41 on the date of Mr. Islam's arrest). The cellphone belonged to Mr. Islam and had phone number 604-715-4779 ("Mr. Islam's Cellphone").
- [32] Special Cst. Leong extracted data from Mr. Islam's Cellphone and obtained the following information:
- (a) call logs from June 1-24, 2021;
 - (b) SMS, MMS, and third-party application messages from June 1-24, 2021;
 - (c) email messages from June 1-24, 2021;
 - (d) photos; and
 - (e) phone contacts.
- [33] On October 14 and 15, 2021, and again on May 10, 2022, Detective Constable Tara Munro reviewed the data extracted from Mr. Islam's Cellphone. While much of it consisted of irrelevant text messages to and from family and friends, Det. Cst. Munro identified the portions of the data that she believed to be relevant to the Project Tache investigation.
- [34] Detective John Bjornson subsequently created a final report on the portions of the data retrieved from Mr. Islam's Cellphone that Det. Cst. Munro had identified as relevant (the "Cellphone Report"). The Cellphone Report was admitted at trial as Exhibit 3, and Mr. Islam admitted the truth and accuracy of the portions of data from Mr. Islam's Cellphone reproduced in the Cellphone Report.
- [35] A summary of Mr. Islam's text messages to contacts identified as Mr. Flynn, Mr. Trembley, and UM104 from June 1 to 24, 2021, is reproduced as Schedule A to the Appendix of these Reasons. I will discuss these text messages in detail as part of my analysis. Mr. Islam's Statement to Police
- [36] Mr. Islam provided a voluntary statement to Det. Cst. Munro at 11:09 p.m. on June 24, 2021. A transcript of the interview is attached as Tab 4 of the Admissions. Mr. Islam admitted that the transcript accurately reflects the words spoken during his statement, and the people speaking them. Additional Admissions

- [37] Mr. Islam admitted the continuity of all items seized by the VPD and referred to in Admissions.
- [38] A book of photographs was admitted and marked as Exhibit 2 at trial. It contained the following items:
- (a) at Tab 1, photographs from the search of Taxi V41 on June 24, 2021. Mr. Islam admitted that the Tab 1 photographs truly and accurately depict Taxi V41 at the time of his arrest on June 24, 2021;
 - (b) at Tab 2, photographs of the exhibits seized from Taxi V41. Mr. Islam admitted that the Tab 2 photographs truly and accurately depict those items seized from Taxi V41;
 - (c) at Tab 3, photographs from the subsequent search of Taxi V41 on July 7, 2021. Mr. Islam admitted that the Tab 3 photographs truly and accurately depict Taxi V41 when it was searched on July 7, 2021
 - (d) at Tab 4, photographs of Exhibit G5 (the alleged scoresheet) located in Unit 1526 on June 24, 2021. Mr. Islam admitted that the Tab 4 photographs truly and accurately depict Exhibit G5 at Unit 1526 on June 24, 2021.
 - (e) at Tab 5, a photograph of Exhibit 119 (the whiteboard) located in Unit 1526 on June 24, 2021. Mr. Islam admitted that the Tab 5 photograph truly and accurately depicts Exhibit 119 at Unit 1526 on June 24, 2021
- [39] The Parties' Positions
- [39] As is apparent from the extensive Admissions made at trial, Mr. Islam does not dispute that Mr. Flynn and Mr. Trembley were his taxi clients and that he drove them in Taxi V41 throughout June 2021.
- [40] However, Mr. Islam maintains that he did not know what either of the men were doing in his taxi, or generally that they were involved in drug trafficking. He submits that the Crown has failed to prove beyond a reasonable that he knew or was wilfully blind as to the contents of Mr. Flynn's backpack, and exercised control over those contents. He further submits that the Crown has not proven, in the alternative, that he aided or abetted Mr. Flynn in the offence of possessing the cocaine.
- [41] Conversely, the Crown submits that, when the entirety of the evidence is considered, the only reasonable inference to be drawn in this case is Mr. Islam's guilt of possession for the purpose of trafficking. They say on the totality of the evidence that Mr. Islam had knowledge of and control over the cocaine found in Taxi V41 on June 24, 2021, and was either in constructive or joint possession of it. Alternatively, the Crown submits that Mr. Islam is guilty of possession of cocaine as a party to the offence, having either aided or abetted Mr. Flynn in the offence.

- [42] Thus, the issue for me to decide is whether the Crown has proven, beyond a reasonable doubt, that Mr. Islam knew or was wilfully blind to the controlled substance (in this case cocaine) present in Taxi V41 on June 24, 2021, and whether he exercised control over that substance, such that a conviction of possession for the purpose of trafficking must follow.
- [43] I turn to the legal principles that govern this analysis. Governing Legal Principles
- [44] In order for me to find Mr. Islam guilty of possessing cocaine for the purpose of trafficking, contrary to s. 5(2) of the CDSA, the Crown must prove each of the following essential elements beyond a reasonable doubt:
1. Mr. Islam was in possession of a controlled substance;
 2. the substance was cocaine;
 3. Mr. Islam knew that the substance was a controlled substance; and
 4. Mr. Islam had possession of the cocaine for the purpose of trafficking.
- [45] Several fundamental principles apply to the assessment of whether the Crown has discharged this burden and proven its case. Burden of Proof
- [46] As alluded to above, the Crown bears the burden of proving each element of the alleged offence beyond a reasonable doubt. A reasonable doubt is a doubt based on "reason and common sense"; it is not "imaginary or frivolous"; it "does not involve proof to an absolute certainty"; and it is "logically connected to the evidence or absence of evidence": *R. v. Villaroman*, 2016 SCC 33 at para. 28. Proof of Guilt in Circumstantial Cases
- [47] Here, the Crown's case is circumstantial in relation to one or all elements of the alleged offence. Accordingly, the question to be determined is whether, on the totality of the evidence, and accounting for gaps in the Crown's case, the accused's knowledge and control of the controlled substance is the only reasonable inference on the facts. In conducting this analysis, I must determine whether any other proposed way of looking at the case as a whole is reasonable enough to raise a doubt about Mr. Islam's guilt, when assessed logically and in light of human experience and common sense: *Villaroman* at paras. 30-36, 55-56; *R. v. Choudhury*, 2021 ONCA 560 at para. 19.
- [48] *Villaroman* is the leading case in respect of the assessment of circumstantial evidence. I take the following instructions from it.
- [49] The evidence and each individual circumstance must not be examined in isolation. Rather, it is the cumulative effect of all the evidence, whether direct or circumstantial, which must be considered: *R. v. Gibson*, 2021 ONCA 530, at para. 79.

- [50] An alternative inference must be "plausible", and "based on logic and experience applied to the evidence or the absence of evidence": *R. v. Kim*, 2021 BCSC 2017 at para. 49, citing Villaroman at para. 37. Thus, alternative inferences to guilt must be reasonable, not just possible: Villaroman at para. 50.
- [51] That said, it is beyond dispute that Mr. Islam does not have an obligation to adduce evidence to prove an alternative inference. It would be sufficient if common sense presented an inference alternative to guilt: *R. v. University of British Columbia*, 2020 BCSC 1126 at para. 150, *aff'd* 2021 BCCA 188.
- [52] With respect to the application of common sense in a circumstantial case, I find helpful the comments of then Chief Justice McEachern in *R. v. To* (1992), 16 B.C.A.C. 223, 1992 CanLII 913 (C.A.), cited in *R. v. Fisher*, 2005 BCCA 444 at para. 42: It must be remembered that we are not expected to treat real life cases as a completely intellectual exercise where no conclusion can be reached if there is the slightest competing possibility. The criminal law requires a very high degree of proof, especially for inferences consistent with guilt, but it does not demand certainty
- [53] The ultimate question to be answered is whether the circumstantial evidence, viewed logically and in light of human experience, is reasonably capable of supporting an inference other than that the accused is guilty: Villaroman at para. 38, as cited in Kim at para. 49. *Facts versus Elements of the Offence*
- [54] A finding of guilt based on circumstantial evidence must be the only reasonable conclusion on the whole of the evidence: *R. v. Cooper*, [1978] 1 S.C.R. 860 at 881, 1977 CanLII 11. However, importantly for this case, the individual pieces of evidence (or facts) relied on by the Crown to support such an inference need only be proven on a balance of probabilities. As the BC Court of Appeal explained in *R. v. Collin*, 2008 BCCA 431:
- [17] There is no requirement, however, that all of the circumstantial evidence relied upon for a finding of guilt must be proven beyond a reasonable doubt. Nor is there a requirement that a certain amount of the circumstantial evidence must be proved beyond a reasonable doubt. The requirement is that all elements of the alleged offence, including the element of identity of the offender, must be proved beyond a reasonable doubt: see *R. v. Morin*, [1988] 2 S.C.R. 345 at 360-362. The applicable standard was articulated in *R. v. Khan* (1998), 129 C.C.C. (3d) 45 (B.C.C.A.), as follows:
- [9] The Crown need not prove beyond a reasonable doubt each fact which is said to support the inference of guilt. Each fact may be a link in the chain of ultimate proof. Sopinka J. made it clear in *R v Morin* that it is the jury's duty to consider the evidence as a whole and determine whether guilt has been established by the prosecution beyond a reasonable doubt. W.(D.) Instruction

- [55] Mr. Islam testified at trial. I will return to his evidence later in these Reasons. Because he testified, I must instruct myself in accordance with the principles set out in *R. v. W.(D.)*, [1991] 1 S.C.R. 742, 1991 CanLII 93. In doing so, I have found the comments of Justice MacKenzie in *R. v. Kaplan*, 2019 BCCA 356 to be helpful:
- [59] The "rule in *W.(D.)*", the "*W.(D.)* instruction", or simply "*W.(D.)*", comes from *W.(D.)* at 757-58 in which Justice Cory made it clear that "[i]n a case where credibility is important, the trial judge must instruct the jury that the rule of reasonable doubt applies to that issue." He suggested the following instruction: First, if you believe the evidence of the accused, obviously you must acquit. Second, if you do not believe the testimony of the accused but you are left in reasonable doubt by it, you must acquit. Third, even if you are not left in doubt by the evidence of the accused, you must ask yourself whether, on the basis of the evidence which you do accept, you are convinced beyond a reasonable doubt by that evidence of the guilt of the accused. Since then, *W.(D.)* has become a staple of the criminal law repertoire for instructing juries, and to the framework judges follow in their self instruction in cases where credibility is important.
- [60] The purpose served by *W.(D.)* is to remind the trier of fact that reaching a verdict is not simply a question of choosing between the Crown's and the accused's evidence. The question is whether, based on the totality of the evidence, the trier of fact is left with a reasonable doubt as to the guilt of the accused. Judges are not required to repeat the formula set out in *W.(D.)* to demonstrate they relied on the appropriate legal principles when assessing the accused's credibility: *R. v. Boucher*, 2005 SCC 72 at para. 59, per Justice Charron, dissenting (but not on this point).
- [56] Thus, the standard of proof is not reduced to a choice between the Crown's evidence as compared to Mr. Islam's evidence. Doing so would ignore that the burden of proof always remains on the Crown, and that Mr. Islam continues to benefit from the presumption of innocence unless and until the Crown meets its burden of proof beyond a reasonable doubt.
- Possession
- [57] Section 2 of the CDSA adopts the definition of "possession" found in s. 4(3) of the Code: 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 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.

- [58] Whether an individual possesses something within the meaning of s. 4(3) of the Code is a question of fact, to be determined on the evidence and the inferences that may be drawn from it in each case: *R. v. Pham* (2005), 77 O.R. (3d) 401, 2005 CanLII 44671 at para. 27 (C.A.), aff'd 2006 SCC 26.
- [59] Possession can be personal, constructive or joint. It is well-settled that knowledge and control are the key elements in any means of possession: *R. v. Webster*, 2008 BCCA 458 at paras. 39-44 and *R. v. Bransford*, 2019 BCCA 408 at para. 21.
- [60] Constructive possession is established when an accused does not have physical custody of an object but knowingly has it in the actual possession or custody of another person or has it in any place for their own or another's use or benefit: Code, s. 4(3)(a); *R. v. Morelli*, 2010 SCC 8 at para. 17; and *R. v. Lights*, 2020 ONCA 128 at para. 47.
- [61] To establish constructive possession the Crown must prove beyond a reasonable doubt that the accused: (i) has knowledge of the character of the object said to be possessed; (ii) knowingly puts or keeps the object in a particular place, whether or not the place belongs to or is occupied by the accused; and (iii) intends to have the object in the place for the use or benefit of the accused or another person: *Morelli* at paras. 15, 17; *Lights* at paras. 44, 47.
- [62] Joint possession requires knowledge, consent, and a measure of control on the part of the person deemed to be in possession. To establish joint possession, the Crown must prove beyond a reasonable doubt that: (i) someone other than the accused had possession of the object with the accused's knowledge and consent; and (ii) the accused had some measure of control over it.
- [63] In *Fisher*, Justice Smith summarized the elements of constructive and joint possession:
- [24] As is evident from my summary of the law, neither constructive possession nor joint possession requires proof of manual handling. To establish constructive possession, it was incumbent upon the Crown to prove beyond a reasonable doubt that the appellant knew of the presence of the cocaine and that he had some measure of control over its location. To establish joint possession, the Crown was required to show that someone other than the appellant had possession of the cocaine with his knowledge and consent and that he had some measure of control over it.
- [64] Though residency in, or access to a place, can be compelling evidence of possession of things in that place, neither residence nor access is determinative of the issue of possession: *Kim* at paras. 55-56, citing Justice Jamal in *Choudhury*. Control
- [65] "Control" in the context of constructive or joint possession requires only that an individual have the ability to exercise some power or measure of control over a thing; it is not necessary that they, in fact, exercise such power: *R. v. Dipnarine*, 2014 ABCA 328 at para. 20, as cited in *Kim* and in *R. v. Cashman*, 2022 BCSC 892, aff'd 2024 BCCA; see also *Webster* at para. 42.

