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IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *R. v. Smith,*
2026 BCSC 1728

Date: 20260717
Docket: 90507
Registry: Nanaimo

Rex

v.

William Karl Paulsen, Kristopher Stephen Smith and William Bradley Thompson

Publication Restriction: Pursuant to s. 486.5 of the *Criminal Code*, any information that could identify witness shall not be published in any document or broadcast or transmitted in any way if the judge or justice is of the opinion that the order is in the interest of the proper administration of justice.

Corrected Judgment: The text of the judgment was corrected at various paragraphs throughout on October 6, 2026.

Before: The Honourable Mr. Justice Baird

Oral Reasons for Judgment

Counsel for the Crown:	R. Carrier O. Bick
Counsel for the Accused, Kristopher Smith:	K. Bradshaw T. Forss
Counsel for the Accused, William Thompson:	C. Hodson
Places and Dates of Trial:	Victoria, B.C. October 27-31, 2025 November 3-6, 2025 Nanaimo, B.C. November 17-21, 24, 27-28, 2025 February 2-5, 2026 April 2, 2026 May 14-15, 2026

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Place and Date of Judgment: Nanaimo, B.C.
July 17, 2026

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INTRODUCTION

[1] On the indictment before the Court, Kristopher Stephen Smith is charged with trafficking cocaine on September 13, 2019 (Count 1), unlawful possession and transfer of a firearm (Counts 5 and 6), and trafficking cocaine and oxycodone (Counts 7 and 8) on October 31, 2019.

[2] Mr. Smith and William Bradley Thompson are jointly charged with unlawfully transferring a prohibited firearm to an undercover police officer on February 25, 2020 (Count 19). Mr. Thompson alone is charged with unlawful possession of various prohibited, restricted and non-restricted firearms, with or without readily accessible ammunition, possession of prohibited devices, possession of firearms, prohibited devices and ammunition while prohibited from doing so, and possession of cocaine for the purpose of trafficking, on August 14, 2020 (Counts 24-32).

[3] The indictment also contains multiple counts of cocaine trafficking against William Karl Paulsen, who entered guilty pleas many months ago and is presently serving a seven-year penitentiary sentence.

BACKGROUND

[4] All of these charges followed a joint police force project called E-Parodinia, which was part of a “multi-pronged” investigation spearheaded by the RCMP beginning in June 2018. The objective was to gather information about the criminal activities of the Hells Angels Motorcycle Club (“HAMC”) in Nanaimo. Much of the Crown’s evidence was obtained by the interception of private communications authorised by a Provincial Court judge under s. 184.2 of the *Criminal Code*, R.S.C. 1985, c. C-46. The consenting parties were a police agent codenamed “Easton” and various undercover police officers involved in formulating and enacting over 50 investigative scenarios.

[5] The RCMP cultivated Easton as a source of underworld information not long after he was released on parole from a federal penitentiary having served the custodial portion of a 42-month sentence for gang-related criminal offending,

including drug trafficking. Easton started off as a paid confidential police informer and was eventually vetted, trained and hired as a paid police agent. His first letter of agreement setting out the terms of his engagement was signed in September 2019. By then he had become a close friend of Mr. Smith, who had recently been inducted as a "full-patch" member of the HAMC. Mr. Smith was a target of the E-Parodinia investigation from the very beginning. Easton's role as a police agent was to infiltrate the HAMC through Mr. Smith, a reasonably rare opportunity which the police were understandably keen to exploit.

[6] Beginning in the fall of 2019, as I have just mentioned, the police obtained Part Vl wiretap authorisations to intercept Mr. Smith's private communications. The offences listed in the authorisations permitting the interceptions included:

- Trafficking in a controlled substance contrary to s. 5(1) of the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19 ("*CDSA*");

- Possession of a controlled substance for the purpose of trafficking, contrary to s. 5(2) of the *CDSA*;

- Conspiracy to commit either of those offences, contrary to s. 465(1)(c) of the *Criminal Code*; and,

- Unauthorised possession of a firearm, contrary to s. 91(1)(a) of the *Criminal Code.*

[7] The operational scenarios conducted during E-Parodinia yielded evidence that Mr. Smith sold an ounce of cocaine to Easton on September 13, 2019 (Count 1), and that Mr. Smith gave Easton illicit drugs and a firearm on October 31, 2019, in order to conceal these items from police (Counts 5-8). I will describe the particulars in a moment. The investigation expanded as Mr. Smith introduced Easton to his associates, including Mr. Paulsen and Mr. Thompson. Subsequent Part VI authorisations were granted to intercept their private communications as well as Mr. Smith's. Most of the E-Parodinia investigative scenarios targeted Mr. Paulsen,

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who sold cocaine to Easton on multiple occasions; the remainder focused on Mr. Smith and Mr. Thompson.

