

FILED
2017 MAY -4 A 10:17
WINLOW
CLERK OF COURTS
CUYAHOGA COUNTY

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

THE STATE OF OHIO,)	CASE NO. CR 16 612584
)	
Plaintiff,)	JUDGE JOHN P. O'DONNELL
)	
-vs-)	<u>JUDGMENT ENTRY</u>
)	<u>AFTER A BENCH TRIAL</u>
)	
KEVIN HOOKS,)	
)	
Defendant.)	

John P. O'Donnell, J.:

Defendant Kevin Hooks is charged with a single count of corrupting another with drugs in violation of section 2925.02(A) of the Ohio Revised Code. The state alleges that on December 13, 2016 Hooks knowingly by deception induced or caused Bernard Antonio Parker to use a controlled substance, namely Delta-9 Tetrahydrocannabinol, a Schedule I drug. After the defendant waived a jury the case was tried to the court on April 19, 2017.

The facts

Parker has worked since October 2016 as an enrollment center representative for the Cuyahoga County Community College at its Metro campus, 2900 Community College Drive in Cleveland. His job involves assisting students in registering for classes, making tuition payments and related activities. On December 12, 2016 he met Kevin Hooks, who was then

enrolled at Tri-C. The fall semester was almost over and Parker discussed with Hooks the schedule for the next semester. But Parker was not able to enroll Hooks in the coming semester's classes because there was an administrative hold on Hooks's account that required action from the dean's office before a new schedule could be completed.

While the two were working on the schedule the conversation turned to Hooks's personal life and he revealed to Parker that his girlfriend had just had a miscarriage and he was having trouble at work. Hooks appreciated the personal attention that Parker gave to him. Eventually Hooks left and Parker told him to return for help after the dean's hold was lifted.

Hooks returned on December 13 to the table where Parker was seated with a coworker, Nawadir Nayyef. The conversation resumed and, according to Parker, he still couldn't do much for Hooks because the hold had not been resolved. Hooks claims the hold had been cleared but that he intended to register for classes himself since Parker had already helped him map out a schedule the day before. In any event, Hooks offered a chocolate chip cookie to Parker and Nayyef. Nayyef did not respond to the offer but Parker accepted. Hooks then left the table for a short time and came back with a cookie in a paper napkin and gave it to Parker.

Hooks had made the cookie at home using cannabutter: melted butter infused with marijuana.

Hooks knew the cookie had marijuana in it and testified that when he offered the cookie to Parker he told him it was an "adult cookie" and that he winked and mouthed the words "green" and "weed." Parker agrees that Hooks made some sort of subtle gesture to him that day, but believes it was an allusion by Hooks to the fact that Parker was working with an attractive woman. Parker does remember Hooks describing the cookie as "extra buttery" but denies ever being told there was marijuana – the active ingredient of which is THC, a Schedule I drug – in it.

He has never used any street drugs and would not have knowingly consumed a marijuana cookie.

Parker ate the chocolate chip cookie and did not notice any taste, smell or texture out of the ordinary.

But by the time he left for lunch a short while later he was feeling “not so hot.” He went to a hamburger restaurant to meet a friend and was feeling “a way I’ve never felt before.” He described it as feeling as if he were out of his body. He drove back to work – he doesn’t really remember how – and told Nayyef he felt sick, possibly from the cookie, and needed to go to the hospital. By this time Nayyef noticed Parker was “loud” and “laughing” and acting “out of control.” A supervisor was called and Parker was brought to another building. He was observed there by Stanley Hardy, an officer on the Tri-C police department, who said Parker could not stop laughing and kept mentioning that he “felt so high.” Hardy was acquainted with Parker and found this behavior out of character.

Parker told Hardy that there must have been something in the cookie Hooks had given him.

Parker was brought to St. Vincent Charity Hospital where he continued to act strangely. A blood test was done and Parker tested positive for THC.

Hooks gave a statement to a detective with the Tri-C police the next day and admitted to giving Parker a marijuana cookie but asserted that he told Parker of the illicit ingredient. When he gave that statement he had with him 13 marijuana cookies in a cellophane bag.

The indictment was returned on January 31, 2017.