- [66] Constructive or joint possession does not require predominant control--only a measure of control: Dipnarine at para. 18. Further, possession does not require any proprietary interest in the item: Fisher at para. 33. Knowledge
- [67] The Crown need not prove knowledge on the basis of direct evidence. Proof of knowledge may be based on circumstantial evidence, inferred from the overall circumstances of a case: R. v. Pham (2005), 77 O.R. (3d) 401, 2005 CanLII 44671 at para. 18 (C.A.), aff'd 2006 SCC 26, cited in Dipnarine at para. 17; see also Kim at para. 46.
- [68] In addition, in a case involving a controlled substance under the CDSA, the Crown need not prove that an accused had knowledge of the specific nature of each substance in their possession. It need only prove that the accused knew that what they possessed was a controlled substance, i.e. any controlled substance: R. v. Blondin (1970), 2 C.C.C. (2d) 118 at 121-122, 1970 CanLII 1006 (B.C.C.A.), aff'd (1971), 4 C.C.C. (2d) 566, 1971 CanLII 1411 (S.C.C.).
- [69] That said, proof of knowledge (or of wilful blindness, as discussed below) calls for a subjective inquiry. The question is "what did the accused know" and not "what ought he to have known": R. v. Tyrell, 2014 ONCA 617 at para. 30, citing R. v. Beaver, [1957] S.C.R. 531 at 538 and 541-542, 1957 CanLII 14. Wilful Blindness
- [70] The parties agree that when knowledge is a component of the mens rea of an offence, as in the offence of possession for the purpose of trafficking, wilful blindness can substitute for actual knowledge. In other words, the Crown may prove the requisite element of knowledge may be established if the accused was "wilfully blind" as to the nature of the substance. An accused will be wilfully blind if their suspicion was aroused to the point that they saw the need for further inquiries but deliberately chose not to make those inquiries. The operative question is whether the accused "shut his eyes because he knew or strongly suspected that looking would fix him with knowledge". See R. v. Briscoe, 2010 SCC 13 at para. 21.
- [71] Wilful blindness is subjective and, as a result, is distinct from criminal negligence. It is not premised on what a reasonable person would have done but requires a finding that the accused, with actual suspicion, deliberately refrained from making inquiries because they did not want their suspicions confirmed: Briscoe at para. 24. This standard will be met in the following circumstances (Briscoe at para. 23): A court can properly find wilful blindness only where it can almost be said that the defendant actually knew. He suspected the fact; he realised its probability; but he refrained from obtaining the final confirmation because he wanted in the event to be able to deny knowledge. Liability as a Party
- [72] Finally, an accused need not have committed an offence themselves to be found guilty as a party to that offence. In particular, s. 21(1) of the Code provides: Everyone is a party to an offence who
- (a) actually commits it;
 - (b) does or omits to do anything for the purpose of aiding any person to commit it; or

(c) abets any person in committing it.

[73] The Crown must prove two things before an accused can be convicted of being a party by aiding and abetting an offence.

[74] First, the Crown must prove that the accused had knowledge, or was wilfully blind to the principal's intention to commit the offence: *Briscoe* at paras. 16-17, 21-25. In other words, the Crown must prove that Mr. Islam, armed with knowledge of Mr. Flynn's intention to commit the crime of possession of cocaine, acted with the intention of assisting Mr. Flynn in its commission: *Briscoe* at para. 18.

[75] Second, the Crown must prove that the accused did aid or abet in the commission of the offence: *R. v. Pavalaki*, 2014 BCCA 491 at para. 24; *R. v. Bransford*, 2018 BCSC 755 at para. 53, *aff'd* 2019 BCCA 408.

[76] In *R. v. Bi*, 2011 BCCA 10, the Court of Appeal dismissed conviction appeals of a husband and wife who were convicted as parties to the offences of production of marijuana, possession of marijuana for the purpose of trafficking, and theft of electricity. The appellants were tenants of the upper floor of a Burnaby house that had a marijuana grow operation in the basement. The trial judge considered the value of the marijuana grow operation in assessing whether the owner of the marijuana would have permitted upstairs tenants who had no knowledge of the operation. The Court of Appeal found that this was not speculative reasoning by the trial judge. Rather, it had been the application of "ordinary human experience" (at para. 16): it is common sense reasoning in cases such as this that the owner of the marijuana-grow operation would want exclusive residents of the premises to be involved in some aspect of the operation.

[77] Ultimately, the trier of fact need not determine whether the accused was a principal or an aider or abettor, only that they were one or the other: *Bi* at para. 20. Application of the Law

[78] As stated earlier, Mr. Islam does not dispute that the police found cocaine in Taxi V41, nor that he regularly drove Mr. Trembley and Mr. Flynn including to and from 933 Hornby and 1283 Howe. Furthermore, Mr. Islam concedes that if he is found to have possessed the cocaine located in Taxi V41, then the quantity is such that he would have possessed it for the purpose of trafficking.

[79] In order to determine whether Mr. Islam in fact had sufficient knowledge and control of the cocaine such that he possessed it within the meaning of s. 4(3) of the Code, I must examine the totality of the evidence and the permissible inferences to be drawn therefrom. Unit 1526 and Unit 3501 were Stash Houses in a Drug Trafficking Operation

[80] The police surveillance of Taxi V41 revealed that in June 2021, Mr. Islam would pick up and drop off Mr. Flynn and Mr. Trembley primarily from two locations: 933 Hornby and 1283 Howe.

- [81] The Admissions establish that the search warrants executed at both locations on June 24, 2021, yielded significant amounts of controlled substances. As a reminder, the police located the following in Unit 1526:
- (a) 12.47 kilograms of fentanyl;
 - (b) 9.38 kilograms of methamphetamine;
 - (c) 3.88 kilograms;
 - (d) 35 kilograms of cutting agents;
 - (e) \$323,372 in cash;
 - (f) drug packaging materials;
 - (g) personal protective equipment;
 - (h) scoresheets; and
 - (i) a large whiteboard.
- [82] In Unit 3501, the police similarly located:
- (a) 627 grams of fentanyl;
 - (b) 766 grams of cocaine;
 - (c) 2.5 kilograms of cutting agents;
 - (d) drug packaging materials;
 - (e) personal protective equipment; and
 - (f) two money counters.
- [83] I heard opinion evidence at trial from Staff Sergeant Rettie, who was qualified to testify as a drug expert in: · the pricing, packaging, and distribution of drugs, including drug trade jargon and the use of fentanyl, methamphetamine, and cocaine; and · the structure of and roles within drug distribution networks operating in British Columbia.
- [84] S/Sgt. Rettie testified about the nature of "stash sites" within a drug trafficking operation. He explained that a stash site refers to a location where larger amounts of drugs are stored and repackaged, for distribution to lower-level drug dealers or users. He opined that stash sites and dial-a-dope drug distribution often go together. S/Sgt. Rettie testified that dealers will often attend stash sites to reload their drug supply for further transactions, and will typically bring the money they earn from their drug sales to the stash sites.

- [85] S/Sgt. Rettie opined on the scoresheets found in Unit 1526. He referred to scoresheets as a ledger system used by drug traffickers and the people who run a stash site to keep track of the drugs going out for sale as well as the money owed for drugs and/or the expenses associated with the operation.
- [86] S/Sgt. Rettie further commented on the large whiteboard located in Unit 1526. The whiteboard included, inter alia, instructions on what to do with "files", which S/Sgt. Rettie explained is a common term in the drug trafficking subculture for money.
- [87] The police surveillance evidence admitted in this case, along with the electronic fob records for 933 Hornby, establish that Mr. Flynn, Mr. Trembley, and UM104 used the fob associated with Unit 1526 multiple times per day in the period of June 18 to June 24, 2021.
- [88] Similar evidence establishes that Mr. Trembley used a fob associated with Unit 3501 at 1283 Howe every day in the same time period.
- [89] I am satisfied, on the basis of the items located and seized from Unit 1526 and Unit 3501, the VPD's surveillance evidence in June 2021, the electronic key fob records of 933 Hornby and 1283 Howe, and the opinion evidence of S/Sgt. Rettie, that Mr. Trembley, Mr. Flynn, and UM104 used Unit 1526 and Unit 3501 as "stash sites or stash houses" within their drug trafficking operation. Taxi V41 was Used to Facilitate the Drug Trafficking Operation
- [90] The surveillance and CCTV evidence relating to Taxi V41 in June 2021 makes abundantly clear that Mr. Islam routinely drove Mr. Trembley, Mr. Flynn and UM104. These trips typically began or ended at either 933 Hornby and 1283 Howe, which I have found were the men's stash houses.
- [91] During many of these trips, the police observed Mr. Trembley, Mr. Flynn or UM104 conducting short-duration meetings and exchanges with other unknown individuals. For reasons discussed below, I find that their activities were clearly consistent with drug trafficking. Police Surveillance Evidence
- [92] I will now review in detail the evidence adduced in relation to each day of VPD surveillance of Taxi V41, starting with June 1, 2021. June 1, 2021
- [93] At approximately 2:00 p.m., Mr. Islam, driving Taxi V41, picked Mr. Trembley up from 1283 Howe and drove to the 2300 block of West 2nd Avenue. Police next observed the taxi parked on the side of the road for approximately ten minutes. Mr. Islam exited the driver's seat of the vehicle, leaving Mr. Trembley and another male in the rear of Taxi V41, and paced next to the taxi. The other male then exited Taxi V41, carrying a satchel. He got into a vehicle parked nearby and drove away. Mr. Islam then drove Mr. Trembley to a Tim Horton's at 756 Davie Street, and both men went inside.
- [94] At 3:26 p.m., approximately 48 minutes after Mr. Islam and Mr. Trembley left the Tim Horton's together, Mr. Trembley entered the backseat of Taxi V41 as it was parked in the 400 block of Drake Street. Mr. Islam drove Mr. Trembley to 540 East Hastings Street, where they

parked at the rear of the building. Three minutes later, a male exited the rear of 540 East Hastings Street and walked up to the side of Taxi V41. After he approached the side of the taxi, the male quickly walked back to the building he had just come from, and Taxi V41 drove away. Mr. Islam then took Mr. Trembley back to 1283 Howe.

- [95] At 4:23 p.m., 35 minutes later, Mr. Trembley entered Taxi V41, where it was parked near 1283 Howe in the 700 block of Drake Street. Mr. Islam drove to the area of Barclay and Thurlow Streets, where police lost visual contact with the taxi. Four minutes later, police re-located Taxi V41 driving on Nicola Street towards Nelson Street. At 4:39 p.m., Taxi V41 returned to 1283 Howe. Mr. Trembley exited the rear of the taxi and entered the building.
- [96] At 5:01 p.m., 38 minutes later, Mr. Trembley got into the rear passenger side of Taxi V41. Police followed the taxi to the 100 block of West Hastings Street, where another unknown male ("UM7") got into the passenger side. The male was in the rear of the taxi with Mr. Trembley for approximately three minutes, before exiting one block away from where he got in, with a plastic bag. From there, Mr. Islam drove Mr. Trembley to the 1500 block of West 8th Avenue. Mr. Islam parked there from 5:23 p.m. until 5:46 p.m. Police were unable to maintain continuous surveillance of the taxi while it was parked on West 8th Avenue, but were able to confirm that Mr. Trembley was still inside the taxi at 5:37 p.m. At 5:46 p.m., Taxi V41 left the 1500 block of West 8th Avenue.
- [97] At 5:59 p.m., Mr. Islam parked Taxi V41 in the lane behind 1540 Haro St. A few minutes later, police saw the taxi, with Mr. Trembley still on board, at Nelson and Jervis Streets, before Mr. Islam dropped Mr. Trembley off at 1283 Howe and Mr. Trembley entered the building.
- [98] At 8:18 p.m., Mr. Trembley again got into the rear of Taxi V41, carrying a beige backpack. The taxi was parked near 1283 Howe, in the 800 block of Drake Street. Mr. Islam drove Mr. Trembley to the 400 block of Abbott Street, where he parked at the side of the road. The taxi was briefly out of view, before police saw it driving in the 0 block of West Hastings Street, and then pull over in 0 block of West Pender Street. At this point, police saw UM7 exit Taxi V41. Although the VPD did not see UM7 get into the taxi, I infer that if he got out of the taxi, he must have gotten in at some unobserved point. Mr. Islam then drove Mr. Trembley to the rear of 1283 Howe.
- [99] At 8:40 p.m., Taxi V41 was stopped in the 900 block of Hornby Street, near 933 Hornby. The taxi remained there until 8:55 p.m., when Mr. Trembley exited the doors of 933 Hornby, carrying a beige backpack. He entered the rear of the taxi and Mr. Islam drove away north on Hornby Street.
- [100] Mr. Islam drove Mr. Trembley from 933 Hornby back to the 400 block of Abbott Street and parked at the side of the street. An unknown person got into the rear of Taxi V41 with Mr. Trembley. The taxi was out of police view for approximately one minute before it was reacquired driving west in the 100 block of West Hastings Street. At 9:07 p.m., Mr. Trembley exited Taxi V41 in front of 1283 Howe and went into the building. Police confirmed that no one other than Mr. Islam was in the taxi. I infer that at some point between the unknown

person getting into the rear of Taxi V41 with Mr. Trembley and it arriving at 1283 Howe, with only Mr. Trembley on board, that the unknown person got out of the taxi. June 8, 2021

