
CANADA / JUDGMENT

R. v. Schirmer

2020 BCSC 291

COURT

Supreme Court of British Columbia

DECIDED

27 February 2020

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IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Schirmer,

2020 BCSC 291

Date: 20200227

Docket: 174439

Registry: Victoria

Regina

v.

Horst Schirmer

Before: The Honourable Madam Justice Murray

Oral Reasons for Judgment

Counsel for the Crown:

O.L. Bick

Counsel for the Defence:

R.S. Horne

Place and Date of Trial:

Victoria, B.C.

February 18-21, 2020

Place and Date of Judgment:

Victoria, B.C.

February 27, 2020

Introduction

- [1] Mr. Schirmer is charged on a seven count Indictment with possession of cannabis and GHB, possession of cocaine, heroin, fentanyl and methamphetamines for the purpose of trafficking (PPT), and possession of a prohibited weapon, brass knuckles.

The Evidence

- [2] On August 2, 2017, the Victoria Police Department (VPD) was conducting surveillance on Mr. Schirmer. Police observed a man they identified as Mr. Schirmer sitting in the front passenger seat of a white van which they followed from Cobble Hill to Langford. Police attempted to pull the van over in Langford. The van stopped briefly, then sped off. Police followed the car onto Hartsdale Road, a quiet, dead end residential street. The police vehicle was approximately half a block or less behind the van with its emergency lights and sirens activated. As the van slowed to take the sharp turn onto Hartsdale, Cst. Brown saw a man jump out of the front passenger door. The man ran off between houses and out of sight.
- [3] The van continued for about 100 to 150 feet and stopped. The driver, the lone occupant, was arrested.
- [4] Paul Paine, a long time resident of Hartsdale Drive, was sitting on his back deck looking out at Goldstream Road. As it was a nice day, he had all the doors in his house open. He saw the white vehicle driving along Goldstream and heard a screech as it rounded the corner onto Hartsdale. The RCMP were following not far behind with lights and sirens. He heard the vehicle stop in his or his neighbour's front yard.
- [5] He heard shouting in his front yard, then saw a man running from between his neighbours' houses to the north of him. The man was holding a black valise type bag. It looked like it was soft leather, about laptop size. He was holding it in his right hand. Mr. Paine could not see if there was a strap on it. He did not get a look at the man's face and only saw him from a distance.
- [6] Mr. Paine saw the man run to the back of his neighbour's yard to the north and hop the fence into his rear neighbour's yard. This neighbour fronts onto Goldstream, and has the civic address 1126 Goldstream. The backyard of 1126 Goldstream runs behind Mr. Paine's house as well as the house to his north. A chain-link fence, about five feet high, separates the yards.

- [7] After he jumped the fence into the back yard of 1126 Goldstream, the man "ditched" into some bushes. When the man came out of the bushes, he was no longer carrying the bag. The man then skirted along the rear fence line and around the far side of the house. Mr. Paine lost sight of him at that point.
- [8] Mr. Paine immediately ran through his kitchen/dining room out to his side deck and yelled to police that he saw a man flee from the vehicle and that he could show them where. Mr. Paine then ran back to his back deck in time to see the same man coming out of the far side of 1126 Goldstream onto Goldstream Road. The last Mr. Paine saw the man he was walking/trotting up Goldstream toward the bike shop at the corner of Leigh and Goldstream Roads. It was the same man he saw running through the yards and ducking into the bushes.
- [9] Robert Keats and Robert Barron were working in their bike shop located on the corner of Leigh and Goldstream Roads when they heard a vehicle "fly by" with a police vehicle in pursuit. A short time later a man came through the front door of their bike shop. He was "in a hurry" and was sweating and breathless. He had clearly just been running. The man was looking out the front window, then went into the parts room, a side room off the main part of the store.
- [10] When Robert Barron asked if he needed help, the man asked for a moment as he was gasping for air. The man, later identified as Mr. Schirmer, said, "I'll give you \$1,000 to close your doors right now." Barron replied that he would not do that. Mr. Schirmer then asked if there was a back way out and was told that there was not.
- [11] At about the same time that Mr. Schirmer showed up at the bike shop, Cpl. Krauss attended Mr. Paine's residence in answer to his call from his front balcony. Mr. Paine invited Cpl. Krauss to his back balcony and described the route he saw the man run, pointing it out as he did so.
- [12] Police attended the bicycle shop and found Mr. Schirmer hiding in a back storage room where he was arrested. As Mr. Schirmer was being led out of the room, he asked police to collect his black pleather baseball cap that was on some items near where he was located.
- [13] The satchel, which was later located and seized by police, contained a large quantity of drugs and drug trafficking paraphernalia:
- 1) 561 grams of pressed powdered cocaine in three pieces, the largest one in a brick shape with some pieces missing, all in a Ziploc bag (p. 3);
 - 2) 28 grams of heroin, fentanyl and cocaine in a bag labelled 28 PD which was in a larger bag with some other items (p. 6);
 - 3) 2 grams of heroin and caffeine in a Ziploc bag that was in the larger bag with b above and d below (p. 6 and 8);