The law

R.C. 2925.02(A)(1) provides that no person shall knowingly do any of the following: by force, threat, or deception, administer to another or induce or cause another to use a controlled

substance. The state is not claiming that Hooks employed force or a threat, nor does the state claim Hooks administered a controlled substance. The state must therefore prove, beyond a reasonable doubt, that Hooks knowingly, by deception, induced or caused Parker to use a controlled substance.

There is no question that Hooks knowingly caused Parker to use a controlled substance. Hooks concedes that he gave the cookie to Parker fully aware that it contained marijuana, a Schedule I drug, knowing that Parker would consume it. Hooks's defense is that there is no evidence that he knowingly deceived Parker into using the drug.

"Deception" means knowingly deceiving another or causing another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact. R.C. 2913.01(A).

There was no false or misleading representation here. Hooks made no express statement to the effect that there were no drugs in the cookie.

But Hooks did withhold information. Even assuming the defendant's testimony about his oblique references to the druggy nature of the cookie is true, he never unambiguously told Parker the cookie was laced with drugs.

This leaves the question of whether the deception - creating the false impression that it was nothing but an ordinary cookie - was knowing. Hooks argues that he told Parker it was an "adult" cookie that was "green" with "weed," and then winked at Parker, so if Parker didn't get the message it wasn't because Hooks didn't try to deliver it, hence he did not *knowingly* deceive Parker about the real nature of the cookie.

A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result. R.C. 2901.22(B). In this case, the probable result of which Hooks must have been aware is Parker's belief that the cookie was drugless. When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact. *Id.* In other words, did Hooks believe there was a high probability that Parker didn't know the cookie had drugs in it? The answer to that question is yes.

This conclusion is supported by the evidence. Initially, there is no question that Parker was not aware drugs were in the cookie. Anyone, even a drug user, would likely be reluctant to accept a drug-laced cookie from a person they hardly knew. Second, Parker's testimony that he is not a drug user and would not knowingly use drugs is credible and supported by Nayyef, Hardy and Rena Mason (Parker's boss), all of whom testified he had never seemed high before December 13. His pre-employment drug screen at Tri-C about two months earlier was negative. Moreover, there is no record evidence that even implies Parker would take a marijuana cookie from essentially a stranger to get high at work. The opposite is true: it was Parker himself who first suggested that he needed to see a doctor.

And Parker didn't know the cookie was drugged because Hooks didn't tell him explicitly that it was and, since he didn't know Parker, Hooks could not have reasonably believed his code words and winks communicated the information.

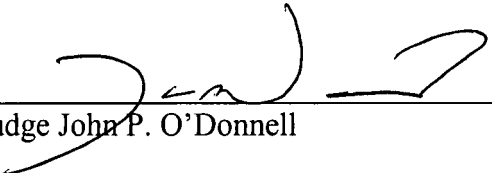
Of course, I cannot say why Hooks gave Parker a drugged cookie without telling him. But the state need not prove Hooks's motivation. And it is just as inexplicable that Hooks – whose relationship with Parker consisted of about five to ten minutes of enrollment counseling –

would openly offer Parker a drug-laced cookie.

Conclusion

For the reasons given here, I find beyond a reasonable doubt that, on December 13, 2016, in Cuyahoga County, defendant Kevin Hooks knowingly, by deception, cause Bernard Antonio Parker to use a controlled substance, namely THC, a Schedule I drug. Accordingly, the defendant is guilty of the crime charged in the indictment.

IT IS SO ORDERED:



Judge John P. O'Donnell

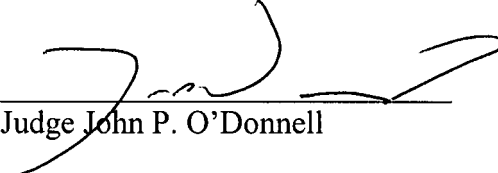
Date: May 4, 2017

SERVICE

A copy of this journal entry was sent by email on May 4, 2017 to the following:

Kelly C. Needham, Esq.
kneedham@prosecutor.cuyahogacounty.us
Assistant prosecuting attorney for the State of Ohio

David H. Brown, Esq.
DAVID@DHBROWNLA.W.COM
Attorney for defendant Kevin Hooks



Judge John P. O'Donnell