

**244069-3-B, 244069-4-BC
Vancouver Registry**

**In the Provincial Court of British Columbia
(BEFORE THE HONOURABLE JUDGE SUTHERLAND)**

**Vancouver, B.C.
April 10, 2019**

REGINA

v.

PATRICK HENRY FOX

**PROCEEDINGS AT
JUDICIAL INTERIM RELEASE HEARING**

BAN ON PUBLICATION 517(1) CCC

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Crown Counsel:

P. Tomasson

Appearing on his own behalf:

Patrick Fox

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4 MS. TOMASSON: Just waiting for Mr. Fox, Your Honour.
5 THE COURT: Sir, you're Mr. Fox?
6 THE ACCUSED: Yes, I am.
7 THE COURT: Thank you.
8 MS. TOMASSON: Yes, Your Honour, for the record, Patti
9 Tomasson appearing for the Crown. Calling the
10 matter of Patrick Fox. This matter is for bail
11 hearing today, Your Honour.
12 And just to provide you with a bit of
13 background, because Mr. Fox first appeared -- Mr.
14 Fox, I believe you can sit down --
15 THE ACCUSED: Actually, before we begin, may I borrow a
16 pen from someone.
17 MS. TOMASSON: I have brought --
18 THE ACCUSED: I'm not allowed to bring --
19 MS. TOMASSON: -- a pen and paper for Mr. Fox.
20 THE ACCUSED: Great, thank you. And I would like to
21 again, before we begin, I'd like to express my
22 strong opposition to the publication ban that was
23 ordered last week. I oppose any publication bans
24 whatsoever, and the Crown had requested it,
25 supposedly on my behalf, but I certainly would not
26 want any publication bans in place. Can we -- is
27 it possible to have that vacated?
28 THE COURT: Well, I'll tell you what, we'll -- we'll
29 get to that in a moment.
30 THE ACCUSED: Sure.
31 THE COURT: I'll just let Ms. Tomasson finish
32 introducing herself --
33 THE ACCUSED: Thank you.
34 THE COURT: -- and giving me just a little bit of a lay
35 of the land where things start.
36 MS. TOMASSON: Yes, Your Honour. Mr. Fox first
37 appeared in custody on -- last Friday, and at that
38 time he appeared initially in courtroom 101 where
39 he expressed his desire to represent himself -
40 duty counsel did speak with him - and then we went
41 up to a court for a bail hearing and another judge
42 went through with him in detail what was going to
43 happen, the Crown was seeking his detention and
44 that -- strongly advised him to seek
45 representation.
46 He spoke with duty counsel again and chose
47 not to represent himself. That took some time.

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1 And then, we were in front of a third judge who
2 again strongly advised him to seek some
3 representation, and in fact, duty counsel was
4 there that afternoon.

5 Mr. Fox chose on all occasions not to
6 represent himself. He appeared in courtroom 101
7 this morning and expressed to the judge there that
8 he wanted to represent himself. That is why he is
9 here representing himself, Your Honour.

10 At the last hearing on Friday there was -- I
11 made an application on his behalf, that is
12 correct, under Section 517 for a publication ban.
13 In the Crown's submission, that is appropriate in
14 these circumstances where there will be a bail
15 hearing.

16 The allegations are breaches of probation,
17 but we will be discussing the underlying
18 circumstances of the last conviction that are
19 quite serious, and in relation to these
20 proceedings, the Crown is of the opinion that it
21 is in his best interest.

22 Mr. Fox, from time-to-time, has stated things
23 that are not in his best interest and for those to
24 be published in the media, in the Crown's
25 submission, would be detrimental to him.

26 There is also an outstanding investigation
27 that I will be speaking of, and I would not want
28 that to prejudice what might be further charges
29 against Mr. Fox, which may not be in front of a
30 provincial court judge, but may be.

31 Last time he was in court, Your Honour, on
32 the criminal harassment and firearms charges, he
33 chose to represent himself in a jury trial, and so
34 I would not want, if there are further charges
35 coming out, that any of these proceedings be in
36 the media prior to conviction.

37 THE COURT: Okay. Mr. Fox, I'm going to address two
38 things with you. Firstly - so just stand up - I
39 understand that you were in court, from what Ms.
40 Tomasson said, on Friday, April 5th, and you
41 wanted counsel to assist you.

42 You're here today saying that you're prepared
43 to represent yourself. Did you want counsel to
44 assist you today?

45 THE ACCUSED: No, no, I did not. I also did not Friday
46 of last week. I spoke briefly with the duty --
47 duty counsel, and I think that that was sufficient

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1 for me to decide that I definitely did not want
2 duty counsel representing me.

3 THE COURT: Did you want to -- okay, but maybe not duty
4 counsel, but did you want some time to see if you
5 could procure other counsel?

6 THE ACCUSED: I am 100 percent confident that any
7 lawyer that would represent me that would be paid
8 by LSS, would absolutely not operate in my
9 interests, based on my experience with the three
10 lawyers that I've dealt with previously in this
11 matter.

12 THE COURT: All right. What about -- and I don't want
13 to get into this too much --

14 THE ACCUSED: Mm-hmm.

15 THE COURT: -- but you've mentioned lawyers provided to
16 you through LSS, Legal Services Society. What
17 about privately retaining counsel, is that
18 something you're interested in, or -- or
19 specifying with Legal Services Society, which
20 lawyer you would like and speaking to that lawyer
21 to see if they would take it on a Legal Services
22 Society retainer?

23 THE ACCUSED: I would be open to that, and again, my
24 experience has been that it seems that lawyers
25 from outside of the Vancouver area, I would have
26 much more confidence in.

27 THE COURT: Lawyers from --

28 THE ACCUSED: Not --

29 THE COURT: -- outside Vancouver?

30 THE ACCUSED: Right, right, because from -- from what
31 I've seen, discussing the matter with other people
32 who have had similar experiences to what I have
33 had, it seems that lawyers from outside of the
34 Vancouver area are much more likely to raise the
35 issues that have been going on in my case -- well,
36 that I say have been going on in my case. The
37 ineffective assistance, etc., the collusion
38 between the Crown counsel and the defence
39 attorney, etc.

40 THE COURT: Okay. Well, given -- let's -- let's talk
41 about this a little bit more. Given the stakes,
42 and the stakes are high, obviously, your liberty
43 is -- is at interest in this bail hearing. Just
44 hear me out for a second.

45 THE ACCUSED: Yeah, yeah.

46 THE COURT: I don't want to push on unless you are 100
47 percent comfortable and confident that you,

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1 through counsel, if that's how you'd like to do
2 it, are able to put your best foot forward,
3 because as has probably been explained to you, you
4 don't -- you don't have opportunities for bail as
5 of right, once you are detained.

6 So, for example, if you run a bail hearing
7 and the court detains you, then you have limited
8 options to get back in front of the court to
9 reapply for bail, because the review would need to
10 take place up at Supreme Court, transcripts need
11 to be ordered, that takes time for scheduling. Or
12 in the alternative, Crown counsel would have to
13 agree and that's something within their discretion
14 that you may not have any control over. Or, you
15 would have to at least wait 90 days before you
16 could possibly get back before.

17 So the stakes are high, and I don't -- I'm
18 reluctant to have you forge ahead unless you think
19 that the best possible case can be put forward for
20 your release.

21 So prefacing my next question with those
22 comments, do you want a little bit of time to see,
23 to speak to lawyers privately, or to see if (a)
24 you can afford one; or (b) if they were taken on a
25 Legal Services retainer? It could be counsel from
26 outside of the Lower Mainland, if that's where
27 your confidence lies.

28 THE ACCUSED: Allow me to say, before I answer that
29 directly, since I have no status in Canada, I
30 would think that I would inherently be a flight
31 risk. I am not a Canadian citizen. My presence
32 in Canada is illegal. So given that, I find it
33 highly unlikely I'm going to be granted bail
34 anyway.

35 And even if I was released on bail, I'm not
36 authorized to work in Canada, I have no place to
37 go, so I'm not even sure that I would -- I don't
38 want to say I don't want to be released. It's
39 just that if I am released, I'm in a much worse
40 situation than I am staying in jail. And even if
41 there were no proba -- or bail conditions, there's
42 still the probation conditions which prohibit me
43 from leaving a country that I have no status in,
44 that I'm not allowed to work in.

45 I mean, the whole thing seems to me to be an
46 incredible farce, just keep me in jail, what's the
47 point?

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1 THE COURT: Well, ultimately that's another option, you
2 can consent to remain in jail.

3 THE ACCUSED: Well, I certainly don't want to consent,
4 and then later people are going to say, oh, well,
5 you consented to it, you know. So I have to fight
6 it as much as I can, just so I can say --

7 THE COURT: Okay.

8 THE ACCUSED: -- I did everything I could.

9 THE COURT: I -- I understand. Do you want to have
10 counsel assist you in that process, or do you feel
11 that you want to go ahead on your own today?

12 THE ACCUSED: I honestly don't think it's going to make
13 any difference either way. So I might as well
14 just do it on my own. And I say all this with the
15 utmost respect for the court.

16 THE COURT: No, and I --

17 THE ACCUSED: I'm not trying --

18 THE COURT: You know --

19 THE ACCUSED: -- to be disrespectful.

20 THE COURT: And, Mr. Fox, nothing you've said is
21 disrespectful to the court, so --

22 THE ACCUSED: Okay.

23 THE COURT: -- so I appreciate that. I don't take any
24 -- any offence to anything you said.

25 Well, I'm -- I can't give you legal advice --

26 THE ACCUSED: Mm-hmm.

27 THE COURT: -- obviously, so I -- I'm going to stop my
28 inquiries there. I think I've expressed my
29 concerns to you, which probably echo the same
30 concerns that other judges said, which is the
31 stakes are high at a bail hearing. Your liberty
32 is at stake. It's important to put your best foot
33 forward. I can't tell you -- I can't give you
34 legal advice. If you're saying, look at, I just
35 want to go ahead, and this is how you've
36 rationalized going ahead, this is how you've
37 explained to me, I can't deny you the right to
38 have a bail hearing. And so if that's what you
39 prefer to do, then we'll have your bail hearing.

40 THE ACCUSED: Okay.

41 THE COURT: Okay, you're comfortable with that?

42 THE ACCUSED: Yes, I am. Thank you.

43 THE COURT: Okay.

44 THE ACCUSED: Um --

45 THE COURT: Thanks. Now we'll move on to the
46 publication ban, but just have a seat --

47 THE ACCUSED: Sure.

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1 THE COURT: -- for one second. I just want to read the
2 -- I just want to read 517 one more time. I'm
3 just going to read the section, Mr. Fox, again,
4 with respect to the publication ban.
5 Ms. Tomasson --
6 MS. TOMASSON: Yes, Your Honour?
7 THE COURT: -- you've expressed the reason why the
8 Crown applied for a publication ban, which was
9 essentially bending over to assist Mr. Fox --
10 MS. TOMASSON: Yes, Your
11 THE COURT: -- today and going forward?
12 MS. TOMASSON: Yes.
13 THE COURT: Actually, sorry, have a seat. I'll hear
14 from Mr. Fox --
15 MS. TOMASSON: Certainly, but --
16 THE COURT: -- again for a second --
17 MS. TOMASSON: -- in terms of --
18 THE COURT: -- unless there's something you want to
19 add.
20 MS. TOMASSON: Certainly. But in terms of the section,
21 since it directs a court to -- that they shall,
22 that's why the Crown made the application on
23 behalf of the accused, but we are making the
24 application on behalf of the Crown and it's a
25 discretionary order.
26 THE COURT: Yes.
27 MS. TOMASSON: And so, we are asking for it.
28 THE COURT: Okay.
29 MS. TOMASSON: Thank you.
30 THE COURT: I'm glad you clarified that because that's
31 -- that was on my mind --
32 MS. TOMASSON: Thank you.
33 THE COURT: -- as I just read the section.
34 Mr. Fox, you heard the Crown's justification
35 for seeking a publication ban. It's a concern for
36 your status today and going forward with respect
37 to details that were -- that are about to be
38 discussed at this bail hearing being published in
39 the media, and potential problems that may exist
40 for you as a result. Have you changed your view
41 having heard that?
42 THE ACCUSED: I have not, and I'm quite certain that
43 any -- any information or evidence that might come
44 up at this bail hearing, most likely is already
45 publicly assessible on the website anyway. I
46 mean, aside from any false allegations --
47 THE COURT: Okay.

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1 THE ACCUSED: -- or completely unfounded allegations
2 that the Crown might make. Those obviously would
3 not be.

4 THE COURT: Tell me this, out of curiosity --

5 THE ACCUSED: Certainly.

6 THE COURT: -- because most people err on the side of
7 caution, they don't want that information out
8 there.

9 THE ACCUSED: Mm-hmm.

10 THE COURT: They don't want that information out there
11 because once it's out there, they've lost all
12 control. Why do you -- why are you saying no
13 publication ban?