- [101] At 5:38 p.m., Mr. Trembley exited 1238 Howe and got into the rear of Taxi V41. Mr. Islam drove Mr. Trembley to the Park Royal shopping centre in West Vancouver and parked in the parking lot. Mr. Islam exited the taxi and motioned at another vehicle. Mr. Islam then got back into the taxi and moved to a different parking spot. There, an unknown male approached the driver's side of Taxi V41 and handed a small item--something that fit in his hand--to Mr. Trembley. Mr. Trembley was not observed passing anything in return to the unknown male. The encounter lasted for a minute or less. Mr. Islam then drove Mr. Trembley back to 1283 Howe.
- [102] At 8:03 p.m., Taxi V41 parked near the intersection of Drake and Howe Streets. Mr. Trembley exited the taxi and walked inside 1283 Howe. Mr. Islam got out of Taxi V41 and paced back and forth. At 8:18 p.m., Mr. Islam and Mr. Trembley got into Taxi V41 and drove to Drake and Homer Streets, where Mr. Trembley got out of the taxi and appeared to be looking around. He then met with an unknown female. The two had a brief conversation before Mr. Trembley got back into Taxi V41 and the female walked away. June 9, 2021
- [103] At 5:29 p.m., Mr. Trembley exited 1283 Howe and entered Taxi V41. 19 minutes later, Mr. Trembley returned to 1283 Howe in Taxi V41.
- [104] At 6:07 p.m., Mr. Trembley exited 1283 Howe and got into the rear of Taxi V41. Mr. Islam drove Mr. Trembley to a 7-11. Police saw Mr. Trembley go into the 7-11 briefly, then return to Taxi V41 with nothing in his hands. At the same time, an unknown male got into the rear of Taxi V41 with Mr. Trembley, also carrying nothing in his hands. The unknown male then exited Taxi V41, approximately a minute later, holding a reusable black grocery bag. Mr. Islam then returned Mr. Trembley to 1283 Howe.
- [105] Between 8:32 p.m. and 9:07 p.m., Mr. Islam picked up Mr. Trembley and his girlfriend from 1283 Howe and took them to Canadian Tire and a grocery store, before returning them to 1283 Howe.
- [106] At 10:18 p.m., police observed Taxi V41 parked at the rear of 1540 Haro Street, the same location it had attended on June 1, 2021. An unknown male came from the rear of the building and got into the taxi, which drove around the corner, where the unknown male exited the taxi and returned to 1540 Haro Street. At 10:24 p.m., Mr. Trembley exited Taxi V41 with a large black suitcase and entered the front doors of 933 Hornby. At 10:34 p.m., Mr. Trembley exited 933 Hornby, with nothing in his hands, and got back into Taxi V41. I infer that the suitcase was left at 933 Hornby. June 10, 2021
- [107] At 9:40 p.m., Mr. Flynn entered the rear of Taxi V41, which was parked in the breezeway next to 933 Hornby. Mr. Flynn was carrying a beige backpack. Taxi V41 drove away north on Hornby Street. At 9:43 p.m., Taxi V41 pulled over near the intersection of Robson Street and Granville Street. An unknown male ("UM2") got into the rear of the taxi with UM103. The

taxi then went out of view for approximately one minute. UM2 was not seen again by police. I infer that because UM2 got into the taxi, and was not seen again in surveillance, at some point he must have gotten out.

- [108] Approximately three minutes later, at 9:47 p.m., Taxi V41 pulled over near the intersection of Smithe and Seymour Streets. Another unknown male ("UM3") got into the rear of the taxi with UM103. At 9:49 p.m., Taxi V41 pulled over in the east lane of Seymour Street and UM3 exited the taxi. At 10:22 p.m., Taxi V41 returned to 933 Hornby with UM103. UM103 exited the rear of the taxi and entered the front doors of 933 Hornby.
- [109] The references to UM103 in this June 10, 2021 surveillance were to another accused, later identified by the VPD, as Quintin Anthony. Mr. Anthony was also charged as a result of Project Tache. June 19, 2021
- [110] At 6:37 p.m., Taxi V41 parked in the 800 block of Hornby Street. Mr. Flynn exited the rear of the taxi carrying a brown backpack. At 6:40 p.m., Mr. Flynn used a key fob to enter 933 Hornby.
- [111] At 8:45 p.m., Mr. Flynn exited the front door of Suite 1526 and used a key to lock the door behind him. Mr. Flynn was carrying a brown backpack and a garbage bag. At 8:48 p.m., Mr. Flynn got into the rear of Taxi V41 in the 800 block of Hornby Street, he was still carrying the backpack but no longer had the garbage bag. At 8:56 p.m., Taxi V41 pulled over in the 400 block of Carrall Street. Police then lost visual contact with the taxi for approximately one minute. At 8:57 p.m., police saw Taxi V41 driving west on Pender Street from Carrall Street. Mr. Flynn was in the rear of the taxi. At 9:04 p.m., Taxi V41 returned to 933 Hornby and Mr. Flynn left the taxi and walked toward the front doors of the building. At 9:07 p.m., Mr. Flynn used a key to enter Suite 1526.
- [112] At 10:49 p.m., an unknown vehicle parked next to Taxi V41 in the breezeway of 933 Hornby. UM104 exited the vehicle and spoke with Mr. Islam who exited the taxi. At 10:56 p.m., Mr. Flynn exited 933 Hornby, and walked over to Mr. Islam and UM104, and all three engaged in conversation. At 10:58 p.m., UM104 returned to his vehicle and drove away. Mr. Islam got into the front seat of Taxi V41, and Mr. Flynn into the rear. Taxi V41 then drove north on Burrard. One minute later, Taxi V41 pulled over in the 800 block of Burrard Street and Mr. Flynn exited the taxi.
- [113] At 11:56 p.m., Mr. Trembley and Mr. Flynn were observed standing next to Taxi V41, in the 800-block of Burrard Street. Mr. Flynn got into the rear passenger seat, and Mr. Trembley walked away eastbound. Taxi V41 then drove away north on Burrard Street. At 12:29 a.m., Taxi V41 dropped Mr. Flynn and a female off in front of 3836 Carrigan Court, Burnaby, British Columbia. June 21, 2021
- [114] At 6:43 p.m., police observed Taxi V41 parked in the 1000-block of Melville Street, near the Burrard Skytrain Station. UM104 exited the taxi carrying a brown paper bag and went out of view toward the Skytrain station entrance. Taxi V41 remained parked and waited. At 6:47

p.m., UM104 walked back to Taxi V41. An unknown male got into the rear passenger seat of Taxi V41, while UM104 waited outside. The unknown male was in the rear of Taxi V41 for approximately five seconds before he exited. UM104 and the unknown male then spoke briefly before UM104 got back into Taxi V41 and the unknown male walked away. At 7:13 p.m., Taxi V41 returned UM104 to 933 Hornby. UM104 exited the taxi and entered the front doors of the building. In-taxi CCTV Evidence

- [115] As mentioned previously, the police obtained CCTV footage captured by inside Taxi V41 for the period of June 18 to June 24, 2021. A chart summarizing the evidenced recorded by the in-taxi CCTV footage relating to Mr. Flynn, Mr. Trembley, and UM104 is provided as Schedule "B" of the Appendix to these Reasons. In what follows, I have reproduced the entries contained in Schedule "B" that describe instances in which an individual other than Mr. Flynn, Mr. Trembley or UM104 can be observed engaging in exchanges with either of these men: Date Passenger Time in Time Out Description Approx. Video Playback Time
- | Date | Passenger | Time in | Time Out | Description | Approx. Video Playback Time |
|---------|-----------|--------------|---------------|--|-----------------------------|
| June 18 | FLYNN | 6:50:28 p.m. | 7:08:25 p.m. | At 6:58:20 p.m., an unknown male also enters the rear of Taxi V41, with Mr. Flynn. The unknown male is in the vehicle for less than one minute. | 10:25 10:44 |
| June 19 | FLYNN | 2:14:40 p.m. | 2:41:09 p.m. | At 2:34:18 p.m., the same unknown male from June 18 also enters the rear of Taxi V41, with Mr. Flynn. The unknown male is in the vehicle for approx. one minute. At 2:34:22 p.m., the unknown male and Mr. Flynn exchange an undetermined item in the rear of the taxi. | 27:52 28:54 29:00 |
| June 19 | FLYNN | 3:11:15 p.m. | 3:21:10 p.m. | Mr. Flynn re-enters Taxi V41. At 3:16:29 p.m., an unknown male approaches the rear driver-side door, reaches in and takes an undetermined item from Mr. Flynn. The unknown male is in view for less than 10 seconds. | 30:49 31:05 |
| June 19 | FLYNN | 5:56:57 p.m. | 6:30:38 p.m. | At 6:07:05 p.m., an unknown person approaches the rear passenger-side door, and receives a package from Mr. Flynn. The unknown male is in view for approx. 5 seconds. At 6:19:29 p.m., an unknown female also enters the rear of Taxi V41, with Mr. Flynn. The unknown female and Mr. Flynn conduct an exchange. The unknown female is in the vehicle for less than two minutes. | 37:14 37:47 |
| June 20 | UM104 | 2:45:45 p.m. | 2:52:54 p.m. | UM104 re-enters Taxi V41. At 2:45:53 p.m., an unknown female enters the rear of Taxi V41, with UM104. The unknown female is in the vehicle for approx. two minutes. | 56:25 56:31 |
| June 20 | UM104 | 3:52:38 p.m. | 4:13:05 p.m. | At 4:01:36 p.m., an unknown male enters the rear of Taxi V41, with UM104. At 4:01:42, UM104 hands the unknown male a white envelope, which appears full. The unknown male is in the vehicle for approx. nine minutes. Mr. Islam exited the vehicle from 4:03:04 p.m. to 4:09:11 p.m. | 59:24 59:29 |
| June 20 | UM104 | 6:29:43 p.m. | 7:28:18 p.m. | At 7:06:34 p.m., an unknown male enters the rear of Taxi V41, with UM104. While inside, the unknown male periodically looks in a bag that is placed between him and UM104 in the rear passenger seat. He is in the vehicle for approx. 13 minutes. | 1:05:53 |
| June 20 | UM104 | 7:57:10 p.m. | 8:30:27 p.m. | UM104 re-enters Taxi V41. At 8:20 p.m., an unknown male enters the rear of Taxi V41, with UM104. The male is in the vehicle for less than four minutes. At 8:26:02 p.m., the same unknown male re-enters the rear of Taxi V41, with UM104. The male is in the vehicle for approx. two minutes. | 1:07:19 1:08:18 |
| June 20 | UM104 | 9:09:11 p.m. | 10:05:07 p.m. | UM104 re-enters Taxi V41. At 9:15:36 p.m., | 1:08:36 |

an unknown male enters the rear of Taxi V41, with UM104. UM104 takes out a large white package from his backpack, and hands it to the unknown male; the male also hands UM104 a bundle of cash. The male is in the vehicle for approx. 10 seconds. At 9:23:37 p.m., a second unknown male enters the rear of Taxi V41 with UM104. UM104 hands a white envelope to the unknown male, who puts the package in his right pant pocket. The unknown male is in the vehicle for approx. two minutes. At 9:57:49 p.m., a third unknown male enters the rear of Taxi V41 with UM104. The unknown male hands UM104 a bundle of cash; UM104 hands the unknown male a white envelope. The unknown male is in the vehicle for less than one minute. 1:10:17 1:10:39 1:11:06 1:12:35 June 21 TREMBLEY & UM104 12:48:02 p.m. 1:17:32 p.m. At 12:53:02 p.m., UM104 hands Mr. Trembley a full white envelope. At 12:53:07 p.m., an unknown male also enters the rear of Taxi V41 with Mr. Trembley and UM104. While inside, Mr. Trembley hands the unknown male the white envelope. The unknown male is in the vehicle for less than one minute. At 1:09:22 p.m., an unknown person also enters the rear of Taxi V41 with Mr. Trembley and UM104. While inside, the unknown person hands UM104 a white envelope. The unknown person is in the vehicle for less than 30 seconds. 1:22:54 1:23:03 1:23:47 June 21 TREMBLEY & UM104 1:31:20 p.m. 1:38:50 p.m. Mr. Trembley and UM104 re-enter Taxi V41. On entry, UM104 opens the rear of the vehicle and places a large box inside, which he removes when he exits the vehicle. 1:24:50 June 21 UM104 2:18:03 p.m. 4:36:30 p.m. At 2:26:08 p.m., the same unknown female from June 20 (at 2:45:53 p.m.) also enters the rear of Taxi V41 with UM104. While inside, the unknown female hands a full white envelope from her purse to UM104. The unknown female was in the vehicle for less than 30 seconds. 1:27:03 June 21 UM104 5:34:30 p.m. 6:00:00 p.m. At 5:46:14 p.m., a second unknown female also enters the rear of Taxi V41 with UM104 (the same unknown female from June 19 (at 6:19:29 p.m.)). The unknown female is in the vehicle for less than 45 seconds. 1:31:29 June 21 UM104 6:15:52 p.m. 6:35:01 p.m. At 6:26:38 p.m., an unknown male also enters the rear of Taxi V41 with UM104. The unknown male is in the vehicle for less than one minute. At 6:39:58 p.m., a second unknown male enters the rear of Taxi V41; UM104 exits Taxi V41 and stands next to the vehicle on the sidewalk. While inside, the unknown male looks through a bag that was already inside the taxi and removed an item. The unknown male was in the vehicle for less than 30 seconds. 1:33:31 1:34:20 June 21 TREMBLEY & UM104 9:17:18 p.m. 9:28:59 p.m. At 9:26:39 p.m. an unknown person also enters the rear of Taxi V41 with Mr. Trembley and UM104. The unknown person is in the vehicle for less than 30 seconds. 1:42:19 June 22 FLYNN 12:48:23 p.m. 1:33:02 p.m. At 1:17:53 p.m., an unknown male also enters the rear of Taxi V41 with Mr. Flynn. The unknown male is in the vehicle for less than five minutes. 1:53:25 June 22 FLYNN & TREMBLEY 8:29:50 p.m. 8:53:01 p.m. At 8:36:57 p.m., an unknown male also enters the rear of Taxi V41, with Mr. Flynn and Mr. Trembley. While inside, the unknown male received a package, prior to exiting. The unknown male was in the vehicle for less than one minute. At 8:42:17 p.m., a second unknown male also enters the rear of Taxi V41, with Mr. Flynn and Mr. Trembley. While inside, Mr. Flynn hands an object to the unknown male. The unknown male was in the vehicle for approx. two minutes. 2:10:03 2:10:18 June 23 FLYNN 12:10:50 a.m. 12:19:45 a.m. At 12:15:40 a.m., a third unknown male also enters the rear of Taxi V41, with Mr.