[8] The evidence behind Count 19 of the indictment is that, on February 25, 2020, Mr. Smith and Mr. Thompson jointly organised the sale of an Uzi submachine gun to an undercover police officer ("UC 1"), who was posing as the local agent of a drug dealer from Ontario (also an undercover police officer known as "UC 2"), and had recently purchased a kilogram of cocaine from Mr. Paulsen using traceable currency approved for expenditure by RCMP Headquarters in Ottawa. Easton had been instructed by his handlers to introduce the topic of gun trafficking in his dealings with Mr. Smith, as they had grounds to believe that he was engaged in that sort of commerce. The Uzi transaction was part of a planned scenario devised by Easton's handlers after Mr. Smith sent Easton text and voice messages saying that Mr. Thompson had the Uzi submachine gun in his present possession and was willing to sell it. The Crown alleges that Mr. Thompson made the sale, that Mr. Smith facilitated it, and that both of them profited from it.

[9] Counts 24-32 of the indictment against Mr. Thompson arise from the lawfully warranted search of his home in Ladysmith on August 14, 2020, as the E-Parodinia investigation entered its final stages. The various firearms and other items referred to in Counts 24-28 and 31, along with the oversized magazines referred to in Count 30, were located in a large gun safe in the garage of Mr. Thompson's home in Ladysmith, BC. The garage was attached to the house and could be accessed by an interior door from the living area as well, of course, as from the front driveway. It is a garage suitable for two cars but the evidence, including books of photographs taken by police officers, establishes that it was full of all kinds of different property, and I find as a fact that it was used by Mr. Thompson as his personal recreation room. The stun gun referred to in Count 29 was found on a desk or table in the garage not far from the gun safe. The cocaine referred to in Count 32, around half a kilogram in weight, was found inside a receptacle referred to in evidence as a "Pelican case".

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[10] This lengthy criminal proceeding began in October 2024. Much of the court time set aside for it was devoted to a series of applications brought by either or both accused alleging infringements of their rights guaranteed by our *Charter of Rights and Freedoms*. In brief compass, I found that the RCMP breached Mr. Smith's rights after his eventual arrest on October 8, 2020, by failing to discharge their statutory duty to release him from custody at the earliest reasonable opportunity, and by conducting a warrantless search of his residence without his consent, even though Mr. Smith's wife, who lived there as well, had consented in writing and was present throughout the search. No evidence was obtained as a result of those breaches and therefore no argument about an exclusionary remedy was available to Mr. Smith.

[11] All the other *Charter* arguments raised by either accused were dismissed for reasons set out in various *voir dire* rulings which I intend to publish. The trial on the merits lasted a number of weeks and involved the testimony of the police agent, Easton, a number of his handlers, the undercover officers involved in the scenarios, and various other police officers involved in the management and execution of E-Parodinia. On the trial Mr. Smith called no evidence. Mr. Thompson testified but called no other evidence. As promised in an anterior *voir dire* ruling, I have instructed myself about the dangers inherent in relying on the testimony of Easton, who is a long-time career criminal and a decidedly dodgy creature, and have taken care to accept his evidence only where it is reliably corroborated by the testimony of his handlers, surveillance personnel, the undercover officers involved in the enactment of investigative scenarios, or the wiretap recordings played in open court.

[12] In the end, this prosecution has boiled down to a couple of discrete issues: In Mr. Smith's case, it is whether the Crown has proved beyond a reasonable doubt that he transferred the firearms referred to in Counts 6 and 19 knowing that he was not lawfully authorised to do so. In Mr. Thompson's case, it is whether the Crown has proved beyond a reasonable doubt that he was in possession of the various firearms, the stun gun, and the oversized magazines referred to in Counts 24-30. If the answer to this latter question is "yes", then Mr. Thompson must be convicted, because has conceded that he was not the holder of a licence to possess any of

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those things. He must also be convicted of Count 31, because he has admitted, and the evidence apart from his admission is conclusive, that at the relevant time he was the subject of a valid and subsisting court-ordered prohibition from possessing firearms, prohibited devices, and ammunition.

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[13] The final question is whether the Crown has proven beyond a reasonable doubt that Mr. Thompson is guilty of possessing the cocaine referred to in Count 32. There is no doubt that a half-kilo of cocaine was found in a brick in a Ziploc bag in the Pelican case that was described in evidence located in Mr. Thompson's garage. It looks to be what remains of a larger brick, probably of a kilogram in weight. The only question is whether the Crown has proved beyond a reasonable doubt that Mr. Thompson "possessed" it the legal sense.