14 THE ACCUSED: I want everything in this matter, just
15 like with the trial before it, to be completely
16 public because I don't believe that I committed
17 any crime, I don't believe I committed criminal
18 criminal harassment.

19 The only way the Crown was able to get the
20 conviction was by having the defence attorney,
21 Tony Lagemaat, that was forced on me against my
22 objections, to do the cross-examination, to
23 collude with Mr. Myhre to suppress a huge amount
24 of evidence at the trial, and the proof in the
25 evidence of that also has already been published
26 on the website, so that's all publicly assessible
27 at this point.

28 THE COURT: Well, I gather there's also an outstanding
29 investigation that's going to be referred to
30 that's not out there, and --

31 THE ACCUSED: I --

32 THE COURT: -- maybe nothing comes of it --

33 THE ACCUSED: Mm-hmm.

34 THE COURT: -- and yet it could all be published and it
35 could stain you with information published on line
36 on -- potentially on the internet --

37 THE ACCUSED: Mm-hmm.

38 THE COURT: -- that never amounts to anything but the
39 stain remains. And that's something that I'm sure
40 you don't want to --

41 THE ACCUSED: Um --

42 THE COURT: -- risk.

43 THE ACCUSED: I understand that, and with respect to
44 that supposed investigation, I would insist, or
45 even demand, that the Crown charge me with
46 criminal harassment again for putting that website
47 back up, and I would insist that they charge me

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1 with violating probation for putting that website
2 back up, because if I did put that website up, it
3 would violate the probation order.
4 I would very much look forward to having
5 another trial for criminal harassment based on
6 that website.
7 And --
8 THE COURT: Okay.
9 THE ACCUSED: -- I know that the news media is only
10 going to write one side of this. They're only
11 going to write the stuff that makes me look very
12 bad. That's historically what they've done so far
13 in this matter.
14 But I still have the freedom and the
15 opportunity to publish the rest of the story that
16 the news media doesn't write, which, again, is on
17 the website. I --
18 THE COURT: All right. Well -- well perhaps what I'll
19 do --
20 THE ACCUSED: Sure.
21 THE COURT: -- in re -- if you asked for the
22 publication ban, it would be mandatory that I
23 would have to impose it. Crown counsel asks for
24 the publication ban, it's discretionary, so it's
25 -- I don't have to impose it.
26 Quite frankly, I'm in a total vacuum. I
27 don't know the circumstances at all. I'm going to
28 hear them real soon, so I don't really know what's
29 at play.
30 THE ACCUSED: Mm-hmm.
31 THE COURT: Why don't I hold off -- Ms. Tomasson,
32 what's the downside to me deferring my decision on
33 the publication ban?
34 MS. TOMASSON: Well, there is currently --
35 THE COURT: What am I --
36 MS. TOMASSON: There is currently --
37 THE COURT: What am I --
38 MS. TOMASSON: -- a publication ban in place.
39 THE COURT: Yeah. Yeah.
40 MS. TOMASSON: What I think --
41 THE COURT: I think it's --
42 MS. TOMASSON: -- Mr. Fox is asking --
43 THE COURT: -- removing --
44 MS. TOMASSON: -- is removing that.
45 THE COURT: Yeah.
46 MS. TOMASSON: And so at this point, there is no
47 downside because it will remain in effect unless

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1 you change it.
2 THE COURT: Yeah.
3 MS. TOMASSON: And so, any submissions I make, or any
4 submissions Mr. Fox makes at this time is still
5 covered by the ban.
6 THE COURT: No, I appreciate that, but --
7 MS. TOMASSON: So I don't --
8 THE COURT: -- what's the down --
9 MS. TOMASSON: I don't think there's any downside to
10 deferring your decision until you know more about
11 it.
12 THE COURT: That's what I'm going to do.
13 MS. TOMASSON: Yes.
14 THE COURT: You know what, Mr. Fox, I think what I'm
15 going to do is because I'm in a vacuum, and I do
16 have a responsibility to ensure, obviously,
17 fairness for you and fairness to the Crown, and
18 fairness to the public. These courts belong to
19 the public. They're -- they're not my courts, or
20 your courts.
21 And I'm in a bit of a vacuum. I -- quite
22 frankly, I know the outstanding charges against
23 you, because I've been handed them up, but I know
24 nothing about your case.
25 So what I'm going to do is I'm going to leave
26 it status quo and I'll defer my decision until I
27 hear a little bit more, okay?
28 THE ACCUSED: Certainly.
29 THE COURT: All right, you're comfortable with that,
30 good. Okay.
31 MS. TOMASSON: Yes, Your Honour, and there's one more
32 preliminary matter. At the last date, as well,
33 Mr. Fox requested that the Crown obtain some
34 documents that had been -- he had provided to the
35 Crown at a bail variation to -- rather a probation
36 variation hearing that was set in March in Supreme
37 Court, and so those documents I have obtained for
38 Mr. Fox. That was one of the main reasons why we
39 adjourned the bail hearing from last date, and
40 I've got copies for him and I just wanted to put
41 -- give those to him on the record --
42 THE COURT: Yeah.
43 MS. TOMASSON: -- so that it's --
44 THE COURT: Yeah.
45 MS. TOMASSON: And what I've done is I've provided
46 -- I've got copies that he can provide the court
47 with should he want to use this material --

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1 THE COURT: Okay.
2 MS. TOMASSON: -- during this hearing.
3 THE ACCUSED: Thank you.
4 MS. TOMASSON: And I just would like Mr. Fox to go
5 through that and confirm that those are the
6 documents that he was requesting.
7 THE ACCUSED: Yes. Yes, they are. This one won't be
8 necessary for this though. I'm -- I'm just
9 letting you know, I'm -- you have --
10 THE COURT: You -- you --
11 MS. TOMASSON: But is --
12 THE COURT: -- you can hang --
13 THE ACCUSED: I'll just put that --
14 THE COURT: -- onto it if you want, or you --
15 THE ACCUSED: -- aside, yeah.
16 THE COURT: -- could give it back to Ms. Tomasson.
17 THE ACCUSED: Right.
18 MS. TOMASSON: If -- if you don't require that, I'll
19 take that back.
20 THE ACCUSED: Well, I will require that later at the
21 probation -- or at the hearing in the violation
22 matter.
23 THE COURT: All right. Ms. Tomasson, are you ready to
24 proceed?
25 MS. TOMASSON: Yes, I am, Your Honour.
26 THE COURT: You've got a pen. You've got a pad there.
27 THE ACCUSED: I do, thank you.
28 THE COURT: You're ready to make notes.

SUBMISSIONS FOR CROWN BY MS. TOMASSON:

31
32 MS. TOMASSON: Yes, Your Honour. Mr. Fox is in custody
33 on three counts of breach of probation, and in the
34 Crown's submission, Mr. Fox should be detained on
35 the primary, secondary and tertiary grounds.
36 At first blush, Your Honour may be wondering
37 why it is that the Crown is seeking his detention
38 on what are usually not charges in which we seek
39 detention. But these charges arise out of a
40 Supreme Court order, which I will hand up to Your
41 Honour at this time, and I will provide copies to
42 Mr. Fox.
43 The first document --
44 THE COURT: Thank you.
45 MS. TOMASSON: -- is the conviction list, and I'd ask
46 that be marked as the first exhibit on the bail
47 hearing. That is the -- Mr. Fox's Canadian

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1 criminal record. As you'll see, he was convicted
2 on November 10th, 2017 of criminal harassment and
3 possession of firearms, and he was sentenced to
4 three years and 10 months.

5
6 EXHIBIT 1: JUSTIN conviction list for
7 Patrick Henry Fox
8

9 MS. TOMASSON: This next document is the probation
10 order that arose from the sentencing hearing. I'd
11 ask that be marked as Exhibit 2 in these
12 proceedings.

13
14 EXHIBIT 2: Probation Order that arose from
15 the sentencing hearing
16

17 MS. TOMASSON: And the conditions that we are dealing
18 with are Condition 5, in which he was to report
19 every four days to his probation officer;
20 Condition 9, in which he was prohibited from
21 leaving the Province of British Columbia, and
22 Condition 10 that he was not to be within 100
23 metres of the United States border.

24 THE COURT: So, Mr. Fox, these documents have been --
25 Crown counsel's asking that they be marked as
26 exhibits. That just means that they form part of
27 the evidence that ultimately I'll base my decision
28 on. I take it you have no problem with me looking
29 at these documents and --

30 THE ACCUSED: That's correct. I --

31 THE COURT: -- considering them?

32 THE ACCUSED: -- have no opposition.

33 THE COURT: All right, thank you. Are the copies that
34 I have, are they for me, or --

35 MS. TOMASSON: Yes, they are.

36 THE COURT: Okay, so I can mark them up?

37 MS. TOMASSON: Yes, Your Honour.

38 THE COURT: Okay, thank you.

39 MS. TOMASSON: Now, in order to understand the
40 seriousness of the breaches, Your Honour, I will
41 be going through the circumstances of the
42 underlying convictions, and in that regard I'll
43 hand up a copy of the sentencing decision, and
44 again, there's a copy for an exhibit, a copy for
45 Your Honour, and, of course, I'll provide Mr. Fox
46 with his own copy.

47 THE ACCUSED: Thank you.

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1 MS. TOMASSON: I'd ask that be marked as the next
2 exhibit.
3 THE COURT: Mr. Fox, you have no problem with me
4 looking at the decision? It's public, in any
5 event.
6 THE ACCUSED: No, I don't.
7 THE COURT: Thank you.
8 THE ACCUSED: Thank you.
9 MS. TOMASSON: Now, this
10 THE COURT: All right. So the decision will be Exhibit
11 3.
12 MS. TOMASSON: Thank you, Your Honour.
13
14 EXHIBIT 3: Photocopy of R. v. Fox [2017]
15 B.C.J. No. 2619, British Columbia and Yukon
16 Judgments, British Columbia Supreme Court
17
18 MS. TOMASSON: Now, these breach charges arise out of
19 this Supreme Court order which was imposed on Mr.
20 Fox after he was convicted of criminal harassment
21 of his ex-wife and firearms offences.
22 Now, at paragraph 5 of that decision at page
23 3 in the sentencing decision, in relation to the
24 criminal harassment, the court provides a brief
25 overview [as read in]:
26
27 Mr. Fox conducted a campaign to, as he put
28 it, make Ms. Capuano's life as miserable as
29 possible, hoping to drive her to suicide if
30 that could be done within the confines of the
31 law.
32
33 And, I'm quoting from paragraph 5, Your Honour.
34
35 It was a campaign conducted by means of
36 hundreds - probably thousands - of emails he
37 sent her, and sometimes to people she knew,
38 as well as by means of a website he created
39 in her name. These communications were
40 designed to embarrass and humiliate
41 Ms. Capuano by disseminating personal
42 information about her, to undermine her
43 relationships with her family members,
44 friends, and employers and work colleagues ,
45 to ruin her financially by preventing her
46 from keeping or gaining employment, and
47 generally to intimidate her.

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1
2 Now, Ms. Capuano and the accused had been in
3 a relationship. They were married. They had one
4 child together. And after they separated, there
5 was a custody battle over the child, and as a
6 result of that, Mr. Fox, who at that time he was
7 -- although Mr. Fox has said that he's a U.S.
8 citizen, he is not in the Crown's submission.
9 He's a Canadian citizen, born in Sudbury, Ontario.

10 The name in which he was born under was
11 Richard Reis, R-e-i-s, and Mr. Fox, when he
12 returned to Canada, changed his name to the name
13 upon which he's convicted under, Patrick Fox, and
14 has continued to maintain that he is, in fact, a
15 United States citizen for an -- very number of
16 years.

17 The last exhibit I will be handing up is a
18 decision from his conviction in the United States,
19 and I'll just be referring to the first page under
20 "Background " on the right-hand side of the page
21 [as read in]:
22

23 On November 5, 2008, following a jury trial,
24 the jury returned verdicts of -- on both
25 counts alleged against
26

27 As he -- he was then named, Mr. Reis, and he was
28 convicted of perjury and a false claim of
29 citizenship.

30 And what had occurred is that during a court
31 proceeding before an Immigration judge in October
32 of 2007, he took an oath to testify truthfully and
33 at that hearing he was found to have said that he
34 -- he alleged he was a United States citizen.
35 That was found to be false.

36 He was sentenced to 24 months in prison and
37 three years of supervised release.

38 Now, after returning to Canada he set up over
39 the course of a number of years a website, and
40 this is detailed at paragraph 13, page 4 of the
41 decision.