Flynn. Prior to the unknown male's entry into the vehicle, Mr. Flynn removes a brown paper bag from his backpack. While inside, the unknown male removes a folded bundle of money from his right pant pocket and hands it to Mr. Flynn; the unknown male takes the brown paper bag Mr. Flynn had removed. The unknown male was in the vehicle for approx. one minute. 2:18:45 Conclusion on the Use of Taxi V41 by Mr. Trembley, Mr. Flynn, and UM104

- [116] As part of his evidence, S/Sgt. Rettie testified about the typical characteristics of so-called "dial-a-dope" drug operations--a term which refers to a mobile drug delivery method. After considering the short-duration meetings and exchanges observed by police through their surveillance of Taxi V41, together with the visual CCTV evidence of what occurred inside Taxi V41--including images of individuals exchanging items inside Taxi V41--S/Sgt. Rettie opined that the activities were indicative of dial-a-dope drug trafficking.
- [117] I accept S/Sgt. Rettie's opinion and agree, on the totality of the surveillance and CCTV evidence, that Mr. Trembley, Mr. Flynn, and UM104 used Taxi V41 to facilitate a dial-a-dope drug operation, supplied by their stash houses at Unit 3501 and Unit 1526.
- [118] The operative question remains whether Mr. Islam had knowledge of or was wilfully blind to this operation, and whether he exercised control (constructively or jointly) over the cocaine contained in Mr. Flynn's backpack on June 24, 2021. Mr. Islam provided evidence on these issues, and so I now turn to his testimony at trial. Mr. Islam's Evidence is Not Believable and Does Not Raise a Doubt
- [119] The thrust of Mr. Islam's evidence is that: (a) the activities of Taxi V41, as observed by police surveillance in June 2021, were normal; (b) Mr. Flynn and Mr. Trembley were his ordinary private taxi clients; (c) he had no knowledge of Mr. Flynn and Mr. Trembley's drug trafficking activities; and (d) he never observed the exchanges by Mr. Trembley, Mr. Flynn, and UM104 that occurred inside his taxi.
- [120] I had the opportunity to observe Mr. Islam as he testified, and have carefully reviewed his evidence. Applying the W.(D.) framework, for the reasons that follow, I do not believe Mr. Islam and am not left with a reasonable doubt by his evidence. His evidence is patently excusatory, stretches credulity, and has an obvious air of fabrication. I find that the general thread of Mr. Islam's evidence does not accord with common sense or human experience, and conclude that his explanations are "inherently improbable given the conduct of ordinary people": R. v. R.R., 2018 ABCA 287 at paras. 5-7.
- [121] In reaching my conclusion about Mr. Islam's evidence, I have considered that Mr. Islam's first language is Bengali and that he testified at trial through an interpreter. In my observations of him, Mr. Islam had no difficulty in understanding the questions he was asked, seeking clarification when he needed it, or in giving his answers.

- [122] After reviewing Mr. Islam's evidence in detail, and describing the frailties I have identified in it, I will consider whether, on the totality of the evidence that I do accept, the only reasonable inference is that of Mr. Islam's guilty. Taxi V41's Activities were not Normal
- [123] Throughout his evidence, Mr. Islam maintained that that the short duration meetings taking place in the rear of his taxi were "very normal". He claimed that it was not unusual for individuals to get into his taxi for a few minutes or, in some cases, a few seconds, while Mr. Trembley, Mr. Flynn, or UM104 were in the back. This would sometimes happen many times in a day, as is evident from the in-taxi CCTV footage discussed earlier in these Reasons.
- [124] Mr. Islam testified that Mr. Trembley, Mr. Flynn, and UM104 were social and liked meeting with people. Yet, as I have already discussed, it is clear from the CCTV footage that the short duration meetings in the rear of Taxi V41 were not for social purposes, but instead formed part of Mr. Trembley, Mr. Flynn, and UM104's dial-a-dope trafficking operation.
- [125] Mr. Islam further maintained that it was common for a passenger to take a taxi for a trip of one or two blocks. This defies common sense. Individuals walk one or two blocks; they do not take a taxi. Doing so was even more improbable during the Covid-19 pandemic, when people generally avoided being in close quarters, such as taxis, with other people that they did not know (for instance, a taxi driver).
- [126] Mr. Islam testified that he never once saw Mr. Flynn, Mr. Trembley, or UM104 exchanging items, and had no idea what they were doing in the rear of his taxi. Given the number of times individuals met with Mr. Flynn, Mr. Trembley, or UM104 when they were passengers in his taxi, and the number of exchanges involved, this was completely unbelievable.
- [127] In this respect, I note that Mr. Islam testified about taking a three-week training course for taxi hosting at the Justice Institute, as a requirement for obtaining his taxi licence. The course included a safety training component, in which Mr. Islam was instructed about the importance of observing a customer's behaviour to ensure that both he and the customer were safe. He agreed that he was responsible for the safety of what is occurring in his taxi. It defies common sense that Mr. Islam would not pay any attention to who was getting into and out of his taxi, and what they were doing, to ensure that both he and his passengers were safe.
- [128] At another point in his evidence, Mr. Islam testified that he was unaware of what took place in the rear of his taxi at the relevant time period because he was concentrating on his driving. While it is true that, on some occasions, Mr. Islam was driving while an exchange was occurring in the rear of his taxi, on many occasions the taxi was stopped at the side of the road. Again, I do not accept his evidence on this point.
- [129] At yet another point in his evidence, Mr. Islam testified that he was unable to see what was occurring in the rear of his taxi. There was a plexiglass divider between the front and rear of the taxi but it was transparent. Given the number of exchanges observed in the in-taxi

CCTV footage, Mr. Islam's evidence that he was unable to see defied common sense and was completely unbelievable. Although the in-taxi CCTV footage does not show Mr. Islam turning around to engage with the passengers and others in the rear of the taxi, his failure to do so appeared to be deliberate. He was not checking, as he was trained to do, on his safety or that of his passengers, as a number individuals got into and out of his taxi after short meetings in the rear of it. Mr. Flynn and Mr. Trembley were not Ordinary Clients

- [130] Throughout his evidence, Mr. Islam maintained that Mr. Flynn and Mr. Trembley were just regular repeat customers of his taxi.
- [131] Mr. Islam testified that the taxi market is very competitive. He agreed that when he was unavailable, it would have been easy for Mr. Flynn, Mr. Trembley, and UM104 to get another taxi, should they have needed one. Yet, as I will discuss, the text messages sent between these men indicate that: (a) Mr. Islam felt obligated to advise Mr. Flynn, Mr. Trembley, and UM104 when he was not working; (b) they would get upset if he was unavailable; (c) and Mr. Islam went to significant lengths to placate their frustration at his unavailability, including providing photographic evidence of why he was unavailable and, in other cases, driving while unwell.
- [132] These dynamics, among others, satisfy me that, contrary to Mr. Islam's evidence, he had an entwined and involved working relationship with these men that went beyond that of an ordinary private taxi client and driver.
- [133] First, I wish to clarify the nature of the text messaging evidence. The contacts contained in Mr. Islam's Cellphone included nine different telephone numbers using which he could reach either "Jake" (i.e., Mr. Flynn), "Tim" (i.e., Mr. Trembley) or "Mark" (i.e., UM104). These phone numbers were listed as: · MARK NEW · TIM · WORK · WORK2 · TIM TWO · TIM WORK · JAKE PERSONAL · JAKE TWO
- [134] Mr. Islam testified that TIM, TIM TWO, and TIM WORK all referred to the same person (Mr. Trembley), as did JAKE, JAKE PERSONAL, and JAKE TWO (Mr. Flynn). Mr. Islam testified that with respect to WORK and WORK2, sometimes "Tim" texted him using those phone numbers and sometimes it was "Jake". Mr. Islam explained that he did not ask these men why they had so many different phone numbers, because he was simply happy with them as his customers. He did agree that it is uncommon for his customers to have so many phone numbers.
- [135] During his evidence, Mr. Islam was taken through the text messages that he sent to and received from these contacts. I find, on the whole, that he was clearly fabricating at various points of his testimony on the subject matter.
- [136] I will now go through a number of text message exchanges that I consider indicative of the obligation that Mr. Islam felt towards Mr. Flynn and Mr. Trembley, and that set apart their relationship from those that Mr. Islam may have had with other repeat customers.

- [137] The first example is a text message conversation between Mr. Islam and the contact WORK on June 2, 2021, which began with Mr. Islam notifying WORK that he was sick and unavailable: Time From To Content 12:33 p.m. Mr. Islam WORK I AM SICK TAKING REST SORRY BOSS FOR TODAY 1:50 p.m. WORK Mr. Islam Wait what 1:50 p.m. WORK Mr. Islam Really?? 1:51 p.m. Mr. Islam WORK COMING TO WORK
- [138] Mr. Islam was asked about the above exchange. He testified that he knew on that day that either Mr. Trembley or Mr. Flynn were looking for his taxi, as they did almost every day, and that because of this he informed them that he was sick. He said he addressed the recipient as "boss" to make them happy. He testified that when he received their response, he thought there would be a problem if he was unavailable. He agreed that if he was sick, Mr. Trembley and/or Mr. Flynn could have gotten a different taxi, but said that because they knew him and he knew them, it was quite natural for them to call him. Mr. Islam was asked why, according to the text messages, he changed his mind about being sick and unavailable. He testified, "maybe I started working" and "maybe I changed my mind".
- [139] Mr. Islam's explanation for the text exchange was not believable and did not ring true. I find that it was an attempt by him to suggest that the communications between himself and the person he was addressing as "boss" reflected a normal relationship between himself and a regular customer, which in my view they do not. I simply do not believe his explanation. A taxi driver who was too ill to drive would not change his mind and come to work in usual circumstances.
- [140] An additional example is illustrative of the dynamic present in the working relationship between Mr. Islam, Mr. Trembley and Mr. Flynn. On June 14, 2021, Mr. Islam had an appointment to receive a vaccine. He had the following text message conversation with "Tim" (Mr. Trembley) on the topic: Time From To Content 12:02 p.m. WORK Mr. Islam What time u on man 12:02 p.m. WORK Mr. Islam Bro 2:22 p.m. Mr. Islam TIM I HAVE 2ND DOSE VACCINE APPOINTMENT 4PM. SORRY FOR EVERYTHING 2:22 p.m. TIM Mr. Islam Unbelievable Rafi 2:23 p.m. TIM Mr. Islam Sorry doesn't fix the fact that I'm fucjing [fucking] busy and need you 2:28 p.m. Mr. Islam TIM I WILL SHOW YOU PICTURE. IF I MISS I DON'T KNOW WHEN I WILL GET NEXT. I AM HEART PATIENT. 3:31 p.m. Mr. Islam TIM DONE. WAITING AREA 4:13 p.m. Mr. Islam TIM I AM IN DT READY TO WORK 4:15 p.m. Mr. Islam TIM OK I AM SORRY BROTHER 4:15 p.m. TIM Mr. Islam Its fine going to store 4:15 p.m. TIM Mr. Islam Be back in a bit 4:15 p.m. TIM Mr. Islam Stay dt I use u later bro 4:16 p.m. Mr. Islam TIM OK LOV 4:58 p.m. TIM Mr. Islam Fully vaccinated now?? 4:59 p.m. Mr. Islam TIM FULLY LOADED, HAHA
- [141] Mr. Islam was asked to comment on TIM's response of "Sorry doesn't fix the fact that I'm fucjing busy and need you". Mr. Islam said that he "did not understand this English", and that "maybe it is an angry message". Mr. Islam said that he let Mr. Flynn and Mr. Trembley know that he was getting his vaccine because if they called him from 4:00-5:00 p.m., he would be unavailable. He said he did not care if they got angry, he had to get the vaccine. He said that he was afraid he would lose them as customers if they called another taxi. He did not agree

that it was a strange reaction to get from a customer who was told that he was not going to be available. He said he had been a taxi driver for 28 years and had other regular clients who expected him to be available and were angry and abusive when he was not.