- 4) 2 bags of cocaine knotted at the top: 10.2 grams and 4.9 grams, both inside the bigger bag with b and c above (p.6 and 9);
 - 5) 30.3 grams of heroin, fentanyl and caffeine in a knotted Ziploc bag (p. 11);
 - 6) 160 grams of cocaine in a cryopack bag with notations $84+84=168$ and FEFE (p. 12);
 - 7) 3 knotted bags of cocaine inside a Ziplock bag inside a cryopack bag: 14 grams, 14 grams and 7 grams (pp. 14 and 15);
 - 8) 26 grams of methamphetamine crystals in a Ziplock bag (p. 18);
 - 9) 36 grams of cannabis in a cryopack bag;
 - 10) some empty bags including a big cryopack bag with 7 CH written on it and a sandwich bag with 12 CH written on it, at least 100 new unused small Ziplock bags with skulls on them and several used skull bags, 2 of which have HD written on them;
 - 11) a scale;
 - 12) brass knuckles;
 - 13) a pill bottle labelled Clomid with pills in it;
 - 14) 2 pieces of paper identified as scoresheets by the drug expert. Of note are items listed beside numbers including 1 Si, 2 PL, 1 PD, 1 DCH (ex. 22);
 - 15) a keyring with 10 keys; and
 - 16) miscellaneous other items (p. 26).
- [14] The van in which Mr. Schirmer was travelling was seized by police. In a grocery bag on the floor of the passenger seat was found a Gatorade bottle two-thirds full of GHB and a small bag containing cocaine residue. In the front passenger door pocket was found an optometrist prescription in the accused's name.
- [15] Mr. Schirmer's wallet was seized from him on arrest. In it was approximately \$3,500 in cash of various denominations bundled with elastic bands in packs of \$1,000. The bills looked new. In addition there were five pieces of paper with writing on them. One, according to the drug expert, was the recipe for GHB. The others were running tallies of numbers which were identified by the drug expert as being score sheets. Beside some of the numbers were notations. Of significance are the notations "CH" and "Si" on the lists of numbers. I will return to this.
- [16] Mr. Schirmer raises two defences:
- 1) First, the bag of drugs was not his; and
 - 2) Alternatively, if this court is satisfied that the bag of drugs was his, they were not possessed for the purpose of trafficking.