42 THE COURT: Sorry, of which decision?

43 MS. TOMASSON: Of the Fox, the sentencing decision on
44 criminal harassment. The sentencing decision of
45 Judge Holmes at paragraph 13, page 4 [as read in]:
46

47 The website includes personal details about

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1 Ms. Capuano, as well as purportedly
2 biographical details and information about
3 her character, preferences, and history. It
4 includes dozens, probably hundreds, of
5 photographs of Ms. Capuano in various aspects
6 of her life, sometimes also showing her
7 children (including her younger son in his
8 underwear), her current partner and her
9 previous partners, and the interior of her
10 home. The website details the location of
11 the home, with maps. The website also
12 details the history of the custody dispute,
13 from Mr. Fox's perspective, and includes
14 copies of the vast email correspondence
15 between him and Ms. Capuano.

16
17 Another section of the website focuses,
18 individual by individual, on the people
19 associated with Ms. Capuano. These include
20 her younger son (S.), her mother and her
21 father, her current partner and his mother,
22 and dozens of her friends and work
23 associates. A photograph of each person is
24 shown, together with contact information and
25 a description in, it seems, as much detail as
26 Mr. Fox was able to gather.

27
28 And I'll pause here that his background is in IT,
29 so he is very familiar with computers and how to
30 gain information.

31 Continuing on at paragraph 16 [as read in]:

32
33 A further section purports to detail contact,
34 by Ms. Capuano and people associated with
35 her, with courts of different types of
36 jurisdictions in the USA.

37
38 Finally, a series of dozens of blogs or
39 posts, most of them purportedly written by
40 Ms. Capuano, contains content designed to
41 humiliate and degrade her. For example, one
42 post has Ms. Capuano purportedly declaring,
43 in some detail, raging hatred of people of
44 non-white ethnic background. Another post,
45 entitled, "An Open Letter to All Prospective
46 Employers: Why You Should Hire Me", speaks
47 sarcastically and in vulgar language

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1 (purportedly in her voice) about why she
2 should be hired, the given "reasons" about
3 all weighing heavily against her (i.e. "I've
4 never accepted responsibility for everything
5 -- which is okay because so far there's
6 always been someone else to blame it on").
7

8 Now, this went on for some time with Ms.
9 Capuano trying to get the authorities to do
10 something which ultimately resulted in the laying
11 of the Indictment which had about a year-and-a-
12 half of the conduct, but there was conduct prior
13 to that.

14 But at paragraph 21 the court details an
15 email that he sent in July of 2014 concerning his
16 intent in relation to the website, and I quote [as
17 read in]:
18

19 I will destroy you-slowly and incrementally
20 ...[e]very moment of my life is focused on the
21 single goal.
22

23 At paragraph 23, detailing another email he sent
24 to her in December of 2014:
25

26 I know that the best way to hurt you,
27 permanently, is emotionally, not through your
28 reputation, finances, or career (remember I
29 told you many months ago that that other
30 stuff I was going to do was just to distract
31 you?). And what could be more effective than
32 for your child to utterly despise you because
33 of your own actions?
34

35 And then, at paragraph 25 [as read in]:
36

37 Indeed, most of Mr. Fox's emails to
38 Ms. Capuano, no matter the subject, was also
39 sent to G.
40

41 Which is the child; their child by that marriage.
42

43 This compounded the humiliation Mr. Fox
44 caused Ms. Capuano, and damaged her
45 relationship with G. It no doubt also caused
46 psychological harm to G. as well.
47

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1 Ms. Capuano did end up losing her employment, and
2 at paragraph 27 [as read in]:
3

4 Mr. Fox delighted in Ms. Capuano's loss of
5 her employment. In an email in November
6 2015, he said: "You will soon be homeless;
7 you have no money; nobody believes anything
8 you say anymore; nobody is coming to your aid
9 or defense; you will not be able to secure
10 another job as long as that website exists -
11 and it's not going anywhere as long as you're
12 alive".
13

14 At paragraph 29 the court commented:

15 The harassment --
16
17

18 THE COURT: Hang on one sec, Ms. Tomasson.

19 MS. TOMASSON: Certainly.

20 THE COURT: Mr. Fox, do -- I should have explained to
21 you at the outset how the proceedings work --

22 THE ACCUSED: Well, I --

23 THE COURT: -- and you may be -- you may have some
24 familiarity with it already, but Crown counsel is
25 seeking your detention so they need to
26 establish --

27 THE ACCUSED: Right.

28 THE COURT: -- that you ought to be detained. They are
29 pointing to three different grounds. They are
30 saying one, that you will likely leave the
31 jurisdiction of the courts if you were to be
32 released; two, if you were to be released from
33 custody, there is a substantial likelihood that
34 you will commit an offence, and that that offence
35 would be one that would harm the administration of
36 justice or endanger the public in some way; and
37 three, which is a broader ground, essentially,
38 that it would be contrary to the administration of
39 justice for you to be released as the public would
40 lose confidence in the administration of justice
41 if you were to be released.

42 And I'll go through these a little bit more
43 right before your -- you get your opportunity, but
44 -- so Crown counsel right now is laying the
45 foundation for their position, and you will have
46 an opportunity when Crown counsel is finished to
47 address those areas that I've just mentioned, and

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1 I'll repeat them to you and ensure that you
2 understand them. But you will have an opportunity
3 for sure.

4 THE ACCUSED: I -- I understand this. It's just -- I
5 don't think there's any dispute that I'm a jerk,
6 or a mean person, or I was very mean to Ms.
7 Capuano, so is this really necessary to have to go
8 through all this horrible stuff that I supposedly
9 did to her? I mean, nobody's disputing this.

10 THE COURT: Yeah. I appreciate that it's not in
11 dispute --

12 THE ACCUSED: Okay.

13 THE COURT: -- but ultimately I need to make the
14 decision and I don't know any of this stuff.

15 THE ACCUSED: All right.

16 THE COURT: So it --

17 THE ACCUSED: My apologies.

18 THE COURT: Yeah -- no, that's okay. So it will assist
19 me hearing these details.

20 Go ahead, Ms. Tomasson.

21 MS. TOMASSON: Thank you, Your Honour.
22 Paragraph 29 [as read in]:

23
24 The harassment was particularly insidious
25 because Mr. Fox kept Ms. Capuano in perpetual
26 fear of new ways he would devise to torment
27 her. Mr. Fox's professional expertise is in
28 information technology, and he appeared to
29 Ms. Capuano to have an alarming ability to
30 gain access to confidential information about
31 her and the people in her life. In an email
32 in January of 2017 [sic], he threatened to
33 infiltrate and expose her most personal life:

34
35 And then, further down, at the second quoted part
36 in an email (as read in):

37
38 Mr. Fox casually told Ms. Capuano that he had
39 acquired her medical records, "(unofficially
40 of course)". Then, in an email in November
41 2015, he threatened future action of several
42 types:

43
44 I was pretty direct when I told Detective
45 Tuchfarber that my intention was to do
46 everything in my power and capabilities to
47 make your life as miserable as possible, and,

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1 if possible, to the point that you ultimately
2 commit suicide. That would be my ultimate
3 desire...

4
5 At paragraph 31 [as read in]:

6
7 In various of his emails, Mr. Fox reminded
8 Ms. Capuano that he had firearms, and the
9 ability to cross the border (into the USA)
10 surreptitiously. In one email, he detailed
11 the logistics of bringing his firearms into
12 the USA and using them to kill Ms. Capuano
13 ...

14
15 And at the end of that paragraph [as read in]:

16
17 There can be no doubt that these
18 communications were meant to intimidate
19 Ms. Capuano, despite the caveat Mr. Fox
20 always included about remaining within the
21 confines of the law.

22
23 So he would make these threats, Your Honour, but
24 then say he wasn't serious about actually causing
25 her physical harm.

26 THE COURT: Was Ms. Capuano in the U.S.?

27 MS. TOMASSON: Yes. She is a -- she is an American
28 citizen and lives in the U.S.

29 At paragraph 41 the court goes in to what
30 happen in relation to the firearms offences [as
31 read in]:

32
33 Mr. Fox had a licence in Canada to acquire
34 and possess firearms, including restricted
35 firearms, as well as an authorization to
36 transport his restricted firearms to certain
37 places under certain conditions. He
38 committed the offence when he was in
39 possession of his firearms in violation of
40 the conditions, which was while the firearms
41 went from his home in Burnaby, BC to a
42 shipping depot, also in Burnaby, and while
43 they stayed there with UPS picked them up and
44 transported them into the USA.

45
46 The firearms had left Mr. Fox's home packed
47 inside the CT unit of the computer in one of

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1 numerous - likely 15 to 25 boxes of household
2 items sent to a home in California of
3 Mr. Fox's friends.

4
5 Four handguns were in the computer, and
6 another firearm, disassembled, was in another
7 of the boxes. A total of seven pistol
8 magazines, as well as ammunition, were also
9 found.

10
11 So those -- that briefly outlines the
12 circumstances, Your Honour, of the criminal
13 harassment and the firearms offences.

14 Mr. Fox, as I've said already, was sentenced
15 to three years and 10 months with time for -- he
16 was detained in custody on those charges, and so
17 at the time of sentencing, the total sentence was
18 20-and-a-half months remaining.

19 He was released from custody from that
20 sentence on December 30th of 2018, so
21 approximately three months ago.

22 He -- on January 4th of 2019, he filed an
23 application in Supreme Court to vary the terms of
24 his probation order, in particular, the term not
25 to leave British Columbia.

26 On February 6th, that application was first
27 heard and then adjourned over to March 14th of
28 2019. During the February 6th application he was
29 permitted - and you'll see it on the probation
30 order in front of you - a variation in relation to
31 access to the internet in relation to an ongoing
32 appeal he has in our Court of Appeal for his
33 conviction. He's launched a conviction appeal.

34 On March 14th of 2019 the application
35 continued in relation to the terms of not leaving
36 British Columbia, and that application was denied
37 by Judge Holmes.

38 At that time, as I understand it, Mr. Fox
39 made similar representations to the court that he
40 was not a Canadian citizen, and that he had no
41 status in Canada.

42 Judge Holmes found that, in fact, he -- the
43 records before her, that he is a Canadian citizen,
44 he has a Canadian passport, and that those terms
45 remained in place for the security of the
46 complainant who lives in the United States.

47 Now, Mr. Fox also has a term of his probation

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1 in relation to the website that he set up, that he
2 was not to disseminate any further information on
3 that website, and in fact, he was supposed to take
4 that website down.

5 That website, and another website -- I'll
6 start with the -- the first website. That website
7 was inactive during the time he was in custody,
8 and has become active again since Mr. Fox has been
9 released from custody, as well as it seems that
10 there is another website using a shortened version
11 of Ms. Capuano's first name that has also been
12 launched since his release.

13 THE COURT: So both of these websites relate to Ms.
14 Capuano?

15 MS. TOMASSON: Yes.

16 What is troubling as well is that it appears
17 that Mr. Fox has also published on those websites
18 disclosure material that would have been provided
19 to him by the Crown for his original trial. He
20 was under a court order from this court that when
21 he was provided with the disclosure that he not,
22 obviously, publish it or disseminate it as he was
23 representing himself and the court felt that was
24 necessary because of the undertakings that lawyers
25 usually take -- give in relation to disclosure.
26 As well as it appears that there are audio clips
27 of DARS recordings from those hearings.

28 THE COURT: So let me --

29 MS. TOMASSON: That is -- --

30 THE COURT: -- let me repeat --

31 MS. TOMASSON: -- that is the active --

32 THE COURT: -- this back to you --

33 MS. TOMASSON: Certainly.

34 THE COURT: -- just so I understand. So there was the
35 current website, what I'll call the current
36 website, the --

37 MS. TOMASSON: Yes.

38 THE COURT: -- existing website that is referred to in
39 the decision of --

40 MS. TOMASSON: Yes.

41 THE COURT: -- of Fox. That was inactive while Mr. Fox
42 was in custody, but since he's been released on
43 December 30th, so about three months ago, that is
44 now active again?