- [142] Mr. Islam went so far as to send Mr. Trembley a photograph of himself in the waiting area after he received his vaccine. It defies common sense to suggest that this was part of a normal client/taxi driver relationship even with a regular customer.
- [143] Mr. Islam's response was not believable. I find that this text exchange about the vaccine appointment demonstrated a level of control by Mr. Trembley over Mr. Islam, indicative of a close working relationship. Mr. Trembley was clearly angry that Mr. Islam had arranged for his Covid-19 vaccine at a busy time. Mr. Islam attempted to placate Mr. Trembley and to prove to him that he was really getting a vaccine and could not work.
- [144] There are other examples of Mr. Islam proactively letting Mr. Flynn or Mr. Trembley know when he was not going to be available. For example, on June 7, 2021, at 2:45 p.m., Mr. Islam texted "WORK" to let them know that he was going to Surrey for one hour. On the following day, at 11:21 a.m., Mr. Islam also texted "WORK" to let them know that he was taking his wife to the hospital.
- [145] When asked in cross-examination about texting WORK on June 7 that he would be in Surrey, Mr. Islam said he needed to let them know he was going to Surrey because he wanted to keep them happy. He described doing so as normal or typical for his regular customers, like "Tim" and "Jake".
- [146] I do not accept Mr. Islam's evidence that these texts to regular customers advising them of his plans were normal or usual between a taxi driver and the driver's regular customers. In cross-examination, Mr. Islam testified that he had two or three other repeat customers in June 2021. However, during the period covered by the text messages adduced at trial (June 1-June 24, 2021), Mr. Flynn and Mr. Trembley were the only customers he texted whom he would tell when he was starting work or when he was going to be unavailable. He did not send those messages to his other repeat customers.
- [147] For example, Mr. Islam testified that "Rico5", a name also included in his contact list, was a repeat customer who had a big dog. He did not keep Rico5 aware of his whereabouts or when he was available for work. He only sent such messages to one of the numbers associated with either "Jake" (Mr. Flynn) or "Tim" (Mr. Trembley). If Mr. Flynn and Mr. Trembley were like any other private taxi customer of Mr. Islam's, it does not make sense that he would only notify them of his whereabouts and availability but not his other repeat customers.
- [148] Instead, I find the text messages between Mr. Islam, Mr. Flynn, and Mr. Trembley demonstrate a level of control or a hierarchical relationship between Mr. Islam and these men.

- [149] A few additional examples further illustrate this point. Perhaps the starkest example is a text conversation between Mr. Islam and WORK on June 22, 2021. Earlier, on June 19, 2021, the contact WORK had instructed Mr. Islam to take his phone with him if he left Taxi V41. On June 22, 2021, the same contact forcefully reminded Mr. Islam about these instructions: Time From To Content 1:51 p.m. WORK Mr. Islam Don't leave the car with out your phone for fucks sake man. 1:51 p.m. WORK Mr. Islam I walked back to office 1:52 p.m. WORK Mr. Islam My bag is in the cab. I need ot 1:52 p.m. WORK Mr. Islam Come to bank ASAP
- [150] Mr. Islam was asked whether he recalled, as indicated in the above conversation, that either Mr. Flynn or Mr. Trembley had left a bag in his taxi. He said that he did not recall that happening, but perhaps that it did. He reasoned that they would not have otherwise texted him such a message.
- [151] Additionally, Mr. Islam testified in his direct examination that customers leaving a wallet, phone, bag, keys, or identification was a regular occurrence, and that the passenger would contact Vancouver Taxi to tell them that an item had been left. Mr. Islam said that in such cases he would take the lost item to the office at the end of the day. If he found something, and had not received a call, he would leave it in the lost and found.
- [152] In this case, one of Mr. Flynn or Mr. Trembley was clearly anxious to get the bag back and Mr. Islam did not leave it in the lost and found. Later in his evidence, Mr. Islam gave another answer about customers leaving bags in his taxi. He explained that sometimes a customer will leave a bag with him and tell him that they are going to pick up groceries, medicine, or food from a restaurant. They would tell him that they were leaving a bag and would return.
- [153] Both of these answers were an attempt to explain WORK's text to Mr. Islam about the bag that was left and the urgency with respect to its return. I found these explanations unbelievable, and a poor attempt to evade the obvious.
- [154] Finally, Mr. Islam was asked to interpret various text conversations in which himself, Mr. Trembley or Mr. Flynn refer to "calls". An example is a text conversation between Mr. Islam and WORK on June 12, 2021: Time From To Content 3:02 p.m. Mr. Islam WORK I AM BUSSY 1 HOUR 3:02 p.m. WORK Mr. Islam Okay 3:02 p.m. WORK Mr. Islam Be back in the area within an hour 3:02 p.m. Mr. Islam WORK 100% 3:45 p.m. WORK Mr. Islam 2 calls waiting
- [155] Mr. Islam testified that he understood the reference to "2 calls" to mean that Mr. Flynn and Mr. Trembley were maybe going to call him or another taxi, not that they were waiting for two calls. When pressed in cross-examination about whether the text meant that Mr. Flynn or Mr. Trembley were waiting to go somewhere or waiting for two calls, he responded that maybe they were going somewhere. He said that, at the time, he thought he had to wait for them to take them for a ride, and that they were waiting for two persons to visit. He testified that sometimes a "call" would be a reference to them needing a ride from him, or that he had to wait until they had two calls. When Mr. Islam was asked about whether the texts about the calls meant that they had to go and meet some people in his taxi, he responded

that sometimes they took him to see "the person". When asked what he meant by "the person", he responded that their friend would get a ride from him to a place and maybe they would see "the person" or they were waiting for two persons, or it could have meant that they needed a ride from him twice.

- [156] These convoluted answers are illogical, evasive, and defy common sense. Taken together with the extensive surveillance of Taxi V41's activities and the numerous brief exchanges recorded inside the taxi, I infer that the "calls" in the above messages refer to two calls that Mr. Flynn and Mr. Trembley had received soliciting drug deliveries.
- [157] Similar references to "calls" are made in text conversations between Mr. Islam, Mr. Trembley, and Mr. Flynn on June 8, 11, 21, 22, 2021. I will not review these messages at length. I reiterate that Mr. Islam's attempts to offer innocuous explanations for them were entirely unbelievable, and could not evade the obvious inference that these messages referred to calls for dial-a-dope deliveries.
- [158] Indeed, at least one text message refers to a customer by name. On June 1, 2021, at 4:20 p.m., Mr. Islam received a text from WORK2 that said, "Coming now" and "Rip to jay vit". The name Jay Vit appears on the whiteboard (Exhibit 119) that was found in Unit 1526, during the warranted search of the apartment. As explained by S/Sgt. Rettie, the notation next to the name Jay Vit is to "cucumber", which is drug slang for fentanyl. Other Frailties in Mr. Islam's Evidence
- [159] Generally speaking, I would summarize the following additional inconsistencies and frailties in Mr. Islam's evidence, the cumulative effect of which is such that I found his testimony incapable of belief and insufficient for raising a reasonable doubt.
- (a) Mr. Islam answered questions easily in direct examination about repeat customers. In cross-examination it was difficult to get a clear response from him on whether it was typical to have repeat clients and who his repeat customers were in June 2021. On my observation of Mr. Islam, the difficulty in getting a clear response was not based on language difficulties.
 - (b) When pressed on how often he would drive for "Jake" and "Tim" in June 2021, on one occasion Mr. Islam responded that it was four years ago so he did not remember. He later provided more specific numbers but, when asked, was reluctant to say that he drove "Jake" and "Tim" on a very regular basis. He said perhaps he received one call in a day. Later in cross-examination, Mr. Islam said that Mr. Flynn reached out to him at least once a day and, sometimes, would call him twice a day. This flew in the face of the clear evidentiary record that Mr. Islam drove one or more of "Jake", "Tim", or "Mark" on every day between June 1 and 24, 2021, and that in addition to calls, they texted him repeatedly during those days. When he was pressed on whether they called him once a day, he responded that on average it was once a day but if he dropped "Jake" off, he would call again.

- (c) Mr. Islam testified that he did not take on repeat or return clients until they showed him that they were reliable. He testified that demonstrating reliability takes at least 3-4 times, possibly 5-6. But, when asked, he was unable to provide any details about how long this process took with "Jake". However, Mr. Islam also said that he met "Jake" once, and after three or four days, "Jake" called him. From that point, Mr. Islam began driving him as repeat client. I return to that evidence below.
- (d) Mr. Islam testified that it was typical for him to text his private customers that he was free and available. Before he started regular driving, he would text them that he was available. This was not borne out with respect to Mr. Islam's other regular customer, by the text messages in evidence.
- (e) In his direct evidence, Mr. Islam first testified about his usual practice as it related to driving repeat clients. He said that sometimes he would drive them but his regular taxi driving is very busy. If he is not busy with his other driving, then he will drive a repeat client. However, in cross-examination, he said that for clients like "Jake" and "Tim", he would text them when he was working before starting his regular taxi driving.
- (f) Mr. Islam initially said that he texted his private clients to advise when he was working. He later changed his testimony to say he only did that for specific private clients, like "Jake" and "Tim".
- (g) Mr. Islam said that he often had headphones in his ears to listen to music. He later said that he always had the Hindi radio station 93.1 playing in the taxi. If he had the radio playing, it would be redundant for him to listen to music through headphones.
- (h) In his direct evidence, Mr. Islam said that he did not remember much about how he first met the individuals he knew as "Jake" and "Tim". He testified that one day, in about mid-May 2021, he picked up four people from the Granville area. One of those passengers was "Jake" and another was "Tim". Mr. Islam also said that after he picked up the four, he dropped two of them off. While in the taxi, "Jake" told Mr. Islam that he used taxis a lot and asked if he could have Mr. Islam's number and Mr. Islam gave it to him. Initially, in cross-examination, Mr. Islam definitively said that he did not know the other two people who were with "Jake" and "Tim". Mr. Islam later changed his evidence to add that "absolutely" one of the other people was "Jake's" girlfriend. Later, he added that "Jake's" girlfriend's name was Crystal, and that he drove her all the time and knew her very well, including personal details like where she went to school.
- (i) Mr. Islam was cross-examined extensively on the number of times that he lied to Det. Cst. Munro during his statement to her. For instance, he told her repeatedly that he did not know who the passenger was in his taxi on the date of his arrest. Mr. Islam claimed that he lied in his statement because he was afraid he would get into trouble if the police were aware that he knew Mr. Flynn and Mr. Trembley. His admitted lies to the police, despite the numerous opportunities he was given to change his evidence, factored into my overall negative assessment of his credibility.

- (j) In direct examination, Mr. Islam testified that in addition to "Jake" and "Tim", he was also contacted, from the same WORK number, by a person named "Mark". Later he was shown a video clip from inside Taxi V41, and said the person sitting in the back appeared to be "Mark"-that his face looked like "Mark". In cross-examination, Mr. Islam said that he never knew "Mark". Sometimes, an Asian male would get in the taxi with "Jake" and he heard "Jake" call that person "Mark". Even though Mr. Islam claimed not to know who "Mark" was, and was just guessing at his name, he had a contact named MARK NEW in his phone. A reasonable inference to be drawn is that "Mark" was UM104, who was associated with the dial-a-dope operation but never identified by the police. The Totality of the Evidence Establishes Mr. Islam's Guilt
- [160] For reasons already discussed, I have found that Mr. Trembley, Mr. Flynn, and UM104 operated a dial-a-dope drug trafficking network, supplied by stash houses in 933 Hornby and 1283 Howe, and facilitated by Mr. Islam's taxi.
- [161] On the totality of the evidence--including the surveillance of Taxi V41, the in-camera CCTV footage captured inside Taxi V41, and Mr. Islam's extensive text communications with Mr. Flynn and Mr. Trembley--I am satisfied that the only reasonable inference to be drawn is that Mr. Islam knew of the dial-a-dope trafficking operation and actively facilitated it by driving these men to and from their drug deliveries.
- [162] I also note that, based on the evidence adduced at trial, Mr. Islam was the sole taxi driver who facilitated this drug distribution operation. From the police surveillance observations of 933 Hornby and 1283 Howe, Mr. Flynn, Mr. Trembley, and UM104 were only ever observed using Taxi V41 when engaged in behaviour consistent with drug trafficking. They were never observed using other taxis or other vehicles of any kind.
- [163] Although Mr. Islam was a 50% owner of Taxi V41, he testified that in June 2021, the other co-owner primarily drove for Uber. As a result, Mr. Islam was not sharing the driving of Taxi V41, as he normally would have done. Mr. Islam was also the only person the VPD ever observed driving Taxi V41 between June 1 and June 24, 2021, during their surveillance of it. In other words, during the relevant time period Mr. Islam had exclusive control of the taxi.
- [164] Accordingly, I am satisfied that the only reasonable conclusion to be drawn from the totality of the evidence is that:
- (a) Mr. Islam knew of, or was at least was wilfully blind to the cocaine contained in Mr. Flynn's backpack on June 24, 2021, while Mr. Flynn was a passenger in his taxi; and
 - (b) Mr. Islam exercised control over the cocaine, in the sense of being the driver of the taxi used to transport the cocaine, as part of a dial-a-dope drug trafficking operation in which he was an active participant.

