

27-02-03

IN THE GRAND COURT OF THE CAYMAN ISLANDS

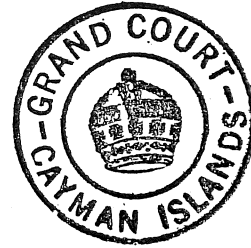
HOLDEN IN GEORGE TOWN, GRAND CAYMAN

SUMMARY COURT APPEAL NO. 44 OF 02

TRACY WOODMAN

- VS -

REGINA



REASONS FOR JUDGMENT OF THE HONOURABLE

MR. JUSTICE SANDERSON on the 27th
day of February 2003, George Town, Grand Cayman.

APPEARANCES:

For the APPELLANT:

MR. L. FREEMAN

For the CROWN:

MR. A. ROBERTS

1 THURSDAY, FEBRUARY 27, 2003

2

3 SANDERSON, J.:

4 The defendant, Tracy woodman, appeals her
5 conviction and sentence. She was convicted of
6 possession of cocaine with the intent to
7 supply. The amount involved was small being
8 .37 ounces. She pled not guilty and was
9 convicted after a short trial. She was
10 sentenced to eight years imprisonment. She
11 does not have my criminal record except for
12 some motor vehicle related offences.

13 In concluding that the defendant was
14 guilty of possession with intent to supply, the
15 learned magistrate said:

16 "10.69 grams of cocaine base
17 commonly known as crack were
18 involved here. Under the
19 sentencing guidelines any quantity
20 of cocaine base that exceeds four
21 grams is considered serious. Four
22 grams or more attracts a tariff of
23 10 to 12 years imprisonment. Here
24 the defendant was found in
25 possession of more than twice that

(SANDERSON, J. -- JUDGMENT)

1 amount. A reasonable inference is
2 that possession of such a quantum
3 is for the purpose of supply".

4 In other words, she considered the
5 sentencing guidelines in assisting her to reach
6 the conclusion that the defendant had enough
7 cocaine that it was her intention to supply to
8 others. The other evidence that she referred
9 to in order to fortify her conclusion or to
10 help her reach her conclusion were the negative
11 urine tests of the defendant revealing no
12 cocaine in her body.

13 There was no other evidence which is
14 typically associated with possession of cocaine
15 with intent to supply. For example there was
16 no significant amounts of cash recovered nor
17 any amounts of cash recovered in denominations
18 sometimes associated with the sale of
19 individual rocks of cocaine. There was no
20 evidence of any drug paraphernalia found on the
21 defendant or at her premises, such as baggies
22 or scales. There was no evidence of
23 individually wrapped rocks of cocaine which
24 would or could indicate a propensity to market
25 or distribute it to others. Nor was there such

(SANDERSON, J. -- JUDGMENT)

1 a large quantity of cocaine that it was obvious
2 that she had it in her possession with the
3 intention of supplying others.

4 I conclude that the learned magistrate's
5 main basis for reaching the conclusion that the
6 defendant had the intention to supply others
7 was her reference to the sentencing guidelines.
8 I conclude in reaching that conclusion on that
9 basis, the learned magistrate fell into error.

10 In order for the magistrate to conclude
11 that the defendant had possession of cocaine
12 with the intention to supply others, it must be
13 based on the evidence in the case. Accordingly
14 I set aside the conviction of possession of
15 cocaine with the intent to supply.

16 The defendant has asked for a new trial
17 for possession of cocaine on the basis that new
18 arguments and new avenues could be explored on
19 a second trial. Arguments and avenues that
20 were not explored in the first trial.

21 The defendant had competent and
22 experienced counsel represent her in the first
23 case. None of the issues, which Mr. Freeman
24 has suggested might be argued in a second
25 trial, could not have been argued during the

(SANDERSON, J. -- JUDGMENT)

1 first case if counsel felt it appropriate to do
2 so.

3 The learned magistrate found as a fact
4 that the defendant was in possession of the
5 cocaine and that particular finding of fact has
6 not been challenged. In essence, Mr. Freeman
7 says that he thinks he can do better the second
8 time around or that counsel could do better the
9 second time around, not necessarily him.

10 In my opinion, the correct result in this
11 case is to accept the finding of the magistrate
12 after the first trial that the defendant was in
13 possession of cocaine and I observe that this
14 finding is unchallenged.

15 As I have said, the conviction for
16 possession of cocaine with the intent to supply
17 is set aside and I substitute a conviction for
18 possession of cocaine. In other words, simple
19 possession of cocaine.

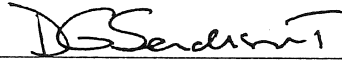
20 The appropriate sentence based upon her
21 particular circumstances and the circumstances
22 of this case and reviewing the authorities for
23 possession of small amounts of cocaine would,
24 in my judgment, be four years. I conclude that
25 the appropriate sentencing guidelines are those

(SANDERSON, J. -- JUDGMENT)

1 in place at the time of the offence and not

2 those in place at the time of trial.

3 Accordingly, I impose a sentence of four years.

4
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6 

7 THE HON. MR. JUSTICE SANDERSON