45 MS. TOMASSON: Yes.

46 THE COURT: And a second website has been set up since
47 he's been out --

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1 MS. TOMASSON: Yes.
2 THE COURT: -- that also addresses Mr. Capuano?
3 MS. TOMASSON: Yes.
4 THE COURT: On one of these two there's disclosure that
5 was received by the Crown, disclosure of the
6 fruits of the investigation, that despite a court
7 order in place that he not publish anything, it
8 has been published.
9 MS. TOMASSON: Yes.
10 THE COURT: And secondly, audio clips of court
11 proceedings have also made it onto one of these
12 two websites?
13 MS. TOMASSON: That's correct.
14 THE COURT: Okay.
15 MS. TOMASSON: And that's --
16 THE COURT: All right.
17 MS. TOMASSON: That's an ongoing -- that's the ongoing
18 investigation, and as Your Honour can appreciate,
19 that investigation involves searching out those
20 websites, determining things, such as the IP
21 address, where the website has been accessed from.
22 When Mr. Fox was most recently arrested, and I'm
23 coming up to those -- these charges before the
24 court, he did have a tablet in his possession, as
25 well as a cellphone, and those materials there --
26 the police are getting a warrant for and will be
27 looking into those to potentially link them to
28 these websites. So that's the ongoing
29 investigation.
30 But why that is important as well is that
31 through the series of coming up to leaving Canada,
32 so his application was denied on March 14th to
33 amend that -- to permit him to leave British
34 Columbia. So that's denied on the 14th.
35 On the 15th he made his required appointment
36 with his probation officer, so the day after his
37 application was denied, and the police had already
38 contacted the probation officer about the website,
39 because there is a term in the probation order
40 that he's supposed to take that website down.
41 So the probation officer had some discussions
42 about the website and that term, and what Mr. Fox
43 said at that time was that he couldn't do anything
44 about it. It was run by a third party and he had
45 no control over it.
46 However, the material on it, Your Honour,
47 would suggest that either he put that material on

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1 the website, or provided it to someone, but he was
2 aware that the police were doing this
3 investigation as the probation officer discussed
4 it with him.

5 And in the Crown's submission, that also goes
6 to the fact of why it was that he chose that day
7 to leave Canada.

8 In terms of the compliance with this
9 probation order, the only term he has been
10 complying with, in the Crown's submission, is his
11 reporting, and providing his residential address
12 to his probation officer.

13 He was sent for a forensic assessment, and he
14 refused to participate unless he could record the
15 matters that they were discussing with him. That
16 is similar to what happened when he was also sent
17 for a psychiatric assessment during his
18 sentencing, and he made the same demand, which, of
19 course, was not permitted.

20 THE COURT: You may be getting to this, but in terms of
21 any additional information -- or firstly, has
22 there been additional information put on these two
23 websites, other than what you've already
24 described?

25 MS. TOMASSON: Yes, there has been.

26 THE COURT: And is it harassing, and -- could someone
27 characterize it as harassing?

28 MS. TOMASSON: Someone could characterize it as
29 harassing, yes, in the Crown's submission. But
30 those -- like I said, very preliminary
31 investigations.

32 THE COURT: Yeah. Okay, thank you.

33 MS. TOMASSON: So what happens on the 15th, after Mr.
34 Fox leaves his probation office, is he took a bus
35 to the U.S. border, he walked across the border,
36 he was detained by the U.S. authorities, and he,
37 at that point, sought asylum in the United States
38 and claimed under oath again to being a U.S.
39 citizen.

40 Because of his claim of asylum, Mr. Fox was
41 detained by the U.S. authorities on March 15th as
42 that can be a very lengthy process to try to
43 determine what it going on, and so he was not
44 returned to Canada until last Thursday when the
45 U.S. authorities made their final determinations
46 and -- and sent him back to Canada.

47 Once in -- and so he was returned to Canada

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1 and turned directly over to the RCMP who had those
2 -- the breach of probation, because he was to
3 report March 19th, and obviously by that time he
4 was in -- had left the -- for the States, as well
5 as leaving British Columbia and being with 100
6 metres of the U.S. border.

7 He was interviewed on Thursday evening of
8 last week by the police, and he could not deny
9 what I've set out to the court in terms of leaving
10 his probation officer's office, taking a bus and
11 crossing the border.

12 In relation to -- he was asked during that
13 interview when he decided to go to the United
14 States, and his response was, "The moment I was
15 sentenced." So that would have been November 10th
16 of 2017.

17 He was asked about the website and made
18 comments to the effect of, "If I don't publish it,
19 I'm not in breach of my order. Someone else may
20 have taken the information and published it." And
21 he also stated that once the probation order
22 expires, he intends on continuing with the
23 website.

24 In the Crown's submission, Mr. Fox should be
25 detained on these charges. It is apparent he has
26 no intention on complying with the terms of
27 probation. The website upon which these charges
28 arose, and on which he can stop using and take
29 down, and is one of his terms or probation to do
30 so, appears to be active. The -- he has no
31 intention of staying in British Columbia. He is
32 intent on continuing to declare that he is a
33 citizen of the United States.

34 In the documents that he may be referring to,
35 that he asked the Crown to provide to him today,
36 he's made an application to -- for social
37 assistance. In that document he's claimed he's a
38 U.S. citizen, and therefore social assistance was
39 denied.

40 So Mr. Fox, in the Crown's submission, he's a
41 man who currently has no work, is living in a
42 shelter, or was before he was -- he left the
43 province, and even upon seeking social assistance
44 which would assist him in getting at least
45 different accommodation and an ability to start in
46 a rehabilitative process towards doing something
47 other than this vendetta that he's got against his

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1 ex-wife, he made an application, which was
2 ultimately denied because he claimed to be a U.S.
3 citizen and they denied his application because he
4 provided documentation that he was a U.S. citizen,
5 rather than providing his passport, which is that
6 he's a Canadian citizen and he would have been
7 entitled to these benefits. So in the Crown's
8 submission, he does not act in his own best
9 interest.

10 The -- obviously since he's already left
11 British Columbia, the Crown is concerned that he
12 may try to leave the country through not -- not
13 going through a border, because he is so intent,
14 and has been, since the decision before your court
15 -- the Reiss decision of making these claims since
16 2007.

17 Obviously, the Crown's concerned on the
18 secondary ground. He currently has breached three
19 terms of his probation, and there is a serious
20 outstanding investigation in relation to the
21 ongoing use of the website.

22 And finally, in terms of the public
23 confidence, I'm going to hand up to Your Honour a
24 recent decision from our Court of Appeal.

25 THE COURT: Thanks.

26 MS. TOMASSON: This decision is just from last month,
27 Your Honour, and it's dealing with bail pending
28 appeal, and so not exactly the same situation as
29 initial bail. But the decision that they're
30 referring to, R. v. Oland from our -- from the
31 Supreme Court of Canada says that the
32 considerations under a bail pending appeal are the
33 same considerations as Section 515(c), that -- the
34 tertiary ground.

35 And why I suggest that this is a case that
36 has some relevance is in this decision, Mr. Veeken
37 had breached bail conditions, and the court is
38 commenting on breach of bail and why that should
39 be of concern to the court as it reflects on how
40 the court's process is treated and how the court
41 is viewed by the public.

42 And beginning at page 5 --

43 THE COURT: Yes, I'm there.

44 MS. TOMASSON: -- paragraph 18 [as read in]:

45

46 Conditions in the nature of Condition 6 --

47

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1 Which was a bail -- breach of bail condition.

2
3 -- are imposed as precautionary conditions to
4 avoid circumstances in which a person may be
5 tempted to reoffend. It is crucial for the
6 protection of the public that they be obeyed.
7 It must be recognized that enforcement of
8 such conditions can be problematic because
9 detections of breaches is difficult. To a
10 large extent, courts must be able to place
11 trust in an accused to comply with the
12 conditions that they impose. For that
13 reason, any breach of a bail condition is to
14 be taken seriously.

15
16 And so, in the Crown's submission, those can be
17 echoed for breach of bail -- breach of rather
18 probation conditions. [As read in]:

19
20 Breaches raise concerns about reoffending
21 because bail conditions are put in place to
22 avert conditions that might lead to such
23 conduct. Breaches also limit the ability of
24 the public to have faith and confidence in
25 the administration of justice. I note as
26 well that in this case, Mr. Veeken himself
27 brought a number of applications to amend and
28 delete the bail conditions.

29
30 And I pause to say, as did Mr. Fox just prior to
31 breaching these conditions:

32
33 These include an application to this court
34 under Section 680 of the Criminal Code. In
35 those applications, Mr. Veeken argued that
36 the conditions were unnecessary and unlawful,
37 but also that they were examples of
38 ridiculous burdens placed on him by the
39 administration of justice. Together with the
40 breach, that indicates an attitude towards
41 bail conditions that is not conducive to the
42 public having confidence in the
43 administration of justice. The conditions
44 that were in place were not complied with in
45 the past. The court cannot have confidence
46 that they will be complied with in the
47 future. In addition, of course, I have

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1 indicated that there is -- there will be a
2 lack of public confidence in compliance.
3

4 And I would suggest to the court that there can be
5 no conditions put in place that this court will
6 have any confidence in, or the public would have
7 any confidence in, that Mr. Fox would comply with
8 on bail.

9 Subject to any questions Your Honour has,
10 those are my submissions.

11 THE COURT: No, I don't have any questions.

12 So Mr. Fox, this is -- we're now at the point
13 where it's your opportunity to try to convince the
14 court that the Crown has not established grounds
15 for your detention.

16 We take a morning break usually around 11:00,
17 so close to now. If you like, what we can do is I
18 can give you a little primer on the law on bail,
19 and then you can consider that over the break and
20 gather your thoughts, and then when we come back
21 from the break I can hear from you. Do you want
22 to do that?

23 THE ACCUSED: No, I don't believe that that will be
24 necessary.

25 THE COURT: Okay. You understand -- you want me to
26 repeat to you what I said about these expressions
27 that you've heard, the primary ground, the
28 secondary ground and the tertiary ground so you
29 understand what those are?

30 THE ACCUSED: No. I'm -- I'm familiar with them.

31 THE COURT: Are you?

32 THE ACCUSED: Yes.

33 THE COURT: Okay, because I'm happy to repeat them for
34 you if you want.

35 THE ACCUSED: No, no, no, no.

36 THE COURT: Okay.

37 THE ACCUSED: I think -- I mean, if the court agrees, I
38 think that this would be an ideal time then to
39 take a break and --

40 THE COURT: Yeah, probably a good time. All right.
41 And then you can -- once again you can gather your
42 thoughts if you like over the break and we'll come
43 back and I'll hear from you. Then I'll hear
44 anything in reply from Ms. Tomasson and then I
45 will be in a position to give my decision today
46 for sure, poss -- depending on how long the
47 submissions are. That will determine when, in the

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1 course of the day, I'll be able to give my
2 decision. Okay?
3 THE ACCUSED: Wonderful.
4 THE COURT: All right, any questions at all? Anything
5
6 THE ACCUSED: No.
7 THE COURT: -- at this point? Okay. All right, we'll
8 take the morning break. Thank you.
9 THE ACCUSED: Thank you.
10 THE SHERIFF: Order in court, all rise.
11
12 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)
13 (PROCEEDINGS RECONVENED)
14
15 MS. TOMASSON: Yes, Your Honour, before Mr. Fox
16 proceeds, I just thought that since I did
17 reference the court order that was placed -- put
18 in place in relation to the disclosure, that I'd
19 ask that that be marked as an exhibit so that Your
20 Honour can see the terms of that.
21 THE COURT: Sure.
22 MS. TOMASSON: I again have a copy for an exhibit and a
23 copy for Your Honour.
24 THE COURT: Thank you.
25 MS. TOMASSON: I'll provide a copy to Mr. Fox.
26 THE ACCUSED: This would be Exhibit 3, I believe.
27 MS. TOMASSON: Exhibit 5.
28 THE CLERK: Exhibit 5.
29 THE ACCUSED: 5, oh. Oh, yeah.
30
31 EXHIBIT 5: Photocopy of Order, Court File
32 244069 Vancouver Provincial Court Registry,
33 Her Majesty the Queen v. Patrick Fox, Before
34 the Honourable Justice Burgess on Friday, the
35 7th day of October, 2016
36
37 THE COURT: Okay, thank you.
38 Mr. Fox, let me hear from you.
39

SUBMISSIONS BY THE ACCUSED:

40
41
42 THE ACCUSED: Okay. The first issue -- and I think it
43 is probably the most significant issue, is this
44 question of my citizenship and whether or not I
45 have status.
46 The reason I think that this is critical,
47 even for the purposes of the bail hearing, is that

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1 if I am a Canadian citizen, then I clearly acted
2 in bad faith by leaving Canada and most likely to
3 evade the probation conditions or whatever other
4 reason.

5 However, if I'm not a Canadian citizen, then
6 that means that I have no status in Canada, no
7 social insurance number, can't get social
8 assistance, etc., and the probation conditions
9 essentially force me to be homeless and destitute
10 for the full three-year period, as well as also
11 forcing me to perpetually be in violation of the
12 Immigration laws by remaining in Canada.

13 Now, it's my understanding, and I'm sure this
14 isn't going to be disputed, but a court cannot
15 impose a probation condition on a person which
16 would necessarily force them to break the law. I
17 remember reading that in case law somewhere, but I
18 can't remember which right now.

19 So, the only agency in North America, in
20 either Canada or the United States, that has the
21 power to declare that a person is or is not a
22 Canadian citizen is Immigration, Refugees and
23 Citizenship Canada, or IRCC. And this document
24 that I have here that the Crown printed for me
25 clearly states that -- that I was born in the
26 United States of America, citizenship is unknown
27 and my last country of permanent residence is
28 unknown.