MR. SMITH

[14] As I have just said, Mr. Smith did not testify on the trial proper, though I heard from him on a couple of the *voir dire* proceedings. He has invited me to convict him of Counts 1, 5, 7, and 8. I will do so on the basis of the following written submissions by his counsel, Ms. Bradshaw, lightly edited:

> ***Count 1 - Trafficking in Cocaine (September 13, 2019)***
>
> Mr. Smith admits that the Crown has proven this Count. Mr. Smith exchanged WhatsApp messages with Easton on September 10, 2019, offering to pick up one ounce of cocaine from Mr. Paulsen for Easton.
>
> These messages were introduced as Exhibit 3 on the trial. In this exchange, Mr. Smith messaged Easton at 8:18 PM, saying "Shopping right now u need anything?". Easton replied, "I will but waiting on paper may not have till Friday". Mr. Smith responds, "K I'll grab u 1 egg?", and Easton says "K" (at 8:19 PM).
>
> Easton testified that he received the cocaine from Mr. Smith on September 13, 2019. Mr. Smith made an admission of fact (Trial Exhibit. 32, para. 1), that the substance he gave to Easton on September 13, 2019, was approximately one ounce of Cocaine.
>
> ***Count 5 - Possession of Non-Restricted Firearm (October 31, 2019)***
>
> On Count 5, Mr. Smith is charged with possession of a non-restricted firearm (a Dominion Arms shotgun), contrary to section 91(1) of the *Criminal Code.*

This charge arises in conjunction with three other Counts (6, 7 and 8) on October 31, 2019, after Mr. Smith contacted Easton to come to his house, where he gave Easton some items to hold for him.

Easton testified that Mr. Smith called him on October 31, 2019, to come to his house. When Easton arrived, Mr. Smith told him that he believed the police were coming to his residence with a warrant to search it, and he gave Easton a number of items, including the non-restricted Dominion Arms shotgun, to take away for safe keeping. The intention, according to the evidence, was that Easton was to hold the items for Mr. Smith for a period of time before returning them.

Section 91(1) of the *Criminal Code* states:

91 (1) Subject to subsection (4), every person commits an offence who possesses a prohibited firearm, a restricted firearm or a non-restricted firearm without being the holder of

(a) a licence under which the person may possess it…

In relation to this Count, Mr. Smith made an admission of fact that the shotgun was a non-restricted firearm (Trial Exhibit 32, para. 5), and by his invitation to convict Mr. Smith has conceded that he had no licence to possess it, a fact confirmed in an affidavit dated March 18, 2022 from Firearms Officer Hasret Sidhu (Trail Exhibit 37).

Count 7 - Trafficking in Cocaine (October 31, 2019)

In Count 7, Mr. Smith is charged with trafficking in cocaine on October 31, 2019. This Count arises from the same circumstances as Count 5, where baggies containing cocaine were among the items given to Easton to hold for Mr. Smith.

Mr. Smith made admissions of fact in relation to this Count that among the items that he gave to Easton for safe keeping were: two baggies each containing 0.5 grams of cocaine (Trial Exhibit 32, para 3(a)), a baggie containing 10.6 grams of cocaine (Trial Exhibit 32, para 3(b)) and a baggie containing 2.5 grams of cocaine (Trial Exhibit 32, para 3(c)).

Count 8 - Trafficking in Oxycodone (October 31, 2019)

On Count 8, Mr. Smith is charged with trafficking in oxycodone on October 31, 2019.

This Count arises from the same circumstances as Counts 5 and 7, where a pill bottle with 40 oxycodone pills was among the items given to Easton to hold for Mr. Smith.

Mr. Smith made an admission of fact in relation to this Count (Trial Exhibit 32, para. 3(d)) with respect to these oxycodone pills.

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[15] As for Count 6, Mr. Smith concedes that he transferred the subject non-restricted Dominion Arms firearm to Easton. He did this, I find, because he was not lawfully licenced or authorised to possess it, and he wanted to avoid detection and arrest by police officers whom he expected imminently to arrive at his house with a search warrant. This followed a misadventure, earlier in the day, involving his then-wife, Lindsey Smith, who, if I understood the evidence correctly, advertised a pair of her shoes for sale over the Internet forgetting that she had hidden a baggie of cocaine in one of them. The purchaser came to Mr. Smith's residence to collect the shoes, found the baggie, and promptly called the police.

[16] Police inquiries apparently followed which Ms. Smith reported to her husband. Mr. Smith in turn made an urgent appeal to Easton – he called it a "911 call" – to take the firearm away, along with the cocaine and oxycodone, until the danger had passed. As Ms. Bradshaw set out in her submissions, an affidavit of BC Firearms Officer Hasret Sidhu dated May 18, 2022, admitted in evidence and not disputed, establishes that Mr. Smith, throughout the currency of the E-Parodinia investigation, did not have a Possession and Acquisition Licence, or an Authorization to Transport a firearm, or an Authorization to Carry a firearm in accordance with the *Firearms Act*.

[17] I would put the matter as simply as this: It is well known in this country that possessing and transferring firearms are tightly regulated activities. Mr. Smith knew that he was not lawfully authorised to possess the firearm himself, and he must be deemed to have known, and I find as a fact that he did know, that he was not lawfully authorised to transfer it to someone else, especially to an ex-convict like Easton, who he had no reason to think was licenced to receive or possess it. Ignorance of the law is no excuse, and I find in fact that it was not a matter of ignorance in this case. At the time, as I have said, Mr. Smith was a fully-fledged member of a notorious criminal organisation and an active local cocaine dealer. He knew that Easton was a recently paroled federal inmate presently engaged in similar criminal activity. He gave the firearm to Easton to avoid personal criminal liability for illegal possession.

