

CANADA / JUDGMENT

Regina v. Beadle

2000 BCSC 195

COURT

Supreme Court of British Columbia

DECIDED

1 February 2000

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2000 BCSC 0195

Citation:

Regina v. Beadle
2000 BCSC 0195
Date: 2000-02-01
Docket No.:
X39377
Registry: Chilliwack
IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

HER MAJESTY THE QUEEN

AND:

DONNA MARIE BEADLE
ALSO KNOWN AS
DONNA MARIE PIERCE
ACCUSED

REASONS FOR JUDGMENT

OF THE

HONOURABLE MADAM JUSTICE D.A. SATANOVE

Counsel for the Crown

Melody R. Martin

Counsel for the accused

Doug Malloch

Date and Place of Hearing/Trial:

January 18-21, 2000

Chilliwack, B.C.

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- [1] The accused has been charged with possessing heroin and cocaine for the purposes of trafficking. The charges were laid as a result of a search and seizure by Abbotsford police in a basement suite of a residence in Abbotsford on February 2nd, 1998.
- [2] The results of the search and seizure consisted of a clear plastic baggy of twenty-five flaps containing cocaine and another plastic baggy of forty-two flaps containing heroin. The police found two more flaps of cocaine, and one flap with cocaine residue. They found eleven empty flaps, three weigh scales, some quantities of marijuana, a cell phone, a pager and some identification documents. They also found the accused, her two daughters and one Edward Salmon in the residence.
- [3] The evidence of both the Crown and the defence was heard on a global voir dire upon the agreement of Counsel that whatever was admitted by me would become evidence in the trial at large.
- [4] The issues on the voir dire were:
- [1] whether the accused had standing to challenge the warrant;
- [2] whether the information to obtain sworn by Constable Jordan contained sufficient information to justify the issuance of the warrant; and
- [3] whether the warrant was validly executed.
- [5] The onus was on the accused to show on a balance of probabilities that her charter rights were breached and therefore the evidence should be excluded under s.24(2) of the Charter (R. v. Collins [1987] 1 SCR 265).
- [6] The Crown submitted that the accused charter rights were not breached because she had no expectation of privacy anywhere in the dwelling which was searched, or at least not in the garage or bedroom #1 where the weightiest evidence was found. Secondly, the accused claimed no propriety right in the majority of the items seized.
- [7] The testimony of the accused established that she had a reasonable expectation of privacy with respect to the basement suite, but not to the garage. Her evidence with respect to the garage was that she never used it, not even to enter the basement suite. She knew that the upstairs tenants and their children used the garage to store things and play in. The accused paid \$300 rent to Mr. Salmon for the use of two bedrooms and access to the bathroom and kitchen downstairs.
- [8] The accused's lack of expectation of privacy in the garage is key. The major complaint of the accused with respect to execution of the warrant was that the police knocked down the outside garage door to gain entry to the inside garage door which was at the top of the stairs to the basement suite.
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- [9] Counsel for the accused submitted that this unannounced, forcible entry was unauthorised and unreasonable. He submitted that entry to the basement suite was around the back of the house and if the police were going to enter through the garage, this should have been noted on the warrant.
- [10] The accused has no standing to complain about entry through the garage door. If the police were unauthorised or unreasonable in breaking that door (and I do not say that they were), it is for the upstairs tenant to complain, not the accused.
- [11] The evidence was not entirely clear as to when the police did announce themselves. I accept Constable Jordan's evidence that given the history of weapons offences of one of the suspects whom the police believed to be present, and the nature of the offence they were investigating, concerns of safety and preservation of evidence called for a quick entry. (*Eccles v. Bourque* (1974) 19 CCC (2d) 129 SCC)
- [12] The accused also submitted that the warrant was deficient because the information to obtain was deficient. He analogised the case at bar to *R. v. L.S.U.* unreported, Action No. X051691, New Westminster Registry, B.C.S.C., where Justice Stromberg-Stein found the warrant deficient and invalid and the conduct of the police to be negligent and lacking in good faith.
- [13] In the case before me I do not find the information to obtain to be deficient or such that a Justice of the Peace acting reasonably could not issue a warrant.
- [14] The basis for belief of Constable Jordan that there were controlled substances in the subject basement suite was information he received from an informant. Some of this information he was able to confirm independently and some of it enabled him to obtain further information.
- [15] In summary, the informant told him at around 8:45 p.m. on February 1st, 1998 that:
- heroin and cocaine were being sold out of the basement suite at 32240 Hillcrest Avenue, Abbotsford --two males Ed and Vern, were living in the suite --Ed and Vern had sold the informant heroin previously within the last twenty-four hours --the quantity and price of the heroin and where it was stored --Vern was recently on parole from Matsqui Prison --Ed drove a red car, Vern drove a blue car and Donna drove a green car. [16] Constable Jordan and the informant then drove down Hillcrest Avenue at about 9:30 p.m. on February 1st, 1998. The informant had no difficulty identifying the house to Constable Jordan. There was a red car parked outside the house.
- [17] Constable Jordan drove by the house again at about 10:30 p.m. This time there were a green car and blue car parked outside. Constable Jordan ran the license plates of these cars and determined they were registered to Edward Salmon and Vernon Hill. He could not recall who was the registered owner of the red car.

- [18] Constable Jordan ran the names of Edward Salmon and Vernon Hill through two methods of police information retrieval and learned that Mr. Salmon had a previous conviction for possession for the purposes of trafficking a narcotic, and was a suspect in two other previous drug trafficking investigations. He learned that Vernon Hill had numerous convictions for weapons offences and robbery. He had been a suspect in drug trafficking and had been designated as "armed and dangerous on C-Pic.
- [19] All of the above information was contained in an appendix to an information to obtain sworn by Constable Jordan and presented to the Justice of the Peace. A warrant was issued on February 2nd, 1998 authorizing entry between 1:00 o'clock a.m. and 7:00 o'clock a.m. The police entered the residence as I have described at approximately 1:38 a.m.
- [20] In conclusion, I find that the accused's charter rights have not been breached and that the warrant was validly issued and executed. Accordingly, the evidence obtained by the police from the search and seizure will be admitted as evidence at trial.

"D.A. Satanove, J"

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Prepared on 29 October 2026 · Esheria