29 THE COURT: Do you want -- do you want me to look at
30 that document?

31 THE ACCUSED: Yes, please.

32 THE COURT: Sure.

33 THE ACCUSED: How shall I --

34 THE COURT: Do you have a -- you can give it to Madam
35 Clerk.

36 THE ACCUSED: Thank you, and here's a copy for you.

37 Now --

38 THE COURT: Just give me one sec.

39 THE ACCUSED: Sure.

40 THE COURT: Okay.

41 THE ACCUSED: I would like to point out that on the
42 last page of this, there's something called a non-
43 computer-based entry, and these are just case
44 notes that IRCC uses in their field operation
45 support system. There's a remarks section at the
46 bottom here, and the Crown has brought up a number
47 of times that what they're saying there is that

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1 IRCC has determined that I was that person from
2 Sudbury, Ontario, but that's not at all what
3 they're claiming in here.

4 What they're saying is that a passport was
5 issued in that name, and based on the existence of
6 that passport, there is a person named Ricky Reiss
7 who was born in Sudbury, Ontario. Based on that
8 they issued a 10-year authorization for me to
9 enter and remain in Canada. That expired, as you
10 can see, on -- in May of 2018.

11 So at this point, I have absolutely no
12 authorization to remain in Canada, based on what
13 IRCC is saying in here.

14 THE COURT: Sorry. I just want to make sure I
15 understand --

16 THE ACCUSED: Sure.

17 THE COURT: -- because this is an important part of
18 your argument.

19 So the Immigration, Refugee and Citizenship
20 Canada issued you this letter dated March 27th,
21 2018, in response to a request under the Privacy
22 Act that you made?

23 THE ACCUSED: Yes, yes.

24 THE COURT: That request was made in order to get some
25 sort of documentary form of evidence to establish
26 that you are actually a U.S. citizen?

27 THE ACCUSED: No, no. Not to get evidence that I'm a
28 U.S. citizen. The request -- well, the request
29 was just for all records --

30 THE COURT: Yeah.

31 THE ACCUSED: -- relating to myself, either as Patrick
32 Fox or as Richard Reiss.

33 THE COURT: Okay. Your citizenship --

34 THE ACCUSED: Right, right.

35 THE COURT: -- we'll say. Okay.

36 THE ACCUSED: And I wasn't trying --

37 THE COURT: So then it --

38 THE ACCUSED: -- to lead them one way or the other.

39 THE COURT: So that comes back that Richard Reiss --
40 Reiss -- says citizenship, unknown, country of
41 birth, United States, CLPR unknown, gender, male.
42 And so you're pointing to that to say that that's
43 proof that you are a U.S. citizen?

44 THE ACCUSED: Well, for the purposes of this
45 proceeding, and for the purposes of probation,
46 it's not a question of whether or not I'm a U.S.
47 citizen, it's only a question of whether or not

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1 I'm a Canadian citizen. Now, which country --
2 THE COURT: Okay.
3 THE ACCUSED: -- I am a citizen of is completely
4 irrelevant. It's only relevant whether or not I'm
5 a Canadian citizen.
6 THE COURT: Okay, so does this say you're not a
7 Canadian citizen anywhere?
8 THE ACCUSED: Well, no, it doesn't explicitly state I'm
9 not a Canadian citizen. However, if a person is
10 born outside of Canada, then they would need to
11 apply for a Certificate of Citizenship. The fact
12 that I've -- there's no record of me ever doing so
13 would mean the implication would be that I have no
14 status in Canada.
15 THE COURT: Well, what do I do -- and I'm -- I'm asking
16 you this just -- again, these are -- these are
17 inquiries, just so I --
18 THE ACCUSED: Yeah.
19 THE COURT: -- understand this, because this is an
20 important part of your argument. Firstly, what is
21 FOSS, F-O-S-S?
22 THE ACCUSED: That stands for Field Operation Support
23 System.
24 THE COURT: Okay. UCI, what is that?
25 THE ACCUSED: That's Unique Client Identifier. It's a
26 --
27 THE COURT: Okay.
28 THE ACCUSED: -- number that uniquely identifies each
29 person in IRCC's system, and that's actually going
30 to be relevant when we get to this social
31 assistance document here.
32 THE COURT: Okay. It says, citizenship unknown,
33 country of birth, United States of America. What
34 is CLPR?
35 THE ACCUSED: Country of Last Permanent Residence.
36 THE COURT: Once again, unknown. Okay. So then we
37 flip the page. Nothing there.
38 And then, we get to the last page, non-
39 computer-based entry. Richard Reiss. The same
40 UCI, and it says, Canadian citizen, that this was
41 created May 21st, 2008, expiry 2018, so a 10-year
42 period. Remarks, NCB, what's that?
43 THE ACCUSED: NCB is non-computer-based.
44 THE COURT: Created for NCMS. What's NCMS?
45 THE ACCUSED: I can't recall what that acronym stands
46 for, sorry.
47 THE COURT: All right. Created for some form of entry.

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1 Received info that I'll say Reiss, was detained
2 by U.S. Department of Homeland Security --
3 THE ACCUSED: Yes.
4 THE COURT: -- and claiming to be born in U.S. but had
5 Canadian passport showing born in Canada. But how
6 do Canadian -- did you have a Canadian -- does --
7 THE ACCUSED: Um --
8 THE COURT: -- does this refer to an incident that you
9 personally were in --
10 THE ACCUSED: In the --
11 THE COURT: -- involved in?
12 THE ACCUSED: In the 1990s I did apply for, based on
13 false pretences, a Canadian passport. A passport
14 was issued. IRCC later determined that I was not
15 the person named on the passport. And I have
16 further evidence from IRCC as well, recordings of
17 conversations with them, which are publicly
18 accessible on the website as well, where we talk
19 about the issuance of that passport and such.
20 THE COURT: So the Canadian -- but he had a Canadian
21 passport, showing born in Canada, was able to
22 conclude that he was, in fact, born in Sudbury,
23 Ontario, and passport was legitimately issued?
24 THE ACCUSED: Yes.
25 THE COURT: Okay. So that doesn't quite square up with
26 what you just said, which was the passport was --
27 was fraudulently obtained --
28 THE ACCUSED: Right.
29 THE COURT: -- and that that fraud was ultimately
30 detected and the passport was taken?
31 THE ACCUSED: Um -- well, the passport was eventually
32 lost.
33 THE COURT: Okay.
34 THE ACCUSED: This is -- this is going back 22, 23
35 years.
36 At the time that this remark was made in the
37 FOSS system, back in 2008, it hadn't been
38 determined at that point that the passport was
39 fraudulently issued. It was -- what are we, in
40 2019 -- 2018 or 2019 is when IRCC determined that
41 it was inappropriately issued.
42 THE COURT: Fraudulently issued. Let's call a spade a
43 spade.
44 THE ACCUSED: Okay.
45 THE COURT: Okay.
46 THE ACCUSED: Oh, also though, I want to point out that
47 the non-computer-based entry here -- these are

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1 just remarks, that's not an official record. The
2 official record is what's printed on the -- the
3 third page where it says, country of birth, United
4 States. Now, if they had actually determined that
5 I was born in Canada, then I would have to believe
6 that they would have updated the country of birth
7 in the official record.

8 THE COURT: Okay. So, you've handed that up and I --
9 and obviously we've gone through it in some detail.

10 All right, what's next?

11 THE ACCUSED: May I ask that that be admitted as an
12 exhibit?

13 THE COURT: Yeah, we can do that. Any objection?

14 MS. TOMASSON: No, Your Honour. Do you want to keep
15 your copy and I'll hand up this as an --

16 THE COURT: Yeah, I do --

17 MS. TOMASSON: -- exhibit.

18 THE COURT: -- want to keep my copy. Thank you. So
19 that will be Exhibit 7, I believe.

20 THE CLERK: Exhibit 6, Your Honour.

21 THE COURT: Exhibit 6. Was the -- the order that we
22 just marked, that was Exhibit 5?

23 THE CLERK: That's correct, Your Honour.

24 THE COURT: Thank you.

25
26 EXHIBIT 6: Photocopy of Immigration,
27 Refugees and Citizenship Canada Access to
28 Information and Privacy Division, letter
29 dated March 27, 2018, "All Records concerning
30 REISS, Richard AKA FOX, Patrick Henry"
31

32 THE ACCUSED: So the Crown asserts that I was the
33 person born Ricky Reiss or Richard Reiss in
34 Sudbury, Ontario, but to date, the Crown has
35 produced absolutely no direct or physical evidence
36 to support that whatsoever.

37 And in fact, Mr. Myhre, the Crown at the
38 trial, submitted as Exhibit 1, a copy of my
39 Florida birth certificate, which I would say
40 clearly refutes their claim that I was born in
41 Sudbury, Ontario. Unfortunately, I don't have a
42 copy of that on hand, but it is in the court's
43 records.

44 And earlier the Crown also made numerous
45 references to what she was referring to as my
46 Canadian passport. However, I'd like to point out
47 that there is no such Canadian passport. Many

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1 years ago a passport was issued. It was lost
2 many, many years ago back in the 90s, and there is
3 no actual passport at this point, whether it's
4 Canadian or American.

5 Oh, another -- another very significant issue
6 or point on this issue of my citizenship is Mr.
7 Myhre had sent me an email back in, I think it was
8 February, where he had forwarded an email
9 conversation that he had had with Steve Reiss, who
10 is Ricky Reiss' -- Ricky Reiss being the person
11 from Sudbury, Ontario, who admittedly I had
12 assumed his identity back in the early 90s and
13 lived under that name for many years. But Mr.
14 Myhre had had a conversation with Steve Reiss, and
15 Steve Reiss had offered to provide a DNA sample to
16 prove whether or not he is my father.

17 As soon as Mr. Myhre informed me about that I
18 told him, that's excellent, I would love to
19 proceed with that, because I really want to clear
20 up this issue about whether or not I'm that
21 person. Mr. Myhre immediately then backed down
22 from that and said, oh, we're not going to proceed
23 with that because we have this other evidence. He
24 said that unless the court ordered him to, he was
25 not going to pursue that.

26 So at the March 14th hearing, I had asked the
27 court to order the Crown to request DNA samples
28 from Steve Reiss and from a Peggy Sampuno
29 [phonetic] who is Ricky Reiss' mother. The court
30 immediately denied that request, said that's not
31 going to happen, it's not relevant to these
32 matters, which strikes me as very peculiar because
33 it seems that my citizenship is very relevant to
34 these conditions that we're talking about now,
35 about leaving Canada.

36 Now, certainly, moving forward, not with the
37 bail hearing, but certainly moving forward with
38 the probation violation hearings, obviously I'm
39 going to formally pursue those DNA tests because
40 that will certainly help to prove whether or not I
41 am Ricky Reiss from Ontario.

42 THE COURT: All right. Well, I got to ask you, why did
43 you assume Ricky Reiss' identity in the 90s?

44 THE ACCUSED: I ran away from home very young and my
45 parents kept finding me. I wanted to be able to
46 move on with my life without my parents or family
47 being able to find me, so I changed my name to

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1 Richard Reiss.

2 Now, under California law, there's two ways
3 you can change your name. There's the formal,
4 where you go to court and request it, and then
5 there's what's called a common law name change
6 where you just assume a name. So in, I think it
7 was '92, maybe '93, I had assumed the name Richard
8 Reiss. I chose that name because I knew that
9 there was a person with that name with the same
10 date of birth.

11 THE COURT: Okay.

12 THE ACCUSED: And the reason I chose a foreign national
13 is because if I had assumed the name of another
14 U.S. citizen, eventually there would be some
15 overlap in tax information and eventually you
16 would get caught. If you change your name to
17 match that of a foreign national, obviously
18 there's not going to be any kind of duplicate.

19 THE COURT: Okay.

20 THE ACCUSED: And I do admit that it was wrong to have
21 done so, but it was -- it was a long time ago.

22 THE COURT: I have one other question before you leave
23 the topic of citizenship.

24 THE ACCUSED: Sure.

25 THE COURT: So let me know when you're transitioning to
26 your next topic.

27 THE ACCUSED: Okay. I think that the DNA issue that I
28 just discussed, I think that was the last thing I
29 was going to mention on that, but let me just
30 doublecheck my notes.

31 Oh, okay. I guess the one last thing that I
32 do want to point out, how the citizenship issue
33 relates to the probation conditions. If I'm not a
34 Canadian citizen, but I'm not allowed to leave
35 British Columbia -- well, no, I think I already
36 covered that essentially, about the being homeless
37 and having no way to support myself.

38 Okay. I would say then, if that is the case,
39 then my decision to leave -- well, to leave
40 Canada, not just British Columbia, was not so that
41 I could evade the probation conditions. It would
42 have been purely out of necessity, since remaining
43 here, I can't possibly support myself, I can't get
44 healthcare, I can't get social assistance or
45 anything else.