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[18] In my view, more than this, the evidence renders it clear that Mr. Smith knew that he was asking Easton to take a substantial risk in receiving the firearm from him. He made no fuss when Easton later claimed, in a ruse proposed by his handlers, that he had been forced to dispose of the firearm because he thought the police were tailing him as he drove away from Mr. Smith's house. There can be no better evidence of criminal illegality than this. The fact that Mr. Smith accepted with equanimity that Easton had felt obliged to dispose of the gun for fear of police detection shows, in turn, that Mr. Smith knew full well that he had no lawful authority to transfer it to Easton, and that Easton had no lawful authorisation or licence to receive or possess it. There is no portraying this as some kind of regulatory offence; what Mr. Smith did was highly illegal, and he was justifiably charged and is guilty of a serious offence under s. 99(1)(a) of the *Criminal Code.*

[19] With respect to Count 19, the evidence has nowhere been disputed that Mr. Smith acted as a middleman brokering the sale of an Uzi submachine gun from Mr. Thompson to an undercover police officer, whom he believed to be the local representative of a drug dealer from Ontario who had recently purchased a kilogram of cocaine from William Paulsen. There has never been any dispute that Mr. Smith was paid a fee for his services as middleman. The fact that he may never have handled the Uzi is of no importance. He was aware of its existence; he arranged for its sale to the undercover officer; he went with Easton and the undercover officer to Mr. Thompson's place to complete the deal; he was present when Mr. Thompson handed over the Uzi; he watched as Mr. Thompson counted out the $8,500 in cash that he was paid for it and stashed the money in the black Pelican case by his side.

[20] Mr. Smith's submission on this count is twofold. First, he says that he was not the person who "transferred" the firearm – that it was Mr. Thompson alone who did this. I reject this argument. I repeat: Mr. Smith initiated and arranged the transfer; he was paid for doing it; he introduced the purchaser to Mr. Thompson; he was present when the transaction was completed; he took cocaine when Mr. Thompson offered it to celebrate the closing; and he left with Easton and the undercover police officer soon after it was done. He played an essential role, together with Mr. Thompson, in

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transferring an extremely dangerous prohibited firearm to a person whom he believed to be a fellow criminal involved in organised cocaine trafficking in another province.

[21] Mr. Smith's secondary argument, as with Count 6, is that the Crown has failed to prove beyond a reasonable doubt that he knew he was not lawfully authorised to transfer the firearm. I reject this argument for the same reasons expressed in relation to Count 6, but with added force because Mr. Smith believed he was selling the Uzi to an upper-level drug dealer for reasons related to his criminal activities in Ontario. I conclude that this was a "true crime" instance of firearms trafficking, pure and simple, and that Mr. Smith was a co-principal with Mr. Thompson in its commission. It follows that I find Mr. Smith guilty of every count in the indictment in which he is named, including Counts 6 and 19.

MR. THOMPSON

A. FIREARMS

[22] As I have said, Mr. Thompson testified at trial and called no other evidence. Unlike Mr. Smith, he has invited me to convict him of Count 19 – the Uzi transfer. I will do so on the basis that he acquired the Uzi submachine gun, notified Mr. Smith of its availability for sale, sold it for profit to the undercover police officer, gave Mr. Smith a cut of the proceeds for arranging the transaction, and kept the rest for himself. During the completion of the transaction, in recorded conversation, he referred to himself as a "broker" and spoke of the possibility of future transactions. I accept Easton's evidence, corroborated by the undercover police officer, UC 1, who purchased the Uzi, and confirmed by contemporaneous wiretap recordings of the transaction, that Mr. Thompson handled the Uzi during the transaction, something that I conclude he falsely denied in his sworn testimony. He also counted out the money given to him by the undercover police officer, claiming at first that he had been shortchanged, then re-counting it, and finally agreeing that he had been paid the full asking price.

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[23] Mr. Thompson's role as the primary profiteer of the transaction was borne out by future events. It turned out that the Uzi, which Mr. Thompson had marketed as a fully automatic firearm, was in fact only semi-automatic. UC 1 returned to Mr. Thompson's house on March 11, 2020, with another undercover officer ("UC 3") to complain about this and to ask for a discount. Mr. Thompson refused, saying "this isn't Walmart". He said he would let UC 1 know if he "found something that's decent for you", and "I'll cut you a better deal if I find something decent…but I'm not going to pay anything back". He also rejected UC 1's proposition that he should be given two complimentary ounces of cocaine to equalise the Uzi deal. Mr. Thompson said that he was reluctant to sell cocaine to UC 1 because he had refused to do a "rail" with him to prove that he was not a cop. He added, somewhat fatalistically, I think: "If you're a cop, I'm already fucked."

