



ILLEGAL DRUGS – WHEN SHARING MEANS TRAFFICKING

Sebastian [not his real name], a student with a promising future, went to a party to celebrate a friend’s birthday. There was a lot of drinking that evening and the atmosphere was electric. Sebastian hoped the party would go on all night long. Over the course of the evening, he offered to share with his friends five pills containing speed he had brought especially for the event. Sebastian does not use this substance on a regular basis, but sometimes does so on special occasions. Strictly speaking, Sebastian has never bought drugs. Instead, he shares his friends’ drugs. In fact, a few weeks earlier, one of his friends, who is a drug user, had simply given him the five speed pills in question. So, at around 1 a.m., Sebastian gathered his friends together and gave each of them one pill free of charge, which they then agreed to take together.

In hindsight, if Sebastian were asked if he had committed a criminal offence that evening, he would probably reply that he had merely committed the offence of SIMPLE POSSESSION of a prohibited substance, i.e., the five speed pills.

In fact, however, Sebastian clearly committed the offence of **TRAFFICKING** in a substance listed in Schedule I of the *Controlled Drugs and Substances Act* (hereinafter the “CDSA”), an indictable offence punishable by a maximum sentence of imprisonment for life.

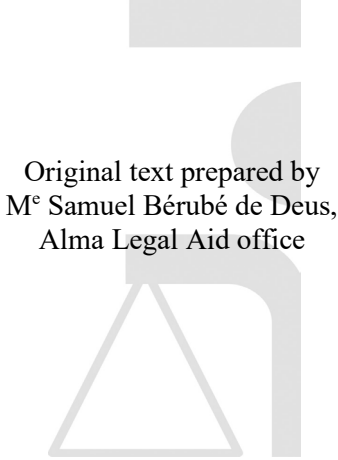
If confronted with this reality, Sebastian would predictably reply that he does not consider himself to be a “trafficker” or “seller”, since he is obviously not involved, directly or indirectly, in dealing or selling drugs. Moreover, Sebastian would probably add that this was a one-off gesture, specifying that he himself has never bought narcotics and that his very occasional use does not impair his social or professional functioning.

These elements, however, do NOT exonerate him from the offence of **TRAFFICKING**.

Contrary to popular belief, a person who actually GIVES a substance listed in the schedules to the CDSA, for example by sharing that substance with a third party, commits the offence of trafficking. Moreover, the offence is committed even if the prohibited substance is shared at no cost. Finally, the offence is committed even if the person handing over the drugs is not a “trafficker” within the common meaning of the term, and even if this is a one-time gesture.

As for the facts surrounding the situation, whether or not Sebastian had the intention to deal in prohibited drugs is irrelevant. As defined by the [CDSA](#), trafficking covers a wide variety of acts. It means not only to sell drugs, but also “to administer, give, transfer, transport, send or deliver the substance”, regardless of the underlying motive and whether or not there is an intention to make a profit. The provision therefore covers giving a small quantity of drugs to a friend, or trafficking solely to satisfy one’s own consumption needs. Finally, the offence applies equally to a professional drug dealer who sells dangerous substances for profit, as it does to a person who possesses a small quantity of drugs he intends to share with a friend, spouse or fellow addict.

For more information, don’t hesitate to contact a legal aid lawyer in your area at a legal aid office near you. To find the contact information for your legal aid office, please click on the following link: www.csj.qc.ca



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* The information set out in this document is not a legal interpretation.

The masculine is used to designate persons solely in order to simplify the text.