46 And so, the reason I waited until after the
47 March 14th hearing is I was hoping that the court

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1 would remove that restriction, and then I would be
2 able to leave legally without violating the
3 probation condition.
4 The court didn't, and then it seemed to me at
5 that point either I look forward to spending the
6 next two years and nine months moving from
7 homeless shelter to homeless shelter, wondering
8 whether or not I'll be able to eat tomorrow, or
9 take my chances and go back to the U.S.
10 THE COURT: Did these arguments that you're making
11 before me today, were those ones that you made in
12 front of Madam Justice Holmes in March?
13 THE ACCUSED: Oh, yes. Also --
14 THE COURT: So this is a -- this is sort of a repeat of
15 what you placed in front of her?
16 THE ACCUSED: Yes. Yes.
17 THE COURT: Okay.
18 THE ACCUSED: I mean I didn't --
19 THE COURT: Okay.
20 THE ACCUSED: -- discuss them at such length at this
21 because she was already familiar with the issues.
22 In the -- oh, yes. In the sentencing order,
23 Exhibit 3, that was provided to you earlier --
24 THE COURT: Mm-hmm.
25 THE ACCUSED: -- you will notice in paragraph 120, at
26 the time of sentencing I brought this issue up to
27 Justice Holmes, the fact that I'm not a Canadian
28 citizen and I have no status, and that imposing
29 these conditions is going to put me in a position
30 where the moment I'm released from custody I'm
31 immediately in violation of the immigration laws.
32 THE COURT: Sorry, what paragraph?
33 THE ACCUSED: Oh, 120, I'm sorry.
34 THE COURT: Okay.
35 THE ACCUSED: And so, it puts me in a position where I
36 have to choose between violating the immigration
37 laws or violating probation. But either way, I'm
38 breaking one or the other. And the issue was not
39 addressed at that point. It was decided it we be
40 addressed after the incarceration was completed
41 and the probation started.
42 THE COURT: Let me ask you this.
43 THE ACCUSED: Yes.
44 THE COURT: This -- firstly, who's Movant?
45 THE ACCUSED: I'm sorry?
46 THE COURT: Movant? Does that --
47 THE ACCUSED: Is it --

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1 MS. TOMASSON: Oh, that's just a reference in court in
2 the States in terms of defendant.
3 THE COURT: Movant is --
4 THE ACCUSED: Oh --
5 THE COURT: -- the term -- okay, that's -- you learn
6 something each day.
7 THE ACCUSED: I believe it's --
8 THE COURT: Yeah.
9 THE ACCUSED: -- Movant. The party which is --
10 THE COURT: Movant.
11 MS. TOMASSON: If you look --
12 THE ACCUSED: -- somebody in the motion --
13 MS. TOMASSON: -- on the bottom of the --
14 THE COURT: Yeah. No, I see Defendant/Movant. I just
15 -- I hadn't seen that expression in my 30 years of
16 law. Okay.
17 Anyway, let's go back to that for a second.
18 So, one of the convictions that you sustained was
19 false claim of citizenship.
20 THE ACCUSED: Indeed. And every time that I --
21 THE COURT: This was a claim of U.S. citizenship.
22 THE ACCUSED: In the Immigration Court I clearly stated
23 that I am a United States citizen by virtue of
24 being born in the United States.
25 On May 5th, 2018, the Immigration judge told
26 Homeland Security that unless they have some proof
27 that I'm an alien he's going to dismiss the case
28 at the next hearing. That same day, my
29 deportation officer, who works for ICE, contacted
30 the Toronto Police because Ricky Reiss had been
31 arrested, I think it was 1991 or '92 in Toronto.
32 The Toronto Police sent the mugshot and the
33 fingerprints of that person of Ricky Reiss to ICE.
34 ICE saw that it clearly was not me, so then they
35 charged me with perjury and false claim of U.S.
36 citizenship, otherwise the case would have been
37 dismissed at the next hearing.
38 Um --
39 THE COURT: Okay.
40 THE ACCUSED: -- I fought that case, had a court-
41 appointed lawyer. He did absolutely nothing. I
42 was found guilty.
43 And then the Immigration Court later issued
44 an order of removal, based solely on that
45 conviction, not on any evidence that I was
46 actually not a U.S. citizen.
47 Now, the many times that I've gone back to

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1 the U.S. since then, sometimes Homeland Security
2 pulls me aside, they send me to secondary, they do
3 further investigation. Initially they'll say, oh,
4 we're charging you with illegal re-entry, false
5 claim of U.S. citizenship etc. etc. They do the
6 investigation, they drop all the charges and then
7 they either let me go or they try to coordinate
8 with the RCMP that I be sent back here.
9 The two most recent times, in June 2016, and
10 then just last week, what they did was they
11 coordinated with the RCMP to make me, as they
12 called it, a subject of interest, so that the RCMP
13 would request that I be sent back here.
14 THE COURT: All right. Okay, so we've dealt with the
15 citizenship issue.
16 THE ACCUSED: The --
17 THE COURT: No?
18 THE ACCUSED: -- citizenship issue, yes, but I would
19 like to respond to some points that the Crown had
20 made earlier with respect to the social assistance
21 application.
22 THE COURT: Sure.
23 THE ACCUSED: And that also relates to the citizenship
24 issue --
25 THE COURT: Okay.
26 THE ACCUSED: -- and whether or not my remaining in
27 Canada is going to cause me any kind of
28 substantial hardship. May I --
29 THE COURT: Yeah.
30 THE ACCUSED: It's -- the important information is
31 really just on the first --
32 THE COURT: Yeah, no --
33 THE ACCUSED: -- page.
34 THE COURT: -- I'm -- I'm happy --
35 THE ACCUSED: The rest is not --
36 THE COURT: -- happy to receive it.
37 THE ACCUSED: Now --
38 THE COURT: Okay.
39 THE ACCUSED: -- as the Crown had presented it earlier,
40 they presented it as I had told Social Assistance
41 that I'm a United States citizen and that my
42 application was denied based on that. There's
43 actually a little bit more to it as you'll see in
44 here.
45 Social Assistance contacted IRCC and gave
46 them the information that I had provided. Now, I
47 had provided Social Assistance both the names,

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1 Patrick Fox and Richard Reiss, as well as that UCI
2 number that you had seen in the IRCC document.

3 IRCC then investigated and they responded to
4 Social Assistance one, two -- the third paragraph
5 in here it says [as read in]:
6

7 IRCC stated with the information provided we
8 have searched our records and found no
9 indication that this person has been granted
10 or issued a Certificate of Citizenship or
11 Naturalization.
12

13 So it wasn't based just on me telling Social
14 Assistance that I'm not a Canadian citizen.

15 And then, in the last paragraph, right above
16 where it says "attachments" Social Assistance
17 writes:
18

19 No information has been submitted to indicate
20 you meet any of the criteria above. You are
21 not a Canadian citizen, an authorized
22 permanent resident, or a convention refugee.
23 You are not in Canada on a temporary resident
24 permit.
25

26 Etc., etc.

27 So, based on that it's quite clear that I'm
28 not going to be eligible for Social Assistance,
29 but not because I told them that I'm not a
30 Canadian citizen, it's because they contacted
31 IRCC, verified the information I provided them,
32 and IRCC said that, no, there is no Certificate of
33 Citizenship, which would include a birth
34 certificate, for this person. There is nothing to
35 indicate that I had any status in Canada
36 whatsoever.

37 That again puts me then in a position where
38 I'm not allowed to leave Canada, but I'm not
39 allowed to support myself. I can't get Social
40 Assistance, I can't get medical care or MSP it's
41 called up here.

42 IRCC is not going to issue me any kind of
43 temporary status or a permanent resident status,
44 first of all because I'm inadmissible due to this
45 criminal conviction. And second, because
46 obviously the conviction from the United States,
47 the perjury conviction, both make me inadmissible

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1 to Canada.

2 So again, it puts me in a situation where I
3 have to decide, do I violate probation, or do I
4 stay here and starve to death on the streets of
5 Vancouver while at the same time breaking the
6 Immigration laws.

7 And that's all I would have to say about the
8 citizenship issue.

9 I would request that this document -- and I
10 don't know that we need to attach the entire
11 document, but really it's just the first two pages
12 are the important part. I would request that that
13 be admitted as an exhibit.

14 THE COURT: Ms. Tomasson, any objection to just the
15 first two pages being admitted?

16 MS. TOMASSON: I think the -- the rest of it is the
17 actual initial application, so --

18 THE ACCUSED: Oh --

19 MS. TOMASSON: -- I think the whole document should go
20 in, Your Honour --

21 THE COURT: Sure.

22 MS. TOMASSON: -- because the first two pages refer to
23 what was --

24 THE ACCUSED: Sure.

25 THE COURT: Shall -- shall we do that, Mr. Fox?

26 THE ACCUSED: Yeah, I have no objection.

27 THE COURT: We'll just mark the whole thing. Sure.

28 MS. TOMASSON: And again, I'll hand Madam Clerk a copy.

29 THE COURT: That's Exhibit 7.

30

31 EXHIBIT 7: Photocopy of British Columbia
32 Ministry of Social Development and Poverty
33 Reduction Employment and Assistance Request
34 for Reconsideration, Requestor's Name Patrick
35 Fox
36

37

38 THE ACCUSED: And I do have documents here from CBSA as
39 well, but they're essentially the same documents
40 that IRCC provided, showing that I was born in the
41 United States and that I have no status in Canada,
42 so I don't -- I don't think that that would really
43 be necessary. It would be redundant.

44 THE COURT: Anything else?

45 THE ACCUSED: Now, I would -- oh, okay, I already told
46 about the Florida birth certificate.

47 I would like to point out, at the hearing on
the 14th, I told Justice Holmes that in my

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1 conversations with CBSA, CBSA had stated to me
2 that while they're not going to come after me, due
3 to my lack of status in Canada, if I turn myself
4 in to one of their offices, or any point of entry,
5 that they will either remove me or deny me entry
6 into Canada.

7 So, I had informed Justice Holmes about that
8 at that hearing, and I told her that regardless of
9 what the court decided about removing that
10 condition or not, within the next week I would
11 intend to turn myself into CBSA, which would
12 result in me being removed from -- from Canada.

13 And in fact, on the 15th, when I went to
14 Peace Arch Park, I did turn myself in to CBSA, and
15 I checked with CBSA first to make sure that their
16 office was not within 100 metres of the U.S.
17 border, and they assured me that no, it's closer
18 to 300 or so metres from the border. And then it
19 was only after I turned myself in to CBSA that I
20 then proceeded over to turn myself into CBP on the
21 U.S. side.

22 So I was not trying to sneak around, I was
23 not trying to flee or escape anything. I was very
24 clear with the court, with CBSA, even with the
25 probation officer that morning. I told him that
26 within --

27 THE COURT: So

28 THE ACCUSED: Sorry, go ahead.

29 THE COURT: No, go ahead, go ahead.

30 THE ACCUSED: When I reported for probation on the
31 morning of the 15th, I told the probation officer
32 that by Wednesday at the absolute latest,
33 Wednesday of the coming week, I have every
34 intention of turning myself into CBSA resulting in
35 my removal from Canada.

36 The probation officer did inform me that he
37 had heard that the RCMP was investigating
38 something about a copy of the website being on
39 line, but I would think that that would have
40 absolutely nothing to do with my decision to -- to
41 leave Canada. My decision to leave Canada had a
42 lot more to do with being able to feed myself and
43 support myself and get back to my career as a
44 software engineer rather than living in homeless
45 shelters.

46 I believe one of the conditions that I'm
47 charged with violating right now has something to

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1 do with failing to report on March 19th?

2 THE COURT: Yeah, that's -- that's correct.

3 THE ACCUSED: My response to that would be I was in
4 Homeland Security custody and had absolutely no
5 way to report. It could be argued that me being
6 in Homeland Security custody was the result of my
7 own actions, but regardless of how I came to be in
8 Homeland Security custody on March 19th, I was,
9 and therefore was physically incapable of
10 reporting. So again, there was no bad faith, I
11 believe, on my part.

12 Now, the Crown had mentioned -- the Crown had
13 made reference earlier to a copy of the website
14 going offline while I was in custody and then
15 coming back on line when I was released - a copy
16 of the original website, not the -- the new
17 version of it. That's actually incorrect. That
18 copy that she's referring to was generated by an
19 organization called the Internet Archive, a non-
20 profit organization in the United States based in
21 San Francisco.

22 That has been online since I believe it was
23 June 2016. That has absolutely nothing to do with
24 me. I have no influence over the Internet
25 Archive, and what they choose to archive, that's
26 -- that's their business. But that has not been
27 offline at all since June 2016.