[24] As it concerns Counts 24-28 of the indictment, I find as a fact that at the time of the Uzi sale, Mr. Thompson displayed other guns to those present from inside a large open-door gun safe in his garage. Both Easton and UC 1 testified that it was Mr. Thompson who opened the safe, putting paid to his testimonial evidence that he never accessed the safe, that nothing inside it belonged to him, and that he did not know to any degree of specificity what was kept in it. Based on the combined evidence of Easton, the undercover police officer, and the contemporaneous wiretap recordings, I am persuaded beyond a reasonable doubt that the weapons shown off by Mr. Thompson included the Bren machine gun referred to in Count 24 of the indictment, which Mr. Thompson passed around for the others present to look at. Both UC 1 and the police agent testified about this at trial, and both can be heard on the wiretaps making admiring comments about this gun. At Mr. Thompson's invitation, UC 1 actually handled the Bren gun.

[25] The police agent also referred in his testimony to a "hot pink" rifle that he saw inside the gun safe, and he identified it in a photograph taken by the police when they searched Mr. Thompson's house on August 14, 2020. I said that I would be reluctant, in fact that I would not accept Easton's evidence if not corroborated, and I pause to say that this is an instance of this: Easton referred to the "hot pink" gun and

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pointed it out on the witness stand from a book of photographs that he had not been shown before. I accept his evidence that he saw this gun on February 25, 2020, during the Uzi transaction, and I do so because it was still inside the gun safe on August 14, 2020, when the police searched it. UC 1 also confirmed that Mr. Thompson displayed what he called a “Mini-14”, calling it his “personal weapon”. UC 1 described it as an assault rifle, and the police agent identified it in another photograph taken during the search of Mr. Thompson’s house on August 14, 2020. Subsequent examination by a firearms expert determined that it was a fully functional Sturm, Ruger & Co. Mini-14 semi-automatic assault rifle, the item referred to in Count 25 of the indictment.

[26] Mr. Thompson does not dispute, in fact, that the firearms identified in Counts 24-28, or the prohibited devices (over-sized magazines) referred to in Count 30, were found in the gun safe and seized by investigators on August 14, 2020, or that, in relation to Counts 24-26, readily accessible ammunition capable of being fired from some of the firearms was found in boxes on top of the safe. Mr. Thompson confirmed in his testimony, moreover, that the gun safe has been in his family for many years. He claimed that it had only recently been moved into the garage by his brother, Josh, who he said was living with him at the time of the search because his marriage had recently broken down, but I do not accept this evidence. It was suggested to Mr. Thompson in cross-examination that Josh had passed away in 2017, some three years before the search, and he did not attempt to deny the accuracy of Josh’s obituary notice put to him by Crown counsel confirming this.

[27] Mr. Thompson also claimed that, notwithstanding court-ordered firearms prohibitions imposed on him in 2013 along with a three-year penitentiary sentence for drug trafficking, possession of narcotics for the purpose of trafficking, possession of a prohibited firearm with ammunition, unauthorised possession of a prohibited or restricted weapon, and unauthorised possession of a prohibited device or ammunition, his parole officer had told him that he was allowed to possess firearms as long as he did not handle them. He castigated his lawyer in open court for failing to call the parole officer as a witness to confirm this. I thought it possible that this

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was the first time defence counsel had heard of this far-fetched claim, but if not, I would say that his decision not to follow it up – if that is what happened – is easily understood: no parole officer would ever have given such advice to Mr. Thompson. His evidence on this point is patently absurd and false. I would say the same about his claim that the wiretap recordings played in court had been altered, doctored, edited, or created by artificial intelligence, claims from which he ultimately resiled in any event, admitting instead that the recordings were accurate, but saying that they had been played in the wrong order. I do not accept any of this.

[28] Mr. Thompson testified that he built his Ladysmith home himself, and that he has lived there for 30 years. This may be the only aspect of his testimony that I believe. I find as a fact, on all of the evidence, that he is the undisputed master of the house, and that the attached garage is his exclusive domain. Mr. Thompson said that he uses the garage as a "party room" where he drinks and snorts cocaine, and that no one is permitted to enter it without his permission. He testified that he is very wary of other people, and he made it clear on March 11, 2020, when UC 1 returned to his place to remonstrate with him about Uzi's firing capabilities, that he disliked strangers dropping in on him.

[29] But then he gave evidence that was rather markedly inconsistent with this. He claimed that people were coming and going from his house all the time, and that the firearms in the gun safe were stored there by other people, including members of his family, and they did not belong to him. He also claimed that he did not know how to open the safe, that he had never been told the combination for the lock, and that it was closed and locked during the Uzi sale. I may already have said that I think all of this is rubbish. I accept UC 1's evidence that he saw Mr. Thompson open the safe, and, in fact, Mr. Thompson ultimately agreed in cross-examination that the safe was open on February 25, 2020. I note, as well, the undisputed evidence of Corporal Lin that a known thumbprint of Mr. Thompson was matched to a latent one that she developed off a Ziploc bag containing ammunition found inside the gun safe. At the Uzi sale, furthermore, he was showing off the guns with the pride of ownership and with a view to future commerce with the same customer.