- [17] With respect to the first defence, Mr. Schirmer called Corey Jackson as a witness. Mr. Jackson is incarcerated with Mr. Schirmer and has been since November 27, 2019. Save for two short stints, Mr. Jackson and Mr. Schirmer have been on the same unit and are able to interact freely.
- [18] On July 2, 2019, Mr. Jackson was sentenced to a three month conditional sentence with "house arrest." He was living at his uncle's house in Langford. Mr. Jackson is very familiar with Langford as he has lived there his whole life.
- [19] According to Mr. Jackson, on August 2, 2019 he was awoken in the early morning hours by Mr. Schirmer calling him from the casino. Mr. Schirmer wanted him to party. When Mr. Jackson said yes, Mr. Schirmer picked him up in a Ford 350 truck. According to Mr. Jackson, he took with him a satchel containing his stash of drugs. He identified the satchel as the one seized in the garden and pictured in photos in Exhibit 10. He testified that all of the drugs in the satchel were his. He bought them from Mike, last name unknown, a couple of days before. They were worth about \$30,000. Mike fronted them to him. Mr. Jackson did not make note of exactly what drugs or how much he got from Mike. He said Mike would tell him how much he owed later.
- [20] Mr. Jackson testified that the satchel that he had the drugs in was not his. He borrowed it from Kelly, a woman who was present when he got the drugs from Mike. He does not know Kelly's last name or where she lives. He knows her through Mike and others and sees her around sometimes. He does not believe that she is involved in the drug trade. Kelly lent him her bag with some items in it: a set of 10 keys, brass knuckles and some other miscellaneous items. Mr. Jackson said that he did not notice these things until later but claims that he planned to return the bag to her. He testified that he brought the bag with him when he went to party with Mr. Schirmer in case someone called to buy drugs. On cross-examination he changed his evidence and said that he brought it as the bag was safer with him and so he and Mr. Schirmer could have some cocaine. He further testified that he never told Mr. Schirmer what was in the bag but in cross-examination conceded that he had taken the brick of cocaine and the marihuana out of the bag in front of Mr. Schirmer.
- [21] Mr. Jackson testified that he and Mr. Schirmer went to Mr. Schirmer's recreational vehicle in Cobble Hill where they drank, did cocaine and smoked weed. Mr. Schirmer supplied the liquor; Mr. Jackson, the drugs.
- [22] They stayed at Mr. Schirmer's trailer and partied until the next afternoon. They were in no shape to drive so Mr. Schirmer called a guy to come and pick them up. The guy, who Mr. Jackson did not know, arrived in a white Dodge Caravan. Mr. Schirmer sat in the front passenger seat, Mr. Jackson in the back on the right side. On the way to Langford Mr. Jackson said he was nodding off but he remained sitting upright. Just over the Malahat Mr. Schirmer's cell phone started making strange noises that indicated to them that police were phishing them. Both Mr. Schirmer and Mr. Jackson crushed their phones. Mr. Jackson destroyed his by putting it on the floor in the back seat and crushing it with his foot.

- [23] Right after they destroyed their phones, Mr. Jackson noticed an unmarked police vehicle pull in behind them. The police vehicle attempted to pull them over but they took off. They continued driving for about a minute when they drove onto the dead end road. Mr. Jackson testified that he knew it was a dead end road as he was familiar with the area, but he did not tell the driver. He just wanted to get out of there. Mr. Jackson further testified that he looked behind and did not see a police vehicle following them.
- [24] Mr. Schirmer jumped out of the van. Mr. Jackson did too, getting out of the front passenger door as he could not open the back sliding door. He did not see any police when he jumped out of the van. Mr. Jackson ran through a yard and jumped a fence. He hid behind a white shed. His adrenaline was pumping. He stashed the bag in a garden. He testified that he intended to go back to retrieve the bag later. He acknowledged on cross-examination that the bag was not well hidden, explaining that he was not thinking straight. His adrenaline was pumping and he was still impaired from the partying.
- [25] He then ran out of the yard onto Goldstream road, turned onto Spencer and took side streets back home. He did not see any police during his flight from the van.
- [26] Mr. Jackson said he went back to get the bag of drugs two to three days later but it was gone.
- [27] Mr. Jackson has a clear recollection that on August 2, 2019, he was wearing a blue shirt, blue shorts and a blue Rams ball cap but he cannot recall what he was wearing any other days that month. He further has a clear recollection that the van was a white Dodge Caravan with white trim and tinted windows, although he was messed up at the time from the drinking and drugs and had never seen the vehicle before or since.
- [28] On cross-examination Mr. Jackson was asked to identify the drugs in the bag. He said that he could be mistaken as it was two and one-half years ago. He denied that the papers (scoresheets) in the satchel were his, although he concedes that they seem to relate to the drugs in the bag. When pressed, he equivocated and said that the writing on the scoresheet may have been his but then seemed to retract that answer. He acknowledged that he made some markings on the bags in the satchel but testified that most of the notations were not his. He also claims to not know what the markings mean.
- [29] According to Mr. Jackson, he and Mr. Schirmer have never talked about this incident since nor did Mr. Schirmer share with him any evidence or show him any of the photos. Mr. Jackson claims that Mr. Schirmer has never talked to him about this proceeding other than to mention that he had a trial.
- [30] I found Mr. Jackson's evidence to be troubling for several reasons:

