

*Case Name:*  
**R. v. Mullings**

**Between**  
**Her Majesty the Queen, and**  
**Ricardo Bradford Mullings**

[2010] O.J. No. 5028

Ontario Superior Court of Justice

**T.M. Dunnet J.**

Heard: July 8, 2010.  
Oral judgment: July 8, 2010.

(9 paras.)

**Counsel:**

Mr. J.: Mitschele Crown.

Mr. R.: MacDonald Accused.

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**REASONS FOR SENTENCE**

- 1) **T.M. DUNNET J.** (orally):-- Ricardo Mullings has been found guilty, following trial by jury, of trafficking on August 24, 2005 in five ounces of crack cocaine and one ounce of powder cocaine.
- 2) Mr. Mullings is 40 years of age and came to Canada from Jamaica 22 years ago. He has six children. He has no formal education and cannot read or write. At the time of these events, he worked as a barber.
- 3) Mr. Mullings has a criminal record for aggravated assault in 1990, possession of a narcotic (x 2) in 1992 and trafficking in 2000; in 1992 he was also convicted of failing to comply with his recognizance.
- 4) On behalf of the prosecution and the defence, a joint submission has been proposed of three years in the penitentiary. The prosecution and defence differ as to the amount of credit that should be applied for the four-and-one-half years Mr. Mullings has served under house arrest and restrictive bail conditions.

- 5) While I am not obliged to accede to the proposal, I am of the view that the proposed joint submission is within the range of sentence that is just and appropriate and addresses the applicable principles of sentencing. It takes into account the circumstances of this offence and the moral blameworthiness of this offender. I see no good reason to depart from the joint submission.
- 6) As to any credit for the time that Mr. Mullings has served under house arrest, this issue is within the discretion of the Court. The Crown has suggested three months' credit and the defence has suggested between six and twelve months' credit. I have considered the various factors that are referable to this particular matter; part of the reason for this somewhat "dated" case is explained by Mr. Mullings having changed counsel on two occasions before his present counsel, Mr. MacDonald, agreed to represent him on his trial. In addition, Mr. Mullings breached his bail conditions in 2008. Finally, there was an exemption in his bail conditions to permit him to work throughout the period that he was under house arrest. There has been no evidence placed before me as to any impact on Mr. Mullings as a result of his bail conditions. Moreover, he has expressed no remorse.
- 7) Accordingly, I have decided to give him credit for three months of pre-sentence house arrest. In addition, there will be a forfeiture order of \$2367 in Canadian funds, \$23 in American funds and 20 Euros. There will be a s. 109 order for life and an order under s. 487.051, directing Mr. Mullings to provide a DNA sample.
- 8) THE COURT: I cannot leave this case without telling counsel that as I'm entering a third decade as a judge on this bench I can count on one hand the number of times I have said what I'm about to say to counsel, gentlemen, your courtesy, your civility and your professionalism with one another and to the Court in these proceedings is, in my view, a testament to your considerable skills as advocates, and I thank you very much for your assistance in this matter.
- 9) MR. MITSCHLE: Thank you, Your Honour, thank my friend. It's been a pleasure.