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[30] I have concluded beyond a reasonable doubt that Mr. Thompson was in personal possession of the firearms and ammunition in and on top of the gun safe, either because they were his own personal property (the Bren gun and the Mini-14) or because, knowing perfectly well what the items were, they were kept with his knowledge, consent and approval in a room, receptacle or space over which he exerted dominant if not exclusive control. Failing that it would be a clear case of constructive possession. These terms were succinctly explained in *R. v. Morelli*, 2010 SCC 8 at paras. 15-17 as follows:

> 15 For the purposes of the *Criminal Code*, "possession" is defined in s. 4(3) to include *personal possession*, *constructive possession*, and *joint possession*. Of these three forms of culpable possession, only the first two [as in the present case] are relevant... It is undisputed that *knowledge* and *control* are essential elements common to both.
>
> 16 On an allegation of *personal possession*, the requirement of knowledge comprises two elements: the accused must be aware that he or she has physical custody of the thing in question, and must be aware as well of what that thing is. Both elements must co-exist with an act of control (outside of public duty): *Beaver v. The Queen*, [1957] S.C.R. 531, at pp. 541-42.
>
> 17 *Constructive* possession is established where the accused did not have physical custody of the object in question, but did have it "in the actual possession or custody of another person" or "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" (*Criminal Code*, s. 4(3)(*a*)). Constructive possession is thus complete where the accused: (1) has knowledge of the character of the object, (2) knowingly puts or keeps the object in a particular place, whether or not that place belongs to him, and (3) intends to have the object in the particular place for his "use or benefit" or that of another person.

[31] These definitions I think clearly apply to the case at bar and are the basis upon which I find that Mr. Thompson was in possession of the various items described. I would add that proof of possession does not require any proprietary interest in the guns: see *R. v. Arason,* 78 C.C.C. (3d) 1 (B.C.C.A) at para. 172. In my view, the evidence of Mr. Thompson’s possession of the firearms referred to in Counts 24-28 and the prohibited devices referred to in Count 30 has been proved beyond any reasonable doubt, and combined with the affidavit of BC Firearms Officer James Millington dated September 1, 2021, proving conclusively that

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Mr. Thompson did not have a licence to possess any of those things on August 14, 2020, he must be convicted on all of those counts.

[32] As for Count 31, Mr. Thompson has admitted that on August 14, 2020, he was bound by two separate court orders under the *Criminal Code* prohibiting him from possessing firearms, prohibited devices, and ammunition. Having found him guilty of Counts 24-28 and Count 30, a conviction on Count 31 is inevitable and is hereby entered.

[33] Count 29 refers to an Uzi stun gun. This was found, as I have said, lying on a desk or table in the garage. It is conceded that it is a prohibited device, and that Mr. Thompson was not licenced to possess it. Mr. Thompson testified that it was not his and that he did not know it was there. Mr. Thompson, as I have emphasised, has lied to me about pretty well everything, and his denials about the stun gun are likely as false as the rest of his testimony. However, inferences inconsistent with guilt do not have to arise from proven facts. I am entitled to consider any reasonable possibility inconsistent with his guilt. In this connection, I note that Mr. Thompson's garage was cluttered and messy, that the stun gun is a small portable item, and that Mr. Thompson entertained multiple guests in his garage to conduct illegal business, party, drink, and ingest cocaine. While perhaps not likely, I am prepared to accept the possibility that the stun gun was left in the garage by someone else without Mr. Thompson's knowledge. I find him not guilty of Count 29.

B. COCAINE

[34] Finally, with respect to Count 32, possession of cocaine for the purpose of trafficking, I agree with Crown counsel that the evidence in its totality establishes that Mr. Thompson was a cocaine dealer during the E-Parodinia operation and, indeed, for many years before it. He was captured on the wiretap recordings talking about bygone days when a kilogram of cocaine cost a fraction of the prices he had to pay during the Covid-19 pandemic. He bragged that his customers were satisfied with his product because it was consistent. He talked about increasing his profits by cutting his cocaine with buffing agents to dilute his supply for distribution. One of

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these buffing agents was Inositol powder, which he discussed with the police agent in recorded conversations. Multiple containers of this substance were found in the Pelican case along with the almost half a kilogram of cocaine that forms the subject matter of Count 32.

[35] I would emphasise the following aspects of evidence captured on wiretap recordings during investigative scenarios on February 25, 2020 and afterwards:

On February 25, 2020

[36] When Easton and UC 1 attended Mr. Thompson's residence and purchased the Uzi from him, a conversation was recorded in which Mr. Thompson said the prices for a kilogram of cocaine at the time were in the range of $42,000 to $44,000.