- 1) Mr. Jackson claims that he was sitting upright in the middle row of the van on the right side. That would put him on the passenger side. Conveniently, Mr. Jackson recalls that the windows were tinted. Constable Robinson pulled up beside the passenger side of the van when he observed Mr. Schirmer. Constable Robinson saw only two people in the van. The officer testified that, even with factory tint, he would have seen if there was a third person in the van;
- 2) Mr. Jackson's memory is suspect. He recalled the make, model and features of the van, yet he got into it when he was impaired and tired and ran out. He had never seen it before or since. He remembers exactly what he was wearing on August 2, 2017 but does not know what he was wearing any other day that month. He remembers those innocuous details but is unable to recall what drugs he had in the bag;
- 3) Mr. Jackson misidentified heroin/fentanyl mixture as crack cocaine. According to him, he was trafficking drugs at the time. He should know the drugs that he had. They look different. Overall, Mr. Jackson did not seem to know what was in the bag, even when looking at photographs of them;
- 4) Nor did Mr. Jackson know the value of the drugs. He testified that there was about \$30,000 worth of drugs in the bag. The drug expert testified that it was approximately \$100,000. That is a material difference. A drug trafficker would know exactly how much his drugs were worth;
- 5) Mr. Jackson did not know what most of the markings on the bags of drugs meant or who wrote them. This is of particular significance as the markings correlate to notations on the scoresheets that were in the satchel. They clearly signify a type of drug. The scoresheets in the bag clearly relate to the drugs in the bag. It follows that the owner of the drugs was the author of the scoresheets. It is beyond comprehension that the owner of the drugs would not know what the markings meant;
- 6) Mr. Jackson's evidence that the score sheets in the bag were not his is even more implausible. As stated above, they clearly relate to the very drugs that were in the bag. The drugs that Mr. Jackson says were his;
- 7) Mr. Jackson's evidence regarding stashing the bag does not make sense. He claims that he was hiding behind the white shed but then went out in the open to leave the bag. His further claim that he did not go back to find this valuable bag of drugs for two or three days is incredible;
- 8) Mr. Jackson's evidence that the police were not behind them when he got out of the van is contrary to the other evidence. The police evidence was that they were at most half a block behind with emergency lights and sirens on. This was corroborated by Mr. Paine and the bike store owners who testified that the police vehicle was following the van. That Mr. Jackson did not see the police vehicle when he looked behind or hear the sirens is incredible. And it raises other questions. If he believed that police were not in pursuit, what

was he fleeing from? Why would he discard the bag of drugs?

- 9) Mr. Jackson's assertion that he took his full stash drugs with him when he went to party with Mr. Schirmer in Cobble Hill in case a customer called is beyond belief. On cross-examination he maintained that if he got a call when he had been partying, he would take a cab to make the sale. He then changed his evidence explaining that he brought the drugs because it was safer with him and so he and Mr. Schirmer could use the cocaine;
 - 10) He claimed that he did not tell Mr. Schirmer what was in his bag. When he realized that he had to have done so when he shared his drugs with Mr. Schirmer, he changed his evidence;
 - 11) Mr. Jackson's evidence that a girl named Kelly, who he did not really know, would lend him a bag with her keys and other items in it is impossible to accept;
 - 12) Mr. Jackson testified that he disabled his cell phone by placing it on the floor of the van where he was sitting and crushing it with his foot, yet the phone he identified as his was not found on the floor of the back seat. It was in the front passenger side drink holder;
 - 13) Mr. Jackson's evidence that he and Mr. Schirmer never talked about this incident and that Mr. Schirmer did not ask him to testify defies logic. Mr. Schirmer is facing serious charges that centre on the bag of drugs. If that bag was Mr. Jackson's, common sense dictates that Mr. Schirmer would urge Mr. Jackson to clear his name. He was after all in the middle of this proceeding when Mr. Jackson was placed on Mr. Schirmer's unit.
- [31] Overall, I find Mr. Jackson's evidence incredible. He remembers details one would not expect him to remember (what he was wearing, the description of the vehicle and the colour of the garden shed) and has no memory of things that should have been of significance to him (the drugs). It is noteworthy that the evidence that he is clear on was either the subject of evidence or photographs.
- [32] In my view Mr. Jackson's evidence was completely fabricated. I do not accept that the bag of drugs was his. I do not accept that he was in the van. I do not believe that he had anything to do with this matter. In fact, I am satisfied that Mr. Jackson's testimony was fed to him by Mr. Schirmer with the help of transcripts and photographs. I reject all of Mr. Jackson's evidence.
- [33] The question then becomes whether the Crown has proved Mr. Schirmer's guilt beyond a reasonable doubt.