- [165] Thus, I am satisfied that Mr. Islam either constructively or jointly possessed the cocaine located in Taxi V41 on June 24, 2021, and as such (in light of its quantity) that he possessed the cocaine for the purpose of trafficking. Conclusions and Verdict
- [166] I have concluded on a common-sense consideration of the entirety of the evidence before me, and in light of human experience, that Mr. Islam's guilt of the offence of possession for the purpose of trafficking is the only reasonable inference to be drawn. I will briefly summarize how I have reached this conclusion.
- [167] First, Mr. Islam's evidence about his lack of knowledge of what was occurring in his taxi with Mr. Trembley and Mr. Flynn was just not believable. His story was a fabrication in which he tried, and failed, to explain all of the inculpatory evidence in the Crown's case. His answers were absurd in some instances. Taken together, his answers make clear that Mr. Islam's story on the issue of his lack of knowledge is a fiction.
- [168] Further, Mr. Islam's evidence did not raise a reasonable doubt. His story was internally inconsistent and was inconsistent with more credible evidence. It was full of assertions about what was "normal" in the taxi business that fly in the face of common sense and human experience. His explanations for the text messages he exchanged with "Tim" and "Jake" were just unbelievable.
- [169] Considering all of the evidence that I have accepted, including the extensive police surveillance of Taxi V41's activities in June 2021 and the in-taxi CCTV footage taken during the same period, and Mr. Islam's text exchanges with Tim and Jake, I find that the Crown has met its burden and has proven beyond a reasonable doubt that Mr. Islam had both knowledge of and control over the cocaine found in Taxi V41, his taxi, on June 24, 2021, and was either in constructive or in joint possession of the cocaine.
- [170] This is not a case in which the inference of possession is based on nothing more than access to or presence in Taxi V41, where the drugs were found. Nor is it a case where the Crown is alleging Mr. Islam can be found guilty as a party simply by being present when Mr. Flynn had cocaine in his taxi. Rather, the evidence establishes, beyond a reasonable doubt, that Mr. Islam was knowingly involved in the drug distribution operation, which was being facilitated by Taxi V41.
- [171] Mr. Islam facilitated Mr. Trembley, Mr. Flynn and UM104's drug trafficking activities by driving them in Taxi V41. That was what he was doing when he was arrested with Mr. Flynn in his taxi on June 24, 2021. Although he may not have known the exact nature of the drugs in Mr. Flynn's backpack, I find that he knew that Mr. Flynn was carrying an illicit substance for the purpose of trafficking in it.
- [172] Although not necessary in light of my conclusion about Mr. Islam's possession of the cocaine, I would have alternatively found him guilty as a party to the offence of possession of cocaine, using reasoning similar to that in *Bi and R. v. O'Day*, 2019 BCPC 136.

[173] Mr. Islam, please stand.

[174] On the charge of possessing cocaine for the purpose of trafficking, contrary to s. 5(2) of the Controlled Drugs and Substances Act, I find you guilty. "MacNaughton J." APPENDIX Schedule A: Summary of Mr. Islam's Text Messages June 1, 2021 Time From To Content 1:42 p.m. Tim Mr. Islam Will need u soon ish 1:46 p.m. Tim Mr. Islam Rafi 1:46 p.m. Tim Mr. Islam 10 min plz 1:46 p.m. Tim Mr. Islam 15 1:46 p.m. Tim Mr. Islam 15 min on Drake 1:56 p.m. Mr. Islam Tim AT DRAKE 2:00 p.m. WORK 2 Mr. Islam Waiting for the elevator 3:16 p.m. Mr. Islam WORK 2 DRAKE 3:24 p.m. Mr. Islam WORK 2 I AM AT DRAKE/HOMER 3:25 p.m. JAKE Mr. Islam Are you busy right now 3:26 p.m. Mr. Islam JAKE I AM WITH TIM 3:26 p.m. JAKE Mr. Islam That's okay!!! 4:20 p.m. WORK 2 Mr. Islam Coming now 4:20 p.m. WORK 2 Mr. Islam Rip to jay vit June 2, 2021 Time From To Content 12:33 p.m. Mr. Islam WORK I AM SICK TAKING REST SORRY BOSS FOR TODAY 1:50 p.m. WORK Mr. Islam Wait what 1:50 p.m. WORK Mr. Islam Really?? 1:51 p.m. Mr. Islam WORK COMING TO WORK June 3, 2021 Time From To Content 12:33 p.m. Mr. Islam WORK I AM WORKING 12:37 p.m. WORK Mr. Islam Okkk 12:42 p.m. WORK Mr. Islam Kk 12:42 p.m. WORK Mr. Islam I need you 12:44 p.m. Mr. Islam WORK COMING 12:49 p.m. WORK Mr. Islam Okkk 1:01 p.m. Mr. Islam WORK BOSTON PIZZA 1:02 p.m. WORK Mr. Islam Okay! I'm waiting for Mark now he's gonna be 1:25 p.m. Mr. Islam WORK IGA 9:08 p.m. Mr. Islam WORK ?????? 9:08 p.m. WORK Mr. Islam Was about to call u I need u 9:08 p.m. Mr. Islam WORK Okay 9:09 p.m. Mr. Islam WORK BOSTON PIZZA June 4, 2021 Time From To Content 12:59 a.m. Mr. Islam JAKE I AM HERE 1:06 a.m. JAKE Mr. Islam Waiting for elevator 10:22 a.m. Mr. Islam JAKE CALL ME WHEN YOU WAKE UP. I WILL PICK YO 10:34 a.m. JAKE Mr. Islam Heyy 10:50 a.m. JAKE Mr. Islam I'm just about ready 11:04 a.m. JAKE Mr. Islam Are you on route 11:24 a.m. Mr. Islam JAKE I AM HERE 1:50 p.m. Mr. Islam WORK BOSTON PIZZA 1:50 p.m. WORK Mr. Islam Cominggg 6:54 p.m. Mr. Islam WORK BOSTON PIZZA 7:23 p.m. WORK Mr. Islam Stay 7:23 p.m. WORK Mr. Islam Coming down in a min 8:19 p.m. Mr. Islam WORK 2 LOBBY June 5, 2021 Time From To Content 12:19 p.m. JAKE Mr. Islam Heyooo 12:51 p.m. Mr. Islam WORK WORKING BOSS 12:58 p.m. WORK Mr. Islam Okkk I need youu 12:58 p.m. Mr. Islam WORK 12/15m, COMING 1:17 p.m. Mr. Islam WORK BOSTON PIZZA 1:21 p.m. Mr. Islam WORK COMING? 1:21 p.m. WORK Mr. Islam Yesss 3:28 p.m. Mr. Islam WORK BUSSY 30m 3:30 p.m. WORK Mr. Islam Ok 4:40 p.m. Mr. Islam WORK BOSTON PIZZA 4:48 p.m. WORK Mr. Islam K 11:01 p.m. Mr. Islam WORK HOW LONG 11:01 p.m. WORK Mr. Islam 10mins aha just finishinggg June 6, 2021 Time From To Content 1:12 p.m. WORK Mr. Islam Lmk when working 1:13 p.m. Mr. Islam WORK WORKING 1:13 p.m. WORK Mr. Islam Okay hold on 1:19 p.m. WORK Mr. Islam Eta 1:21 p.m. Mr. Islam WORK 10m 1:21 p.m. WORK Mr. Islam kk 1:22 p.m. WORK Mr. Islam Come Im Waining 1:32 p.m. Mr. Islam WORK BOSTON PIZZA 5:25 p.m. Mr. Islam WORK BOSTON 6:34 p.m. Mr. Islam WORK LOBBY 7:33 p.m. Mr. Islam WORK FRONT 7:34 p.m. WORK Mr. Islam Okay eating down the stret be 5 min have to go up 7:35 p.m. Mr. Islam WORK TAKE TIME 10:12 p.m. Mr. Islam WORK STAY OR GO 10:12 p.m. WORK Mr. Islam Coming June 7, 2021 Time From To Content 12:12 a.m. WORK Mr. Islam Suitcase 12:18 p.m. Mr. Islam WORK READY TO WORK 12:30 p.m. WORK Mr. Islam Perfect

BB 2:45 p.m. Mr. Islam WORK GOING TO SURREY. 1 HOUR 2:58 p.m. WORK Mr. Islam Mm Kk 4:49 p.m. Mr. Islam WORK I AM AT DRAKE 7:29 p.m. Mr. Islam WORK DRAKE 9:53 p.m. Mr. Islam WORK GO HOME OR STAY? June 8, 2021 Time From To Content 11:21 a.m. Mr. Islam WORK I AM TAKING MY WIFE TO HOSPITAL BECAUSE SHE HAS 2:46 p.m. WORK Mr. Islam What time back on Rafi 2:46 p.m. WORK Mr. Islam Like late? 3:28 p.m. Mr. Islam WORK I AM READY 3:37 p.m. WORK Mr. Islam Ok 4:44 p.m. Mr. Islam WORK ANY CALL 4:44 p.m. WORK Mr. Islam Will be in bout 30 4:45 p.m. Mr. Islam WORK O.K. 5:34 p.m. Mr. Islam WORK DRAKE 5:36 p.m. Mr. Islam WORK AT BACK PLEASE 5:37 p.m. Mr. Islam WORK NO PARKING AT DRAKE 7:33 p.m. Mr. Islam WORK DRAKE 9:10 p.m. WORK Mr. Islam To 9:10 p.m. WORK Mr. Islam Let's yoooo I need u baby girl 9:13 p.m.. Mr. Islam WORK DRAKE 9:16 p.m. WORK Mr. Islam Ok June 9, 2021 Time From To Content 12:39 p.m. Mr. Islam WORK WORKING BOSS 12:41 p.m. WORK Mr. Islam Ok 3:44 p.m. Mr. Islam WORK AT DRAKE 5:16 p.m. Mr. Islam WORK DRAKE 8:26 p.m. Mr. Islam WORK HOWE June 10, 2021 Time From To Content 12:47 a.m. JAKE Mr. Islam How far are you? 12:48 a.m. Mr. Islam JAKE 10M 12:48 a.m. JAKE Mr. Islam Okay 12:58 a.m. Mr. Islam JAKE COME OUT 12:59 a.m. JAKE Mr. Islam Kk 12:37 p.m. Mr. Islam WORK WORKING BOSS 1:49 p.m. Mr. Islam WORK BOSTON PIZZA 1:56 p.m. WORK Mr. Islam kk coming 2:47 p.m. Mr. Islam WORK BOSTON 2:47 p.m. WORK Mr. Islam Kk coming 3:56 p.m. Mr. Islam WORK LOBBY 3:57 p.m. Mr. Islam WORK FRONT 8:16 p.m. Mr. Islam WORK ?????? 8:19 p.m. Mr. Islam WORK ?????? 8:20 p.m. WORK Mr. Islam Waiting on a girl but that's it June 11, 2021 Time From To Content 12:33 p.m. WORK Mr. Islam Yooo 12:34 p.m. Mr. Islam WORK 20M BOSS 12:38 p.m. WORK Mr. Islam Okayy 1:02 p.m. Mr. Islam WORK BOSTON PIZZA PLS 1:04 p.m. WORK Mr. Islam Kk Im tryna call Mark to see if helis guy ready 1:04 p.m. Mr. Islam WORK OK 1:28 p.m. WORK Mr. Islam Go do your own thing his guys gonna be ready at 3 2:20 p.m. WORK Mr. Islam Kk I need you!! 2:21 p.m. Mr. Islam WORK COMING 4M. BOSTON PIZZA 2:21 p.m. WORK Mr. Islam Okay!! 2:25 p.m. Mr. Islam WORK I AM HERE 2:28 p.m. WORK Mr. Islam Comingggg 4:31 p.m. Mr. Islam WORK I AM 35M WAY 4:32 p.m. WORK Mr. Islam Okiii 5:29 p.m. Mr. Islam WORK I AM BACK 5:32 p.m. WORK Mr. Islam Okkkk 5:57 p.m. WORK Mr. Islam Okkkk I need youu 5:58 p.m. Mr. Islam WORK AT LOBBY 6:07 p.m. WORK Mr. Islam Kk comingggg 6:09 p.m. WORK Mr. Islam Person isn't answering am just trying to get a hol 6:09 p.m. WORK Mr. Islam Crystal 6:11 p.m. Mr. Islam WORK DON'T WORRY IAM WAITING 6:12 p.m. WORK Mr. Islam Kk 6:19 p.m. WORK Mr. Islam Still no answer. Idk where this chick is 6:20 p.m. WORK Mr. Islam I told her I'd call her to find out meetup spot w 6:41 p.m. WORK Mr. Islam Finally got a hold of her got a few other calls to 6:42 p.m. Mr. Islam WORK \$\$\$\$\$\$ 6:44 p.m. WORK Mr. Islam Just waiting on one guy to get a little closer then c 9:35 p.m. WORK Mr. Islam Counting files and cleaning up 9:36 p.m. Mr. Islam WORK 2 NO PROBLEM June 12, 2021 Time From To Content 12:26 p.m. Mr. Islam WORK I AM READY BOSS 1:05 p.m. Mr. Islam WORK I AM AT TRAFFIC SMITH 1:07 p.m. WORK Mr. Islam You here? 1:09 p.m. Mr. Islam WORK BOSTON 2M 1:11 p.m. WORK Mr. Islam IM WAITING AT BOSTON 1:12 p.m. Mr. Islam WORK OH MYI SOW 3:02 p.m. Mr. Islam WORK I AM BUSSY 1 HOUR 3:02 p.m. WORK Mr. Islam Okay 3:02 p.m. WORK Mr. Islam Be back in the area within an hour 3:02 p.m. Mr. Islam WORK 100% 3:45 p.m. WORK Mr. Islam 2 calls