On March 11, 2020

[37] When UC 1 and UC 3 attended Mr. Thompson's garage to complain about the Uzi purchase, and to seek a discount or an offset by means of some complimentary cocaine, Mr. Thompson once again discussed the price of cocaine. During this recorded conversation, UC 1 asked for a sample of Mr. Thompson's product. Mr. Thompson declined and said "Let me put it this way. No one has ever complained about my stuff. And I don't say mine's the best. I'll never say that. I'll say mine's consistent…I'll be honest with you; I buff mine just about half of what I sell. And I still beat everybody…I don't give anybody anything…If you want to try it, buy yourselves." Later he said "everybody says their stuff is top of the shelf. I don't never, ever say that. I'll say mine is consistent…you're not going to get any fucking weird shit in it…People come to me because it's consistent. People pay bigger bucks for me because I'm consistent and I produce."

On June 2, 2020

[38] While Easton was inside Mr. Thompson's garage, a female called Mr. Thompson's cellphone and she can be heard on the recording asking, "Are you at home? ... Can I come see you again?" Mr. Thompson replied "Yeah". Easton

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testified that shortly afterwards a woman entered the garage. I accept this evidence because I heard with my own ears a female speaking to Mr. Thompson and asking to come over. When she arrived, Mr. Thompson gave her a baggie containing a white substance in return for money that he put in his wallet. Mr. Thompson denied none of this from the witness box, and I find as a fact that it was a small cocaine transaction.

On June 25,2020

[39] Mr. Thompson was once again recorded discussing cocaine prices with Easton. He talked about how prices had risen sharply in recent times. In what I think was clearly referable to the price of a kilogram of cocaine, Mr. Thompson said that "three times ago" he was paying thirty (thousand)", but that more recently the price has risen to "fifties and sixties, seventies", and then "This time when I went over, it's ninety." Easton said "Holy fuck. What's it going to do? Hit six figures or what?" Mr. Thompson replied that he thought that was likely, saying that he was presently paying $2,812 for "his stuff." Easton said, "Times thirty-five, yeah", and Mr. Thompson replied, "That's exactly what it costs me."

[40] I agree with Crown counsel's interpretation of this exchange: Mr. Thompson was talking about paying $2,812 for an ounce of cocaine. At the time he was buying in smaller amounts because he did not want to get "stuck" with "a great amount" of very expensive cocaine if the price dropped back to more marketable levels. I note that there are roughly 35 ounces in a kilogram, hence Easton's reference to "Times thirty-five", and $2,812 multiplied by 35 is $98,420, in the very high price range for cocaine at the time that Mr. Thompson had been complaining about. During the same conversation, he said that he needs to make money, that he is "not in the business to break even", and that his goal was to make $600 profit per ounce. Easton and Mr. Thompson also discussed doing business together, and Mr. Thompson talked about buffing the cocaine with "Benzocaine, Novocaine or pig de-wormer" and/or cooking the cocaine to increase profitability.

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[41] Also on June 25, 2020, Mr. Thomspon was heard on the wiretap talking about the prices for a gram of cocaine. He said that he was "trying to keep prices as low as I can for my customers", and that he hated charging high prices and would not be doing so if he did not have to. He said that the only way he could make money at the moment was by selling cocaine by the gram. He also said that he has a customer base for his cocaine that includes his personal or lifelong friends, some of whom he grew up with or has known since they were kids. He complained once more about having to pay $90,000 for a "brick" or kilogram of cocaine. They talked again about buffing agents, including Inositol – five containers of which, I repeat for emphasis, were found in the same Pelican case with the Count 32 cocaine – and pig de-wormer.

[42] In summary, the wiretaps show with maximum clarity that Mr. Thompson was an experienced cocaine dealer with many years behind him in the business. The recordings capture him talking about how cocaine prices have risen over time and about buying large quantities of cocaine and actually trafficking cocaine to people inside his garage. Easton and the undercover operators were offered cocaine by Mr. Thompson, and they witnessed Mr. Smith taking cocaine offered by Mr. Thompson, in the midst of the Uzi transaction on February 25, 2020. Mr. Thompson told me during his sworn testimony that he purchased cocaine by the kilogram every two to three months. He also sold Percocet to Easton more than once, and the evidence satisfies me that he had been selling the same substance to Mr. Smith.

[43] This is a significant body of evidence, much of it, as I have said, objectively verifiable by listening carefully to the wiretap recordings. Mr. Thompson's testimonial denials about being a cocaine dealer are demonstrably false. He claimed that the four to six kilograms of cocaine that he admitted to purchasing per year were only for his personal use or to share with family, friends, and associates. This is preposterous, of course, especially at the prices that he constantly complained about having to pay, latterly over $90,000 per kilogram. On his own evidence he was buying hundreds of thousand dollars of cocaine per year, and he wanted me to

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believe that it was all for personal consumption or to give away for free for the consumption of others, this latter activity amounting to trafficking in any event.