Issues

[34] There are two issues:

- 1) Whether Mr. Schirmer possessed the GHB and the satchel; and
- 2) If I am satisfied that Mr. Schirmer possessed the satchel, whether he possessed the drugs for the purpose of trafficking.

[35] I will outline the law, then analyse each issue in turn.

The Law

[36] Possession is defined in s. 4(3) of the Criminal Code which reads in part as follows:

For the purposes of this Act,

- (a) a person has anything in possession when he has it in his personal possession or knowingly
 - (i) has it in the actual possession or custody of another person, or
 - (ii) has it in any place, whether or not that place belongs to or is occupied by him, for the use or benefit of himself or of another person;

[37] Personal possession requires actual physical possession, together with knowledge and control. A person has something in his actual physical possession when it is on his or her person, as in a pocket, or when it is inside something that he is carrying, such as a briefcase: *R. v. Lepage*, [1995] 1 S.C.R. 654. Knowledge can be proved by direct or circumstantial evidence or by a combination of both.

[38] Possession for the purpose of trafficking involves two elements: possession and an intention to traffic.

[39] I turn now to analyse the issues.

Analysis

Issue 1: Whether Mr. Schirmer possessed the GHB and the satchel

[40] This issue turns on identification.

[41] Two questions must be answered:

- 1) Whether the Crown has proved beyond a reasonable doubt that Mr. Schirmer was the man in the front passenger seat of the van; and
- 2) Whether the Crown has proved beyond a reasonable doubt that Mr. Schirmer was the man Mr. Paine saw running through the back yards and ditching the valise.

[42] With respect to the first question, I have no doubt that Mr. Schirmer was the person seated in the front passenger seat of the van. Constable Brendan Robinson was part of the surveillance team. He was familiar with Mr. Schirmer. Constable Robinson was seated in the driver's side rear seat of an unmarked surveillance vehicle being driven by Sgt. Iain Campbell. They were following the van as it travelled south on Highway 1 towards Victoria. In Mill Bay, Sgt. Campbell pulled up alongside the van so the surveillance vehicle's driver's side was beside the passenger side of the van. At that point Cst. Robinson got a clear view of Mr. Schirmer seated in the front passenger seat van. I accept Cst. Robinson's evidence on that point. Plus his evidence does not stand alone.

- [43] Constable Woods was part of the VPD surveillance team. He was driving the vehicle. At approximately 3:10 p.m. he passed the van on Highway 1 close to the Leigh Road exit. Constable Woods looked back as he passed the van and saw Mr. Schirmer in the passenger seat. Unfamiliar with Mr. Schirmer, Cst. Woods identified him from a photo that he had seen earlier that day. According to Cst. Woods, Mr. Schirmer was leaning forward as if he was reaching for something at his feet. His opportunity to observe was very brief.
- [44] The evidence of the two police officers was corroborated by evidence in the van. In the front passenger door pocket was found an optometrist prescription in Mr. Schirmer's name.
- [45] Turning to the next question: whether Mr. Schirmer was the man that Mr. Paine saw running through the yards.
- [46] There is no doubt that the man Mr. Paine observed running through the yards was the person that discarded the satchel and was the person that possessed it. The question then becomes, who was that man?
- [47] I am satisfied beyond a reasonable doubt that that man was Mr. Schirmer.
- [48] Constable Brown saw one man exit the van as it rounded the corner onto Hartsdale. He is unable to say exactly where the man jumped out. Constable Brown was driving the police vehicle with lights and sirens activated. He was pursuing a vehicle that had just fled from them. He knew Hartsdale was a short, dead end street. The man jumped out of the van while it was still moving. Constable Brown had his eye on the man and on the van. He followed the van down the street until it finally stopped. In all of these circumstances it would be unrealistic to expect Cst. Brown to recall precisely where the van was when the man jumped out. In fact, it would be suspect if he testified that he could remember that with certainty.
- [49] Constable Brown described the man that fled from the van as Caucasian, with facial hair on his lip and chin, brown hair, wearing a blue shirt and black baseball cap. He was holding a black satchel.
- [50] Paul Paine heard the van screech onto his road with the police car right behind. He then saw a man running through yards and jumping the fence. He described the man as stocky, with dark hair. He was wearing a lighter blue T-shirt, dark blue or black cargo shorts, and a dark/black baseball cap. The man was holding a black valise type bag. It looked like it was soft leather, about laptop size. He was holding it in his right hand. Mr. Paine could not see if there was a strap on it. He did not get a look at the man's face and only saw him from a distance.
- [51] That Mr. Paine described the man as wearing blue cargo shorts rather than jeans, that Mr. Schirmer was noted to be wearing on arrest, does not in my view detract in any way from his evidence. I found Mr. Paine to be an honest, straightforward witness. He was unshaken on cross-examination. His evidence is corroborated in material ways by other evidence, namely, the satchel was located right where Mr. Paine said it had been discarded and the satchel matched the description given by Mr. Paine. Mr. Paine's observations are detailed.