28 THE COURT: Sorry, is this the -- what I'll call
29 website number 1 --

30 THE ACCUSED: Uh --

31 THE COURT: -- that's been referred to as website --
32 that has not been offline?

33 THE ACCUSED: That is correct, yes, because -- well,
34 okay, there's the original website, which was with
35 the hosting provider that I was hosting, that went
36 offline in January 2018 because the hosting plan
37 wasn't renewed. But there was a copy of that that
38 was made by the Internet Archive.

39 What the Crown was saying went online after I
40 was released in December, the Crown, I believe, is
41 referring to that cached copy. That cached copy
42 is what hasn't been offline. That's been there
43 the whole time.

44 THE COURT: So the cached copy remains online?

45 THE ACCUSED: Right. But as I say, that has absolutely
46 nothing to do with me. That's a non-profit
47 organization in San Francisco, and I have no

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1 control over what they decide to cache.
2 With respect to the disclosure material that
3 found its way onto the new website, in the order
4 which was provided there is an exemption for any
5 material that is received from other sources, and
6 what is on the website, on the new website, is --
7 was not received from Crown as disclosure
8 material. It was received from other sources.
9 THE COURT: Well, what is it? Is it Reports to Crown
10 Counsel, police --
11 THE ACCUSED: Yes, all the RTCCs --
12 THE COURT: So, what other sources, or do you know?
13 THE ACCUSED: I cannot answer that at this time.
14 THE COURT: Is that because you don't want to answer
15 it, or you can't? And -- and I'm not --
16 THE ACCUSED: It's --
17 THE COURT: -- look at, I won't force you, but just --
18 THE ACCUSED: I'll -- I'll be honest, it's because I
19 don't want to because I don't want to -- I don't
20 want to say who in either the RCMP, or the Crown
21 or the Ministry of Justice would have assisted me
22 in obtaining that material.
23 But I can tell you that some of the material
24 that is on the website, the Crown never provided,
25 such as the audio recordings of the interview with
26 the RCMP and Capuano where she's laughing and
27 joking with them.
28 So the fact that that is on the website,
29 pretty clearly shows that it wasn't material that
30 was received from -- from the Crown because they
31 never provided me that.
32 THE COURT: Sorry, they never provided you with the
33 audio of the interviews with the complainant?
34 THE ACCUSED: Of that one particular interview where
35 the complainant was laughing and joking with the
36 RCMP --
37 THE COURT: Okay.
38 THE ACCUSED: -- about the same stuff she was crying
39 about.
40 THE COURT: Okay.
41 THE ACCUSED: So again, I don't think that there was
42 any -- like I didn't violate any order by doing
43 anything with the material, because it wasn't
44 material that was covered by this order. It was
45 received from other sources.
46 With respect to the police having my tablet
47 and my phone, hoping to find some incriminating

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1 evidence on there, they don't need a warrant for
2 that. I will happily give them access to those
3 devices.
4 THE COURT: Hang on one sec.
5 THE ACCUSED: Sure.
6 THE COURT: So if I understand what you're saying about
7 website 2, you're -- are you -- I have to tread
8 lightly because this is where if you had counsel
9 it would be helpful.
10 THE ACCUSED: Mmm.
11 THE COURT: Let me just ask you this. Your defence to
12 not having violated the order of Justice Burgess
13 that disclosure must not be broadcast, disclosure
14 received from Crown, you're saying it wasn't
15 received from Crown?
16 THE ACCUSED: I'm saying it wasn't received from Crown
17 as part of the disclosure --
18 THE COURT: Disclosure.
19 THE ACCUSED: -- in the case.
20 THE COURT: But you're not denying at this point that
21 you had something to do with it being on the
22 website and broadcast?
23 THE ACCUSED: I fully admit that all of the content on
24 the new website was created by me. I don't admit,
25 however, that I published that.
26 THE COURT: This is where --
27 THE ACCUSED: So for -- for example --
28 THE COURT: This -- you --
29 THE ACCUSED: I -- I --
30 THE COURT: -- know, I appreciate --
31 THE ACCUSED: Okay.
32 THE COURT: -- your honesty. Do you want -- do you --
33 THE ACCUSED: The probation --
34 THE COURT: This is where things get sticky --
35 THE ACCUSED: Right.
36 THE COURT: -- because there's an investigation going
37 on right now and what --
38 THE ACCUSED: And I'll full cooperate with that
39 investigation.
40 THE COURT: Well, you may have just advanced the
41 investigation with your last answer, but --
42 THE ACCUSED: Well, the probation condition prohibits
43 me from publishing, disseminating or distributing
44 the information. There's nothing in the probation
45 conditions that prohibit me from continuing to
46 create or maintain a version of the website on my
47 own computer, as long as I don't publish,

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1 disseminate or distribute that information.

2 And even still --

3 THE COURT: You know --

4 THE ACCUSED: -- even if I were to admit that, I would
5 love, like I said earlier, to have another trial
6 for criminal harassment because the mistakes that
7 were made at the first trial and all the
8 collusion, would definitely not happen a second
9 time.

10 THE COURT: See, one -- one of the things I need to
11 decide, as I mentioned to you, is, is there a
12 substantial likelihood of you committing an
13 offence if you were to be released --

14 THE ACCUSED: Right.

15 THE COURT: -- from custody and -- and with respect to
16 the harm that may cause. So it's in that vein
17 that I ask the next question. Why? Why have
18 website number 2? Why put this stuff on there?

19 THE ACCUSED: I can tell you that. In fact, I made a
20 note on this paper to make sure that I didn't
21 forget to mention this --

22 THE COURT: Okay, good, I'm glad --

23 THE ACCUSED: -- because people keep --

24 THE COURT: -- I've assisted you.

25 THE ACCUSED: -- asking me why, and why don't I just
26 put it behind me and move on.

27 THE COURT: I'm not --

28 THE ACCUSED: She took my child away. She took steps
29 to get me deported from the country so she could
30 get custody of our child, a child she abandoned, a
31 child I raised by myself. And then, once I was
32 deported, I lost custody, and then she did
33 everything she could to make it impossible for me
34 to keep any kind of contact with him. I have not
35 had any contact with my son since May 26th of
36 2016. And for that reason, I will never forgive
37 her, and I will never stop.

38 And when the probation is finished in three
39 years, and I return to the United States or
40 wherever I go, everything will continue.

41 Now, I'd also like to point out though, the
42 second website is online right now, has a huge
43 amount of incriminating evidence and proof that
44 she committed so much perjury and proof of all
45 this collusion between Lagemaat and Myhre, whether
46 I am in jail, whether I am denied bail, or I am
47 released, isn't going to change that. It's

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1 already there, it's on the internet, and ...
2 THE COURT: Hang on one second, Mr. Fox. I just want
3 to gather my thoughts for a moment.
4 THE ACCUSED: Sure. Should I sit, or --
5 THE COURT: You can -- you can --
6 THE ACCUSED: Sure.
7 THE COURT: -- remain standing. I'm just -- I'm just
8 making notes. I just want to jot down a thought
9 here, hold on.
10 THE ACCUSED: May -- may I point out one more thing
11 though about the website, or make one declaration
12 about it, and this even was proven somewhat at the
13 trial. Every single word on the website is true.
14 There is absolutely no defamation; there are no
15 false statements against Capuano. The Crown never
16 even attempted to claim that any of the statements
17 were false during the trial.
18 THE COURT: So would I be accurate -- actually, never
19 mind, never mind.
20 THE ACCUSED: Oh. Well, you can ask.
21 THE COURT: That's -- that's okay. No, I think -- I
22 think you've answered the question I was going to
23 ask.
24 THE ACCUSED: The Crown also stated earlier that Ms.
25 Capuano had taken numerous steps to get the
26 website taken down and that was also an issue that
27 came up during the trial and the sentencing.
28 But every effort that Ms. Capuano ever took
29 to get the website taken down was very sideways,
30 it was very collateral. There were things that
31 she could have done that could have gotten the
32 website taken down very easily. Once I was in
33 custody, she could have filed a complaint with the
34 hosting provider.
35 She always did things that would be enough to
36 make it look like she was doing something, but not
37 enough to actually get it taken down. For
38 example, she would file a complaint, but with the
39 wrong service provider. And then when it was
40 brought to her attention, she wouldn't refile the
41 complaint with the -- with the correct one.
42 So I personally don't believe that Ms.
43 Capuano has any interest in having the website
44 taken down, because I believe that she prefers the
45 attention that she gets with the website being up.
46 Oh, there was -- oh, where'd it go? The
47 Crown had mentioned earlier also that when I was

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1 speaking with the RCMP last week, they had asked
2 me when I decided to return to the United States
3 and the Crown had said that I said that as soon as
4 I was sentenced.

5 There was more to my response than that
6 though. What I had told the RCMP, and of course
7 it's all in video and the audio, so it's all
8 provable, was that even -- well, certainly at the
9 point of the sentencing I knew that I was going to
10 be returning to the United States, but even before
11 that, but my original intention was that I was
12 going to return to the United States as soon as
13 the probation conditions were vacated.

14 Now, I assumed the appeal would proceed and
15 the probation would be vacated once the appeal was
16 granted.

17 When I began to realize that the appeal
18 wasn't going to proceed because [indiscernible]
19 and the LSS applications were denied, and I don't
20 have \$2,000 for the transcripts, I then began to
21 realize that I'm probably going to be stuck here
22 for three years and my intention at that point was
23 that, yes, I'm going to return to the United
24 States once the probation is finished, and that's
25 clearly in the RCMP interview.

26 So it's not that I was -- I didn't tell the
27 RCMP that I was intending to return to the United
28 States immediately, because that would violate the
29 probation.

30 THE COURT: But then, when you didn't get your way in
31 front of Justice Holmes, that's when you decided
32 you were going to head to the States.

33 THE ACCUSED: Well, I wouldn't phrase it as when I
34 didn't get my way; I would phrase it as --

35 THE COURT: I don't mean that in a derogatory way.

36 THE ACCUSED: Okay.

37 THE COURT: I mean, I'm just speaking in plain
38 language.

39 THE ACCUSED: Right. I see it -- I saw it then, and I
40 still see it now, as purely a matter of necessity.
41 Just as I had said earlier --

42 THE COURT: Yeah, I --

43 THE ACCUSED: -- what is the point in releasing me?
44 You might as well just keep me in jail until the
45 probation is done.

46 THE COURT: Right. Okay, I've got that argument.

47 THE ACCUSED: And, I guess that's it. Those are my

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1 submissions.

2 THE COURT: Ms. Tomasson, anything in reply?

3 MS. TOMASSON: No, thank you, Your Honour.

4 THE COURT: Did you -- who was -- were you in front of
5 Justice Holmes?

6 MS. TOMASSON: I was not. It was the original trial
7 counsel, Mr. Myhre, but I have spoken to him about
8 those proceedings. I may be able to answer a
9 question if --

10 THE COURT: Well, I'm just wondering, Mr. Fox had said
11 that he made these same arguments in front of
12 Justice Holmes.

13 MS. TOMASSON: He did --

14 THE COURT: What was --

15 MS. TOMASSON: -- as I understand it.

16 THE COURT: What was Justice Holmes' response, other
17 than denying the application?

18 MS. TOMASSON: Her response was that it -- and this is
19 a quote, that he appeared to be trying to
20 manipulate her in his submissions because he also
21 brought audio recordings to the court that he
22 played where he had conversations with people at
23 the --

24 THE ACCUSED: IRCC.

25 MS. TOMASSON: -- IRCC --

26 THE ACCUSED: And CBSA.

27 MS. TOMASSON: -- and CBSA, in which he said to them,
28 "I'm an American citizen so what's my status in
29 Canada?" And they explained what his status was,
30 and she said that by framing his questions in the
31 manner that he did, without saying I -- I could be
32 a Canadian citizen, but I think I'm an American
33 citizen or something like that, but their answers
34 were premised on what he told them, and that she
35 couldn't take their answers as establishing that
36 he was an American citizen, if -- if that makes
37 sense. And so, she said that she disregarded
38 those documents as well as the recordings he -- he
39 tendered.

40 Before the court today he also has not
41 tendered documents that I provided him today that
42 include copies of his Canadian passports.

43 THE COURT: Sorry, the documents include copies of the
44 Canadian passport?

45 MS. TOMASSON: Yes, but he has chosen not to tender
46 those.

47 THE ACCUSED: Um, first I'd like to respond with

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1 respect to those audio recordings of those
2 telephone calls. In both of the telephone calls I
3 provided both agencies the UCI number. So they
4 went in the computer, they looked up where I was.
5 It's not that I called them and said, "I'm a U.S.
6 citizen, do I have any status in Canada?" I
7 answered all of their questions. I provided them
8 the UCI number, so they knew exactly who they were
9 talking to. I strongly disagree with Justice
10 Holmes' claim that I was trying to misrepresent
11 anything.

