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HIGH COURT OF JUSTICE, ENGLAND — QUEEN'S BENCH DIVISION

BIRD v ADAMS

Lord Widgery, O'Connor and Lawson JJ

21 July 1971 — [1972] Crim LR 174

CRIMINAL LAW – POSSESSION OF LSD DRUGS – FIFTEEN LSD TABLETS – ADMISSIONS MADE BY DEFENDANT AS TO HOW THE DRUGS CAME INTO HIS POSSESSION – DEFENDANT CHARGED WITH POSSESSION OF DRUGS – 'NO CASE' SUBMISSION REJECTED BY THE COURT – WHETHER COURT IN ERROR: *DRUGS (PREVENTION OF MIS-USE) ACT* 1964 (UK).

HELD: Appeal dismissed. Magistrates not in error in holding that there was a case to answer.
1. This was the kind of case in which the Appellant had certainly sufficient knowledge of the circumstances of his conduct to make his admission at least *prima facie* evidence of its truth and that was all that was required at the stage of the proceedings at which the submission to the Magistrates was made.

2. Accordingly, the Magistrates rightly held that there was a case to answer and the appeal was dismissed.

THE LORD CHIEF JUSTICE (LORD WIDGERY): This is an Appeal by Case Stated by Justices for the County of Essex sitting at Chelmsford who on 4 February 1971 convicted the present Appellant on an information alleging that at Chelmsford on 11 December 1970 year he did have in his possession substance for the time being mentioned in the Schedule to the *Drugs (Prevention of Mis-Use) Act* 1964, without being duly authorised.

The Justices set out the brief facts of the case which were these, that the Appellant was approached by a police officer who said "I have reason to believe that you were in possession of LSD last Friday in the vicinity of the Saracen's Head Public House in Chelmsford. I am arresting you on that suspicion and am taking you to Chelmsford Police Station".

When they went to Chelmsford Police Station, the police officer interrogated the Appellant in regard to his alleged possession of LSD on the previous Friday. He cautioned him in accordance with the *Judges Rules* and repeated the statement and for some time the Appellant made no admission but eventually he said, so the Justices found, to the police officer "I'll tell you if you like" and he was then asked specifically if he was in possession of LSD on Friday at the Saracen's Head in Chelmsford and he said "Yes, I was". The question was put "How much did you have?" and he said "Fifteen tablets. I bought them in London at the beginning of the week". He was asked who he bought them from and he said "I'd rather not say, he's a friend of mine" and then he went on again to deal with certain other matters to which I need not refer. The essence of it is that in the course of that interview he confessed or admitted that he had been in possession of a prohibited drug on the day in question.

Now when the case was heard before the Magistrates, at the conclusion of the Prosecution case, which really consisted of nothing more than the evidence of the police officer to which I have referred, there was a submission of no case to answer, and the basis of the submission was this, that although the Appellant had admitted possession of what he thought to be LSD, there was no independent proof that the drug was in fact LSD, and that it might have been some innocuous substance sold to the Appellant under a fraudulent description and so it was submitted that there was no case to answer because the vital element of the Prosecution case, namely that the drug was a prohibited drug, had not been established by an admission of the Appellant who himself could not know whether that which he carried was or was not the genuine drug.

Now the Justices rejected that suggestion, at least they were not influenced by it. They held there was a case to answer and on the case proceeding the Appellant gave no evidence and

he was duly convicted.

Mr Reney-Davies before us today returns to the original submission in the case and says that the Justices should have upheld the submission of no case because the admission of the Appellant in the circumstances of this case was of no evidential value at all.

Now it is clear from the authorities which have been put before us that there are many instances where an admission made by accused person on a matter of law in respect of which he is not an expert is really no admission at all. There are bigamy cases where a man has admitted a ceremony of marriage in circumstances in which he could not possibly have known whether in truth he had been married or not because he was no expert on the marriage ceremonial appropriate in the particular place. It is quite clear that there are cases of that kind where the person making the admission lacks the necessary background knowledge to be able to make the admission at all.

Again we have been referred to *Comptroller of Customs v Western Lectric Co Ltd* [1966] AC 367; [1965] 3 All ER 599 where a man made an admission in regard to the country of origin of certain goods when he had no idea at all where the goods had come from. Again it was held that this admission was worthless because it was an admission of a fact to which he had no knowledge at all, and in respect of which no valid admission can be made.

Mr Reney-Davies submitted that the present case is a like case with that, but in my judgment this is not so. If a man admits possession of a substance which he says is a dangerous drug, if he admits it in circumstances like the present where he also admits that he has been peddling the drug, it is of course possible that the item in question was not a specific drug at all but the circumstances is not an admission of some fact about which the admitter knows nothing. This is the kind of case in which the Appellant had certainly sufficient knowledge of the circumstances of his conduct to make his admission at least *prima facie* evidence of its truth and that was all that was required at the stage of the proceedings at which the submission to the Magistrates was made.

In my judgment the Magistrates rightly held that there was a case to answer and I would dismiss the appeal.

Mr JUSTICE O'CONNOR: I agree.

Mr JUSTICE LAWSON: I agree. I would just add this, that the situation in my judgment seems very similar to the situation which can and frequently does arise when people are charged with handling stolen goods under Section 22 of the *Theft Act*. In many cases it is not possible for those responsible for prosecutions to prove that goods are in fact stolen goods. It may not be known from what source they emanate, but if the person charged has made some statement relating to the circumstances in which he acquired possession of these goods, it is quite legitimate and proper for inferences to be drawn from evidence of that statement that the goods are in fact stolen. This is in fact a common situation and a situation which seems to me to be very close to present case. I agree and have nothing further to add.

APPEARANCES: for the appellant Bird: Mr D Reney-Davies, counsel. Leonard Gray & Co of Chelmsford, solicitors. For the respondent Adams: Mr B Higgs, counsel. T Hanbury-Jones of Chelmsford, solicitor.