He is a nurse's aide and is trained to observe.

- [52] I accept Mr. Paine's evidence that a stocky man with dark hair ran through yards, stashed a bag in some bushes and went out onto Goldstream road heading in the direction of the bicycle shop.
- [53] Taking all of the evidence into consideration, I am satisfied beyond a reasonable doubt that the man that leapt from the van was the same man that was running through the yards and the same man that was arrested in the bike shop. That man is Mr. Schirmer. There are no other reasonable inferences to be drawn from that evidence. There is no credible evidence to support the possibility that there were two men running through the same quiet residential neighbourhood at the same time, with dark hair, wearing a black ball cap and blue shirt and carrying a black satchel. That premise is incredible.
- [54] I am satisfied beyond a reasonable doubt that the satchel found in the garden was left there by Mr. Schirmer and that he did so to keep it from police. That Mr. Schirmer knew that there was drugs in the satchel is proved in a number of ways:
- 1) The scoresheets in his satchel that clearly, through their notations, relate to the drugs in the satchel;
 - 2) The scoresheets in his wallet that have similar notations on them; and
 - 3) The fact that he ditched the bag so police would not find it.

Issue 2: Whether Mr. Schirmer possessed the drugs in the satchel for the possession of trafficking

- [55] Turning now to the next issue: whether Mr. Schirmer possessed the drugs for the purpose of trafficking.
- [56] On this issue, the Crown relies on the evidence of Cst. Braden Foster, who was qualified as a drug expert. He gave opinion evidence on the use, price, packaging and distribution of cocaine, heroin, methamphetamine and GHB in the Victoria area in 2017. In Cst. Foster's opinion, Mr. Schirmer possessed the cocaine, methamphetamine, heroin and fentanyl for trafficking. He based his opinion on the following:
- 1) the large amount of drugs;
 - 2) the variety of drugs;
 - 3) the scoresheets in both the satchel and Mr. Schirmer's wallet that correspond to the markings on the packages of drugs;
 - 4) the scale and baggies for packaging; and
 - 5) the lack of drug use paraphernalia.

- [57] I accept the evidence of Cst. Foster regarding the PPT. It accords with common sense. All of the evidence taken together leads to no other rational conclusion than that Mr. Schirmer possessed the cocaine, heroin, fentanyl and methamphetamine for the purpose of trafficking. While I accept that the large amount of cash in Mr. Schirmer's wallet may have come from another source, the rest of the evidence points to the inescapable inference that he was trafficking.
- [58] Accordingly, I find Mr. Schirmer guilty of the PPT Counts 1 through 4.
- [59] With respect to Count 6, possession of a prohibited weapon, I have found that Mr. Schirmer was in possession of the satchel and that he had knowledge of its contents. It has been admitted that brass knuckles are a prohibited weapon. Accordingly, I am satisfied that Mr. Schirmer is guilty of that charge.
- [60] Similarly on Count 7, I am satisfied beyond a reasonable doubt that Mr. Schirmer is guilty of possession of cannabis. The cannabis was in Mr. Schirmer's satchel.
- [61] That leaves Count 5, possession of GHB. I take into account the following facts: the bottle was at Mr. Schirmer's feet in the van and he had a recipe for GHB in his wallet. The only reasonable inference is that Mr. Schirmer possessed the GHB. I am satisfied beyond a reasonable doubt that Mr. Schirmer was in possession of the bottle of GHB.

Conclusion

[62] Stand up Mr. Schirmer. I find you guilty of all charges.

"The Honourable Madam Justice Murray"

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