waiting 4:17 p.m. Mr. Islam WORK COMING 5M 4:17 p.m. WORK Mr. Islam Okay 4 4:24 p.m. Mr. Islam WORK BOSTON PIZZA 7:56 p.m. Mr. Islam WORK BOSTON 9:41 p.m. Mr. Islam WORK BOSTON June 13, 2021 Time From To Content 12:22 p.m. Mr. Islam WORK WORKING BOSS 12:22 p.m. WORK Mr. Islam Kk 5:08 p.m. WORK Mr. Islam We going Cosco again in 10 mins 5:16 p.m. WORK Mr. Islam Leaving in 15 or less 9:47 p.m. Mr. Islam WORK ANYTHING 9:47 p.m. WORK Mr. Islam No cleaning 9:47 p.m. WORK Mr. Islam Go to the front 9:47 p.m. Mr. Islam WORK OK June 14, 2021 Time From To Content 12:02 p.m. WORK Mr. Islam What time u on man 12:02 p.m. WORK Mr. Islam Bro 2:22 p.m. Mr. Islam TIM I HAVE 2ND DOSE VACCINE APPOINTMENT 4PM. SORRY FOR EVERYTHING 2:22 p.m. TIM Mr. Islam Unbelievable Rafi 2:23 p.m. TIM Mr. Islam Sorry doesn't fix the fact that I'm fucjing busy and need you 2:28 p.m. Mr. Islam TIM I WILL SHOW YOU PICTURE. IF I MISS I DON'T KNOW WHEN I WILL GET NEXT. I AM HEART PATIENT. 3:31 p.m. Mr. Islam TIM DONE. WAITING AREA 4:13 p.m. Mr. Islam TIM I AM IN DT READY TO WORK 4:15 p.m. Mr. Islam TIM OK I AM SORRY BROTHER 4:15 p.m. TIM Mr. Islam Its fine going to store 4:15 p.m. TIM Mr. Islam Be back in a bit 4:15 p.m. TIM Mr. Islam Stay dt I use u later bro 4:16 p.m. Mr. Islam TIM OK LOV 4:58 p.m. TIM Mr. Islam Fully vaccinated now?? 4:59 p.m. Mr. Islam TIM FULLY LOADED, HAHA 7:00 p.m. TIM Mr. Islam Hahahahah 7:41 p.m. WORK Mr. Islam I will need you in 30 min 8:19 p.m. Mr. Islam WORK I AM AT DRAKE 8:20 p.m. WORK Mr. Islam K be down very soon 8:20 p.m. WORK Mr. Islam Elevators r fuvking me rn June 15, 2021 Time From To Content 11:33 a.m. Mr. Islam WORK WORKING 11:54 a.m. WORK Mr. Islam Sounds good 11:54 a.m. WORK Mr. Islam I'm running errands 11:54 a.m. WORK Mr. Islam Hit you inna bit 12:49 p.m. Mr. Islam WORK I AM TAKING A NAP IN FRONT OF BOSTON SO WHEN YOU NEED GIE ME A CALL FAKEN VACCINE 1:01 p.m. WORK Mr. Islam Ok 2:18 p.m. Mr. Islam WORK AT HOWE 2:19 p.m. WORK Mr. Islam Perfect hang tight on drake 2:19 p.m. WORK Mr. Islam Waiting on word 3:49 p.m. Mr. Islam WORK ????? ANY WORD 3:21 p.m. WORK Mr. Islam FUVK not yet June 16, 2021 Time From To Content 11:33 a.m. Mr. Islam WORK WHAT TIME YOU NEED LET ME KNOW 20M BEFORE I'M STILL TAKING NAP 12:35 p.m. Mr. Islam WORK I AM WORKING 1:50 p.m. Tim Mr. Islam Pick me up at Davie and Howe 1:57 p.m. Mr. Islam Tim .Ally 1:58 p.m. Tim Mr. Islam Dude ? Lol fuck guy 5:03 p.m. WORK Mr. Islam Yo 5:03 p.m. WORK Mr. Islam Need to see Lauren at Bute & Robson 5:03 p.m. Mr. Islam WORK OK 7:17 p.m. Mr. Islam WORK AT DRAKE 9:54 p.m. Mr. Islam WORK ANYTHING June 17, 2021 Time From To Content 12:12 a.m. Mr. Islam WORK FRONT 10:54 a.m. Mr. Islam JAKE I WILL PICK YOU 11:30 OK? 10:56 a.m. JAKE Mr. Islam Okay!! 10:56 a.m. JAKE Mr. Islam Am just in shower aha 10:56 a.m. Mr. Islam JAKE OK 10:56 a.m. JAKE Mr. Islam I'll be down there waiting 11:34 a.m. Mr. Islam JAKE I AM HERE 11:37 a.m. JAKE Mr. Islam Kk Here 11:37 a.m. Mr. Islam JAKE Light 12:45 p.m. Mr. Islam JAKE 30 MINUTE WAY 1:11 p.m. Mr. Islam WORK I AM AT DT NOW 2:17 p.m. WORK Mr. Islam I'm at Boston 2:18 p.m. Mr. Islam WORK AT BOSTON 2:18 p.m. WORK Mr. Islam I don't see you 2:19 p.m. Mr. Islam WORK AT LIGHT 5:13 p.m. Mr. Islam WORK ANYTHING? 5:14 p.m. WORK Mr. Islam Got two orders but they both need time 5:14 p.m. WORK Mr. Islam Girl and Crystal 5:14 p.m. Mr. Islam WORK OK WAIT 5:44 p.m. WORK Mr. Islam I'm at Robson and Richards tho! 9:32 p.m. Mr. Islam WORK Boston 9:32 p.m. WORK Mr. Islam Vomingg June

18, 2021 Time From To Content 10:48 a.m. Mr. Islam JAKE I AM COMING 30M 11:24 a.m. Mr. Islam JAKE I AM HERE 2:26 p.m. Mr. Islam WORK BOSTON 4:14 p.m. Mr. Islam WORK BOSTON 8:43 p.m. Mr. Islam WORK WHERE ARE YOU 8:48 p.m. WORK Mr. Islam Coming 10:28 p.m. WORK Mr. Islam Take your phone if you're gonna leave June 19, 2021 Time From To Content 12:15 a.m. WORK Mr. Islam Heyo! 12:16 a.m. WORK Mr. Islam We're all ready to go now! 12:18 a.m. Mr. Islam WORK 10M 12:20 a.m. Mr. Islam WORK COME TO SMITH/GRANVILL 12:21 a.m. WORK Mr. Islam Gotcha 12:25 a.m. WORK Mr. Islam Here 1:29 a.m. Mr. Islam WORK WORKING BOSS 2:07 p.m. Mr. Islam WORK BOSTON 5:19 a.m. Mr. Islam WORK BOSTON PIZZA 8:41 p.m. Mr. Islam WORK BOSTON PIZZA 10:39 p.m. Mr. Islam WORK HOW LONG? 10:40 p.m. JAKE Mr. Islam Am with skinny having dinner rn 10:40 p.m. JAKE Mr. Islam But we're all done now 11:32 p.m. JAKE Mr. Islam Wanna come over now!! 11:36 p.m. JAKE Mr. Islam Am All ready 11:50 p.m. Mr. Islam JAKE 2M 11:51 p.m. Mr. Islam JAKE COME OUT RIGHT SIDE 11:55 p.m. JAKE Mr. Islam Okkk June 20, 2021 Time From To Content 2:10 p.m. Mr. Islam WORK I AM HERE 2:10 p.m. WORK Mr. Islam 5 min 2:10 p.m. WORK Mr. Islam Just grabbing bags 2:11 p.m. Mr. Islam WORK BACK 3:38 p.m. WORK Mr. Islam Wait downstairs don't leave June 21, 2021 Time From To Content 12:08 p.m. Mr. Islam WORK WORKING MR 12:35 p.m. Mr. Islam WORK Boston Pizza 4:45 p.m. Mr. Islam WORK Coming? 4:55 p.m. WORK Mr. Islam Wait 4:55 p.m. Mr. Islam WORK Ok 8:39 p.m. Mr. Islam WORK I AM 20M WAY 8:43 p.m. WORK Mr. Islam Kk 8:44 p.m. WORK Mr. Islam Hurry 8:49 p.m. Mr. Islam WORK coming 10M 9:09 p.m. Mr. Islam WORK Boston 9:16 p.m. WORK Mr. Islam 2 min 9:19 p.m. Mr. Islam WORK 5 m 9:23 p.m. Mr. Islam WORK HERE 11:24 p.m. Mr. Islam WORK LWHAT GOING ON 11:26 p.m. WORK Mr. Islam 1 call June 22, 2021 Time From To Content 12:53 p.m. Mr. Islam WORK Coming 12:45 p.m. Mr. Islam WORK BANK OR HOWE 12:47 p.m. WORK Mr. Islam Bank 12:48 p.m. Mr. Islam WORK Boston 1:51 p.m. WORK Mr. Islam Don't leave the car with out your phone for fucks sake man. 1:51 p.m. WORK Mr. Islam I walked back to office 1:52 p.m. WORK Mr. Islam My bag is in the cab. I need ot 1:52 p.m. WORK Mr. Islam Come to bank ASAP 2:01 p.m. Mr. Islam WORK Boston 5:41 p.m. Mr. Islam WORK How long 5:42 p.m. WORK Mr. Islam Coming sokn 9:18 p.m. Mr. Islam WORK 30 m way 9:18 p.m. WORK Mr. Islam Where did you go 9:19 p.m. Mr. Islam WORK North van 9:19 p.m. WORK Mr. Islam K be back for 10 bro 9:19 p.m. WORK Mr. Islam Might need u 9:19 p.m. WORK Mr. Islam Shit 9:19 p.m. WORK Mr. Islam Its welfare lol 9:20 p.m. Mr. Islam WORK I WILL DRIVE MY BEST 9:20 p.m. WORK Mr. Islam Mhm 9:45 p.m. Mr. Islam WORK IAM BACK 9:47 p.m. WORK Mr. Islam Kk 10:09 p.m. Mr. Islam WORK Any Call 10:29 p.m. WORK Mr. Islam Yes 10:29 p.m. WORK Mr. Islam 2 10:29 p.m. WORK Mr. Islam Will need you at 11 Rafi 10:59 p.m. Mr. Islam WORK IAM LOBBY 11:03 p.m. Mr. Islam WORK Lobby 11:26 p.m. WORK Mr. Islam Ok 11:27 p.m. WORK Mr. Islam Be there soon 11:44 p.m. Mr. Islam WORK HURRY June 23, 2021 Time From To Content 12:00 a.m. WORK Mr. Islam Yo 12:05 p.m. Mr. Islam WORK 30M boss 12:20 p.m. Mr. Islam WORK WORKING BOSS 12:30 p.m. Mr. Islam WORK 10M I will be bank 12:39 p.m. Mr. Islam WORK DOOR WANT 12:41 p.m. Mr. Islam WORK Do you want? 5:49 p.m. TIM Mr. Islam Rafi, hang onto my socks. I'll get them tmr or fri!! 6:17 p.m. Mr. Islam MARK NEW BOSS I AM HERE V/ SQURR 6:18 p.m. MARK NEW Mr. Islam She will be 20 min 6:19 p.m. MARK NEW Mr. Islam

Where you parked? 6:22 p.m. Mr. Islam MARK NEW BESIDE TOILET MEN 6:29 p.m. MARK NEW Mr. Islam Kk 6:55 p.m. MARK NEW Mr. Islam Rafi when done drop her back to where you picked her up, tomorrow I will pay you. 6:55 p.m. MARK NEW Mr. Islam Please and thank you 6:57 p.m. Mr. Islam MARK NEW HAHA OK 6:59 p.m. Mr. Islam MARK NEW Done 7:02 p.m. MARK NEW Mr. Islam Ty boss June 24, 2021 Time From To Content 12:12 p.m. Mr. Islam WORK I AM AT DT 2:22 p.m. RICO5 Mr. Islam Go to Howe and Davie 2:22 p.m. RICO5 Mr. Islam Davie 2:25 p.m. Mr. Islam RICO5 How and Davi 2:29 p.m. Mr. Islam RICO5 NANDOS Schedule B: Summary of CCTV Footage Recorded in Taxi V41 DATE PASSENGER TIME IN TIME OUT DESCRIPTION APPROX. VIDEO PLAYBACK TIME June 18 FLYNN 3:11:48 p.m. 3:13:53 p.m. Mr. Flynn enters Taxi V41 wearing a long sleeve shirt and pants, sunglasses, face mask, beige backpack, carrying flowers. 00:00 June 18 FLYNN 4:23:24 p.m. 4:30:42 p.m. Mr. Flynn re-enters Taxi V41 wearing the same outfit; he is no longer carrying flowers. 03:44 June 18 FLYNN 4:48:05 p.m. 5:01:43 p.m. Mr. Flynn re-enters Taxi V41, carrying ice cream in his hand. 05:02 June 18 FLYNN 6:50:28 p.m. 7:08:25 p.m. Mr. Flynn re-enters Taxi V41, using his cellphone. At 6:58:20 p.m., an unknown male also enters the rear of Taxi V41, with Mr. Flynn. The unknown male is in the vehicle for less than one minute. 10:25 10:44 June 18 FLYNN 8:45:15 p.m. 8:48:50 p.m. Mr. Flynn re-enters Taxi V41, on his cellphone. 14:25 June 18 FLYNN 8:51:21 p.m. 9:12:50 p.m. Mr. Flynn re-enters Taxi V41, on his cellphone. 14:47 June 18 FLYNN 9:39:38 p.m. 9:44:36 p.m. Mr. Flynn re-enters Taxi V41, on his cellphone. 16:20 June 18 FLYNN 9:45:56 p.m. 10:05:26 p.m. Mr. Flynn re-enters Taxi V41. At 9:50:05, Mr. Islam reaches back with his left arm and is seen counting money, which he places in the driver's visor. 16:42 16:51 June 18 FLYNN 11:06:39 p.m. 11:10:44 p.m. Mr. Flynn re-enters Taxi V41. 19:35 June 19 FLYNN 12:19:24 a.m. 12:42:25 a.m. Mr. Flynn re-enters Taxi V41, accompanied by an unknown female. 23:13 June 19 FLYNN 2:14:40 p.m. 2:41:09 p.m. Mr. Flynn enters Taxi V41 wearing the same clothing from June 18, and carrying a backpack. At 2:34:18 p.m., the same unknown male from June 18 (at 6:50 p.m.) also enters the rear of Taxi V41, with Mr. Flynn. The unknown male is in the vehicle for approx. one minute. At 2:34:22 p.m., the unknown male and Mr. Flynn exchange an undetermined item in the rear of the taxi. 27:52 28:54 29:00 June 19 FLYNN 3:11:15 p.m. 3:21:10 p.m. Mr. Flynn re-enters Taxi V41. At 3:16:29 p.m., an unknown male approaches the rear driver-side door, reaches in and takes an undetermined item from Mr. Flynn. The unknown male is in view for less than 10 seconds. 30:49 31:05 June 19 FLYNN 5:15:12 p.m. 5:29:50 p.m. Mr. Flynn re-enters Taxi V41. 35:08 June 19 FLYNN 5:56:57 p.m. 6:30:38 p.m. Mr. Flynn re-enters Taxi V41, wearing a dark long-sleeved shirt, pants, and brimmed eyeglasses; he is also carrying a backpack which appears full. At 6:07:05 p.m., an unknown person approaches the rear passenger-side door, and receives a package from Mr. Flynn. The unknown male is in view for approx. 5 seconds At 6:19:29 p.m., an unknown female also enters the rear of Taxi V41, with Mr. Flynn. The unknown female and Mr. Flynn conduct an exchange. The unknown female is in the vehicle for less than two minutes. 36:05 37:14 37:47 June 19 FLYNN 8:41:49 p.m. 8:57:18 p.m. Mr. Flynn re-enters Taxi V41, wearing a Levis hoody, pants, and carrying a backpack. At 8:48:34 p.m., Mr. Flynn opens the rear passenger-side door. 43:21 43:42 June 19 FLYNN 10:50:32 p.m. 10:52:29 p.m. Mr. Flynn