12 Also, those recordings of those phone calls
13 are also on the website, and so anybody, including
14 yourself, can go to the website and listen to them
15 for yourselves.

16 Now, as for these documents here that the
17 Crown is referring to, the purpose of providing
18 these documents to the court and to the Crown is
19 to show that -- because I often wondered why it is
20 that the Canadian Government would allow somebody
21 who's not a Canadian citizen to be deported to
22 Canada, and how ICE was able to get travel
23 documents.

24 What I got from IRCC were these applications.
25 It shows that either Homeland Security or the
26 Canadian Consulate, forged the applications that I
27 had filled out to obtain those emergency travel
28 documents, and it's right here, clearly in
29 different handwriting and such. That was the
30 purpose of providing these. Now --

31 THE COURT: Sir, when you say "these" what are you
32 what --

33 THE ACCUSED: Oh

34 THE COURT: -- what are "these"?

35 THE ACCUSED: -- these are applications for emergency
36 travel documents.

37 THE COURT: Oh.

38 THE ACCUSED: When a person is being deported, let's
39 say from the United States to Canada, you have to
40 fill out a passport application which is then used
41 to issue an emergency travel document that is used
42 to allow the person to enter the country. And in
43 these cases, as I said, either ICE or the Canadian
44 Consulate modified the information I had put on
45 the emergency travel documents. For example,
46 where it says which country I was born in and I
47 put USA, and they scribbled that out and put

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1 Canada on there.
2 THE COURT: Let me ask you this.
3 THE ACCUSED: Sure.
4 THE COURT: And I'm not -- I -- I'm going to
5 deliberate. Quite frankly, I'm going to give my
6 decision this afternoon --
7 THE ACCUSED: Sure.
8 THE COURT: -- just because lunchbreak is at 12:30.
9 But if -- let's say I were to release you, what's
10 your plan?
11 THE ACCUSED: Well, I'll be honest, I haven't even put
12 any thought into that because as I said, I really
13 don't think I'm going to be released. But my plan
14 would be, first I would have to go back to the
15 Belkin House, see if they have any beds there. If
16 not, then I would go back to the Yukon, see if
17 they have any beds there. Then if not, then I
18 would go around to all the different shelters
19 until I find a bed. And I would continue to try
20 to get these conditions removed, and Justice
21 Holmes is likely going to continue to deny those
22 requests. I guess that would be the extent of it.
23 THE COURT: Okay. All right. Well, listen. I
24 appreciate your submissions, thank you very much.
25 THE ACCUSED: Thank you.
26 THE COURT: Ms. Tomasson, it's now 12:15. I need to --
27 and Mr. Fox, I need to obviously consider the
28 information that you've given to me. This is, as
29 much as you both have the benefit of giving some
30 thought to what you're going to say to the court,
31 I've just received it for the first time, and so I
32 need to process it a bit, and then be able to
33 articulate my decision in a way that is clear,
34 concise and understandable. So obviously that
35 takes a little bit of time.
36 So why don't we come back, I'm going to
37 suggest we come back at 2:30. I have an
38 engagement after a little bit of lunch hour, and
39 so why don't we come back at 2:30 and I'll have my
40 decision for you, okay?
41 THE ACCUSED: Certainly, and I would say, if you want
42 to take much longer, a few days or so, I have no
43 opposition to that.
44 THE COURT: Okay, I appreciate that, Mr. Fox, thank
45 you. And if I find as I'm putting together my
46 reasons that I could use more time, I'll certainly
47 bear that in mind.

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1 THE ACCUSED: Okay.
2 THE COURT: Okay, thanks. Ms. Tomasson, anything else?
3 MS. TOMASSON: No, thank you, Your Honour.
4 THE COURT: All right, thank you.
5 THE SHERIFF: Order in court, all rise.
6 THE COURT: Okay.
7
8 (PROCEEDINGS ADJOURNED FOR NOON RECESS)
9 (PROCEEDINGS RECONVENED)
10
11 THE COURT: You can have a seat, Mr. Fox.
12 THE ACCUSED: Before we proceed, could I point out one
13 thing? There was one other issue that I wanted to
14 make a correction on that I overlooked in my notes
15 earlier.
16 THE COURT: Sure.
17 THE ACCUSED: The Crown had said this morning that I
18 had refused to participate in a psych assessment
19 that was required as part of my probation, unless
20 it was recorded. In fact, I did participate in a
21 psych assessment in January, it was recorded, and
22 that recording is on the website.
23 THE COURT: Okay, thank you.
24
25 [REASONS AT JUDICIAL INTERIM RELEASE HEARING]
26
27 THE COURT: Okay.
28 MS. TOMASSON: Yes, Your Honour, we'll next be dealing
29 with his next appearance, and I'm going to suggest
30 that given his -- him not being represented, that
31 it should be in courtroom 102, rather than
32 courtroom 307.
33 THE COURT: Okay.
34 MS. TOMASSON: That he be before a judge, rather than a
35 --
36 THE COURT: Sure.
37 MS. TOMASSON: And so, since he's been detained, I'm
38 wondering if Mr. Fox wants to next appear in
39 person, or by video, and I'm going --
40 THE COURT: Mr. Fox --
41 MS. TOMASSON: -- to suggest perhaps two days, just so
42 we can put together some disclosure for him. But
43 I have to determine how we're going to do that for
44 him, given his putting it on other systems, so
45 have to put some thought to that.
46 THE COURT: Mr. Fox, would you -- would you prefer to
47 attend by video or in person for subsequent --

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1 THE ACCUSED: In --
2 THE COURT: -- court appearances?
3 ACCUSED: In person.
4 THE COURT: In person?
5 THE ACCUSED: Yes.
6 THE COURT: Okay. And we'll have you attend in court
7 102, which is a court where there's always a judge
8 presiding, as opposed to a different court where
9 there's a justice of the peace presiding who has
10 limited jurisdiction, okay? Just in case you have
11 any questions or anything needs to be addressed.
12 All right?
13 THE ACCUSED: Yes.
14 THE COURT: And in terms of when you come back to
15 court, would you like to come back in -- what's
16 today, Wednesday. Would you like to come back on
17 Friday, or the beginning of next week, or --
18 THE ACCUSED: I can't imagine that it could make any
19 difference whatsoever to me.
20 THE COURT: Ms. Tomasson, what's convenient from the
21 Crown's standpoint, knowing Mr. Fox will appear in
22 person with respect to disclosure?
23 MS. TOMASSON: Yes. I'm going to ask for Monday.
24 THE COURT: One day, so --
25 MS. TOMASSON: Sorry, Monday.
26 THE COURT: Oh, Monday, I'm sorry.
27 MS. TOMASSON: Monday of next week.
28 THE COURT: So, Mr. Fox, we'll have you return on
29 Monday, April 15th at 9:30 in court 102.
30 THE ACCUSED: Okay.
31 THE COURT: Okay?
32 THE ACCUSED: Before we conclude though, I would like
33 to say with respect to Justice Holmes' Reasons for
34 Sentencing --
35 THE COURT: Yes.
36 THE ACCUSED: -- and I was going to mention this
37 earlier, but then I thought, hmm, I'll let it go.
38 But since it came up in your decision as well --
39 THE COURT: Sure.
40 THE ACCUSED: -- she makes absolutely no reference to
41 the literally mounds and mounds of evidence that I
42 brought at sentencing that proved Capuano was
43 lying at trial and the hundreds of emails that
44 Capuano had sent to me prior to 2014 where she was
45 threatening, and being belligerent, and trying to
46 cause problems. And even Justice Holmes herself
47 admitted that those emails were clearly

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1 threatening and clearly relevant, yet in the
2 sentencing there's not a single mention of them.
3 So I just wanted to point that out.
4 THE COURT: Okay. Well listen, I appreciate you
5 mentioning that for the completeness --
6 THE ACCUSED: Sure.
7 THE COURT: -- of the record. All right.
8 MS. TOMASSON: And if I could just have the documents
9 that were filed today returned from Mr. Fox now.
10 THE ACCUSED: I'm sorry, you want them back from me?
11 MS. TOMASSON: Yes.
12 THE ACCUSED: Do I not get to keep a copy of them? I
13 mean, don't I --
14 THE COURT: Sorry, these were documents that were filed
15 with the court and these are copies of those
16 documents?
17 MS. TOMASSON: Yes, the exhibits today.
18 THE COURT: Copies of the exhibits.
19 THE ACCUSED: Right --
20 THE COURT: Why do you want them --
21 MS. TOMASSON: The concern is where --
22 THE COURT: That they're going to be published.
23 MS. TOMASSON: -- where they will go at some --
24 THE ACCUSED: But they're --
25 MS. TOMASSON: -- eventual point when he's released.
26 THE ACCUSED: They're either public documents or
27 documents you got from me anyway. I mean, for
28 example, the --
29 THE COURT: I think that --
30 THE ACCUSED: -- IRCC and Ministry of Social
31 Development documents, clearly I have those; those
32 are my documents. The probation order, well, I
33 have that too obviously. This -- I have no idea
34 what this is, but it's obviously something that's
35 public record now, some case law. CBSA documents
36 that you got from me. These IRCC documents, you
37 want those back? The documents that you printed
38 for me, that you got from me.
39 THE COURT: I'm kind of -- my -- just thinking out
40 loud, I understand your concern.
41 THE ACCUSED: I mean, if they were filed with the
42 court, aren't --
43 THE COURT: They were --
44 THE ACCUSED: -- they public record anyway?
45 MS. TOMASSON: They're filed as exhibits at this point,
46 Your Honour --
47 THE COURT: Yeah.

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1 MS. TOMASSON: -- so he would have to make an
2 application to get them from the court record.
3 They may --
4 THE COURT: Or copies of exhibits for his assistance in
5 conducting the bail hearing.
6 MS. TOMASSON: Yes.
7 THE ACCUSED: Except for the probation order, which I
8 already have, the Ministry of Social Development
9 document which I already have, the IRCT document
10 which I already have. I'm sorry, I'm not clear
11 why you're concerned that I would publish
12 documents that I already have, and have published
13 documents that are mine anyway.
14 THE COURT: Sorry, that you have published?
15 THE ACCUSED: Oh, yes. These IRCC documents, they're
16 all public. This Ministry of Social Development
17 document, it's on the website.
18 THE COURT: Okay, so those two --
19 THE ACCUSED: Everything is on the website.
20 THE COURT: Which documents in particular are you
21 concerned about, Ms. Tomasson?
22 THE ACCUSED: I mean, really, I'd like to keep the
23 Immigration documents because I'll need those for
24 other hearings I have coming up soon. Oh, and
25 that Ministry of Social Development one, that's
26 kind of critical for hearings I have coming up.
27 MS. TOMASSON: At this point, Your Honour, the only
28 thing that may not be currently on the website
29 would be the disclosure order.
30 THE ACCUSED: I don't care about that. You can have
31 that.
32 MS. TOMASSON: Which is Exhibit 5.
33 THE COURT: Take the disclosure order.
34 MS. TOMASSON: Thank you, Your Honour.
35 THE COURT: All right, thank you. All right, thanks,
36 Mr. Fox.
37 THE ACCUSED: Thank you.
38 THE SHERIFF: Order in court.
39 THE CLERK: [Inaudible].
40 THE COURT: Pardon me?
41 THE CLERK: [Inaudible].
42 THE COURT: Thanks a lot.
43 MS. TOMASSON: Oh, Your Honour, I'm sorry.
44 THE COURT: Yeah.
45 MS. TOMASSON: What we haven't addressed is the -- the
46 request by Mr. Fox that the ban on publication -
47 THE ACCUSED: Oh, yes.

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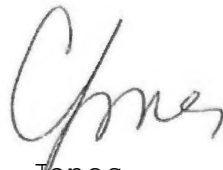
1 THE COURT: All right.
2 MS. TOMASSON: I -- I -- just so that we can address
3 it, I --
4 THE COURT: I'm going to --
5 MS. TOMASSON: -- we --
6 THE COURT: I'm going to leave the ban on publication
7 in place while there's an ongoing investigation
8 for which you provided information to the court
9 that's actually germane to that.
10 THE ACCUSED: Really?
11 THE COURT: Yeah.
12 THE ACCUSED: Okay.
13 THE COURT: Okay? Thank you.
14 MS. TOMASSON: Thank you, Your Honour.
15 THE SHERIFF: Order in court.

16
17 (PROCEEDINGS ADJOURNED TO APRIL 15, 2019 AT
18 9:30 A.M. IN COURTROOM 102)
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23 Transcriber: C. Jones
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I hereby certify the foregoing to
be a true and accurate transcript
of the evidence recorded on a sound
recording apparatus, transcribed to
the best of my skill and ability.

A handwritten signature in cursive script, appearing to read 'C Jones', written in dark ink.

C. Jones
Court Transcriber