[44] I have already said that I do not believe Mr. Thompson's evidence about much of anything. I do not doubt that he used some of his very large annual purchases of cocaine for his personal consumption, and there is evidence in the wiretap recordings that he sometimes offered it to others without charge. But on the totality of evidence, I have concluded with great confidence that most of it was sold for profit to the loyal and long-standing clientele that he bragged about repeatedly in the wiretap recordings, customers who kept coming back to him because of the consistency of his "stuff".

[45] I am amply satisfied on the totality of the evidence presented during this trial that Mr. Thompson was at the time, and had long been, a street- to mid-level cocaine trafficker, and I find beyond a reasonable doubt that the 488.3 grams of powder cocaine found inside of the Pelican case in his garage belonged to Mr. Thompson and was intended for re-sale to his customers. I find that it was the remaining half of the latest "brick" of cocaine that he had in stock for sale. It was found inside the same Pelican case, by the way, on top of which Mr. Thompson testified that he sometimes snorted "rails" of cocaine while "partying" in the garage, and inside of which, along with the cocaine, the police found five containers of Inositol, the very cutting agent that Mr. Thompson talked about with Easton on June 25, 2020. There were also many dime bags commonly used to traffic cocaine in small amounts. I find as a fact that this was the same Pelican case into which Easton saw Mr. Thompson stash the money that he had been paid for the Uzi, and from which he produced the tabs of Percocet that he sold to Easton.

[46] I have considered Mr. Thompson's argument that he was not at home when his house was searched. I accept the evidence offered by the Crown and corroborated by surveillance that he was returning from a fishing trip off the west coast of the Island when the police executed their warrant on August 14, 2020. He was arrested hours after the search when he returned home. I also note

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Mr. Thompson's argument that his fingerprints were not found on any of the items found in the Pelican case. It has also occurred to me that it may be somewhat unusual for a drug dealer to leave almost half a kilogram of cocaine in an unlocked case in his garage, especially if Mr. Thompson's lamentations about the price of cocaine at time were true, which would have put its worth at upwards of $45,000.

[47] Mr. Thompson's evidence with respect to Count 32 is that he is not, and never has been, a cocaine dealer, that the cocaine in the Pelican case was not his, and that many people had access to his house and the cocaine "could belong to anyone". I do not believe this evidence, nor does it raise a reasonable doubt in my mind about his guilt. On all of the evidence, especially that of Mr. Thompson's firm dominion over the house and the people in it; of his tight regulation over who entered the garage; of his being the only person seen using or accessing the Pelican case; of his long history, established not only by the wiretap recordings but by his own testimony, of distributing cocaine and buying it in kilogram amounts every few months; and of the dime bags and containers Inositol, one of his favoured cutting agents, found alongside the cocaine inside the Pelican case, in my view the only rational inference to be drawn is that the half-kilo of cocaine belonged to Mr. Thompson, and his purpose in possessing it was to traffic it to his customers, family and friends, just as he had been doing for many years in the ordinary course of his trade.

[48] I would note, as well, that in the master bedroom of the house, which I find as a fact was occupied by Mr. Thompson and his wife, the police located roughly $30,000 in neatly bundled Canadian cash, mostly in $20 and $50 denominations. I reject Mr. Thompson's evidence that this money came from his commercial fishing activities, which he conceded elsewhere in his evidence did not pay well. These currency denominations, in my experience dealing with cases of this kind over the years, are consistent with the sort of activity Mr. Thompson discussed with the police agent in the June 25, 2020, wiretap recordings: namely selling cocaine to his customers in smaller, gram amounts – the sort of activity, in fact, that the police agent witnessed first-hand in Mr. Thompson's garage on June 2, 2020, when, as

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previously mentioned, an unknown female called Mr. Thompson and came by the garage to make a purchase. I find Mr. Thompson guilty of Count 32 beyond a reasonable doubt.

[49] In summary, I find Mr. Smith guilty of every count in the indictment in which he is named, including Counts 6 and 19, the only ones that he disputed. Mr. Thompson has invited me to convict him on Count 19, and for the reasons given in this judgment a conviction is entered on that count. The evidence against him is conclusive of his guilt beyond a reasonable doubt independent of his invitation. As for the counts of the indictment that resulted from the search of his residence on August 14, 2020, I have concluded beyond a reasonable doubt that he was in unlicensed possession of the items found in the gun safe in his garage listed in Counts 24-28 and Count 30. Because he has admitted, and the evidence amply establishes, that he was bound by a court order prohibiting him from possessing those items, he is guilty of Count 31 as well. I find him not guilty of Count 29 (possession of the Uzi stun gun). For the reasons given just now, I find him guilty of Count 32, possession of cocaine for the purposes of trafficking.

"Baird J."

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