re-enters Taxi V41, wearing a black long-sleeved shirt, and carrying a duffle bag, which he places in the rear of the vehicle. When Mr. Flynn exits the vehicle, the duffle bag stays in the rear of the vehicle. 47:27 June 19 FLYNN 11:50:03 p.m. 12:21:49 am (June 20) Mr. Flynn re-enters Taxi V41. At 11:53:08 p.m., an unknown female also enters the rear of Taxi V41, with Mr. Flynn. They exit the vehicle together. When Mr. Flynn exits the vehicle, he takes the duffle bag with him. 50:32 50:43 June 20 UM104 2:11:01 p.m. 2:19:00 p.m. UM104 enters Taxi V41 wearing a UBC hoodie, dark coloured pants, eyeglasses; he is carrying a backpack. 54:35 June 20 UM104 2:45:45 p.m. 2:52:54 p.m. UM104 re-enters Taxi V41. At 2:45:53 p.m., an unknown female enters the rear of Taxi V41, with UM104. The unknown female is in the vehicle for approx. two minutes. 56:25 56:31 June 20 UM104 3:02:02 p.m. 3:08:18 p.m. UM104 re-enters Taxi V41. 57:14 June 20 UM104 3:52:38 p.m. 4:13:05 p.m. UM104 re-enters Taxi V41. At 4:01:36 p.m., an unknown male enters the rear of Taxi V41, with UM104. At 4:01:42, UM104 hands the unknown male a white envelope, which appears full. The unknown male is in the vehicle for approx. nine minutes. Mr. Islam exited the vehicle from 4:03:04 p.m. to 4:09:11 p.m. 58:58 59:24 59:29 June 20 UM104 4:27:55 p.m. 4:32:55 p.m. UM104 re-enters Taxi V41. 1:00:23 June 20 UM104 4:42:53 p.m. 4:55:43 p.m. UM104 re-enters Taxi V41. 1:01:14 June 20 UM104 4:58:35 p.m. 5:09:01 p.m. UM104 re-enters Taxi V41. 1:02:08 June 20 UM104 6:29:43 p.m. 7:28:18 p.m. UM104 re-enters Taxi V41. At 7:06:34 p.m., an unknown male enters the rear of Taxi V41, with UM104. While inside, the unknown male periodically looks in a bag that is placed between him and UM104 in the rear passenger seat. He is in the vehicle for approx. 13 minutes. 1:03:53 1:05:53 June 20 UM104 7:57:10 p.m. 8:30:27 p.m. UM104 re-enters Taxi V41. At 8:20 p.m., an unknown male enters the rear of Taxi V41, with UM104. The male is in the vehicle for less than four minutes. At 8:26:02 p.m., the same unknown male re-enters the rear of Taxi V41, with UM104. The male is in the vehicle for approx. two minutes. 1:07:19 1:08:18 1:08:36 June 20 UM104 9:09:11 p.m. 10:05:07 p.m. UM104 re-enters Taxi V41. At 9:15:36 p.m., an unknown male enters the rear of Taxi V41, with UM104. UM104 takes out a large white package from his backpack, and hands it to the unknown male; the male also hands UM104 a bundle of cash. The male is in the vehicle for approx. 10 seconds. At 9:23:37 p.m., a second unknown male enters the rear of Taxi V41 with UM104. UM104 hands a white envelope to the unknown male, who puts the package in his right pant pocket. The unknown male is in the vehicle for approx. two minutes. At 9:57:49 p.m., a third unknown male enters the rear of Taxi V41 with UM104. The unknown male hands UM104 a bundle of cash; UM104 hands the unknown male a white envelope. The unknown male is in the vehicle for less than one minute. 1:10:17 1:10:39 1:11:06 1:12:35 June 21 TREMBLEY & UM104 12:48:02 p.m. 1:17:32 p.m. Mr. Trembley and UM104 enter Taxi V41. Mr. Trembley is wearing a white Blue Jays hat, and white pinstriped baseball jersey overtop a t-shirt, and jeans; UM104 is wearing the same clothes from June 20. At 12:53:02 p.m., UM104 hands Mr. Trembley a full white envelope. At 12:53:07 p.m., an unknown male also enters the rear of Taxi V41 with Mr. Trembley and UM104. While inside, Mr. Trembley hands the unknown male the white envelope. The unknown male is in the vehicle for less than one minute. At 1:09:22 p.m., an unknown person also enters the rear of Taxi V41 with Mr. Trembley and UM104. While inside, the

unknown person hands UM104 a white envelope. The unknown person is in the vehicle for less than 30 seconds. 1:22:44 1:22:54 1:23:03 1:23:47 June 21 TREMBLEY & UM104 1:31:20 p.m. 1:38:50 p.m. Mr. Trembley and UM104 re-enter Taxi V41. On entry, UM104 opens the rear of the vehicle and places a large box inside, which he removes when he exits the vehicle. 1:24:50 June 21 UM104 2:18:03 p.m. 4:36:30 p.m. UM104 re-enters Taxi V41. At 2:26:08 p.m., the same unknown female from June 20 (at 2:45:53 p.m.) also enters the rear of Taxi V41 with UM104. While inside, the unknown female hands a full white envelope from her purse to UM104. The unknown female was in the vehicle for less than 30 seconds. 1:26:43 1:27:03 June 21 UM104 5:34:30 p.m. 6:00:00 p.m. UM104 re-enters Taxi V41. At 5:46:14 p.m., a second unknown female also enters the rear of Taxi V41 with UM104 (the same unknown female from June 19 (at 6:19:29 p.m.)). The unknown female is in the vehicle for less than 45 seconds. 1:31:02 1:31:29 June 21 UM104 6:15:52 p.m. 6:35:01 p.m. UM104 re-enters Taxi V41. At 6:26:38 p.m., an unknown male also enters the rear of Taxi V41 with UM104. The unknown male is in the vehicle for less than one minute. At 6:39:58 p.m., a second unknown male enters the rear of Taxi V41; UM104 exits Taxi V41 and stands next to the vehicle on the sidewalk. While inside, the unknown male looks through a bag that was already inside the taxi and removed an item. The unknown male was in the vehicle for less than 30 seconds. 1:32:55 1:33:31 1:34:20 June 21 UM104 6:45:05 p.m. 7:05:15 p.m. UM104 re-enters Taxi V41. 1:34:37 June 21 TREMBLEY & UM104 9:17:18 p.m. 9:28:59 p.m. Mr. Trembley and UM104 re-enter Taxi V41. Mr. Trembley is wearing the same clothing as from 12:48 p.m.; UM104 is now wearing a white t-shirt, which exposes a tattoo on the underside of his left upper arm. At 9:26:39 p.m. an unknown person also enters the rear of Taxi V41 with Mr. Trembley and UM104. The unknown person is in the vehicle for less than 30 seconds. 1:41:42 1:42:19 June 21 TREMBLEY & UM104 9:38:34 p.m. 9:46:12 p.m. Mr. Trembley and UM104 re-enter Taxi V41. 1:42:52 June 21 UM104 10:11:48 p.m. 10:38:59 p.m. UM104 re-enters the Taxi V41. At 10:28:23 p.m., UM104 opens the rear passenger-side door and pokes his head out for approx. one minute, before closing the door again. 1:44:45 1:45:27 June 21 TREMBLEY & UM104 11:22:56 p.m. 11:30:20 p.m. Mr. Trembley and UM104 re-enter Taxi V41. UM104 is now wearing a hoody. 1:46:40 June 21 TREMBLEY & UM104 11:39:06 p.m. 11:44:39 p.m. Mr. Trembley and UM104 re-enter Taxi V41. Mr. Trembley is carrying multiple food bags, which were taken with him when both he and UM104 exited the vehicle. 1:47:29 June 21 TREMBLEY & UM104 11:53:57 p.m. 12:36:28 am (June 22) Mr. Trembley and UM104 re-enter Taxi V41. Mr. Trembley is carrying a box. At 11:57:29 p.m., Mr. Trembley exits the vehicle with food bags and the box. 1:48:16 1:48:28 June 22 FLYNN 12:48:23 p.m. 1:33:02 p.m. Mr. Flynn enters Taxi V41, wearing a white Jordan t-shirt, short, eyeglasses and a facemask. At 1:07:31 p.m., Mr. Flynn exits Taxi V41 but returns at 1:09:46 p.m. to retrieve his cellphone from inside the vehicle. At 1:17:53 p.m., an unknown male also enters the rear of Taxi V41 with Mr. Flynn. The unknown male is in the vehicle for less than five minutes. 1:52:10 1:52:51 1:53:25 June 22 FLYNN & TREMBLEY 2:31:16 p.m. 2:39:17 p.m. Mr. Flynn and Mr. Trembley enter Taxi V41. Mr. Trembley is wearing a white Blue Jays hat, a long-sleeved shirt, pants, and sunglasses. 1:56:35 June 22 FLYNN & TREMBLEY 3:03:22 p.m. 3:14:38 p.m. At 3:03:22 p.m., Mr. Flynn opens the rear of the vehicle. Both Mr. Flynn and Mr.

Trembley enter Taxi V41. At 3:11:26 p.m., Mr. Trembley exits the vehicle. At 3:14:38 p.m., Mr. Flynn exits the vehicle, taking a backpack from between the seats and removes an unknown item from the rear of the vehicle. 1:57:49 1:58:10 1:58:19 June 22 FLYNN 3:46:21 p.m. 4:20:03 p.m. Mr. Flynn re-enters Taxi V41. At 4:09:39 p.m., Mr. Trembley also enters the rear of Taxi V41, with Mr. Flynn. He is also carrying a backpack. Mr. Trembley exits Taxi V41 at 4:17:07 p.m. 1:59:55 2:01:10 June 22 FLYNN 5:45:30 p.m. 5:59:04 p.m. Mr. Flynn re-enters Taxi V41. 2:03:14 June 22 FLYNN 6:00:34 p.m. 6:02:55 p.m. Mr. Flynn re-enters Taxi V41. 2:04:04 June 22 FLYNN 6:28:30 p.m. 6:41:46 p.m. Mr. Flynn re-enters Taxi V41. 2:05:09 June 22 FLYNN 6:44:55 p.m. 6:50:32 p.m. Mr. Flynn re-enters Taxi V41. 2:06:00 June 22 FLYNN 7:13:48 p.m. 7:20:18 p.m. Mr. Flynn re-enters Taxi V41. 2:07:12 June 22 FLYNN 7:21:36 p.m. 7:29:21 p.m. Mr. Flynn re-enters Taxi V41. 2:07:28 June 22 FLYNN 7:45:11 p.m. 7:49:08 p.m. Mr. Flynn re-enters Taxi V41. 2:08:32 June 22 FLYNN & TREMBLEY 8:29:50 p.m. 8:53:01 p.m. Mr. Flynn and Mr. Trembley re-enter Taxi 41. At 8:36:57 p.m., an unknown male also enters the rear of Taxi V41, with Mr. Flynn and Mr. Trembley. While inside, the unknown male received a package, prior to exiting. The unknown male was in the vehicle for less than one minute. At 8:42:17 p.m., a second unknown male also enters the rear of Taxi V41, with Mr. Flynn and Mr. Trembley. While inside, Mr. Flynn hands an object to the unknown male. The unknown male was in the vehicle for approx. two minutes. 2:09:44 2:10:03 2:10:18 June 23 FLYNN 12:10:50 a.m. 12:19:45 a.m. Mr. Flynn re-enters Taxi V41. At 12:15:40 a.m., a third unknown male also enters the rear of Taxi V41, with Mr. Flynn. Prior to the unknown male's entry into the vehicle, Mr. Flynn removes a brown paper bag from his backpack. While inside, the unknown male removes a folded bundle of money from his right pant pocket and hands it to Mr. Flynn; the unknown male takes the brown paper bag Mr. Flynn had removed. The unknown male was in the vehicle for approx. one minute. 2:18:31 2:18:45 June 24 FLYNN 8:26:35 p.m. Mr. Flynn enters Taxi V41. The camera footage stops at 8:30:55 p.m. [the time of Mr. Islam's and Mr. Flynn's arrest]. 3:21:05 3:22:44

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