

**244069-5-BC
Vancouver Registry**

**In the Provincial Court of British Columbia
(BEFORE THE HONOURABLE JUDGE ST. PIERRE)**

**Vancouver, B.C.
January 28, 2020**

REGINA

v.

PATRICK HENRY FOX

PROCEEDINGS (Confirm Trial Date)

BAN ON PUBLICATION 517(1) CCC

**244069-5-BC
Vancouver Registry**

**In the Provincial Court of British Columbia
(BEFORE THE HONOURABLE JUDGE ST. PIERRE)**

**Vancouver, B.C.
January 28, 2020**

REGINA

v.

PATRICK HENRY FOX

PROCEEDINGS (Confirm Trial Date)

BAN ON PUBLICATION 517(1) CCC

Crown Counsel:

B. Wolfe

Appearing on his own behalf:

Patrick Fox

Proceedings**BAN ON PUBLICATION 517(1) CCC**

Vancouver, B.C.
January 28, 2020

(VIDEOCONFERENCE COMMENCES)
(ACCUSED APPEARING VIA VIDEO FROM NORTH
FRASER PRE-TRIAL CENTRE)

THE COURT: Mr. Wolfe.

MR. WOLFE: Yes, Your Honour, Wolfe, initial B., for
the Provincial Crown. I have conduct of Number 16
on the morning list in relation to Patrick Fox.

THE COURT: To Fox. Okay.

Mr. Fox. Okay, well, I didn't know this was
going to be on the list, so I hope I don't have to
remember anything.

MR. WOLFE: Let me assist you as much as I can on that
point.

THE COURT: Okay.

MR. WOLFE: So may I, then, sort of make an
introductory comment to try and focus the
appearance?

THE COURT: Fair enough.

MR. WOLFE: First, Mr. Fox, can you hear me?

THE ACCUSED: Yeah.

MR. WOLFE: Sorry, I'll speak louder. Is this better
for you?

THE ACCUSED: Yeah, I can -- I can hear you.

MR. WOLFE: Thank you.

So today, as I recall, Your Honour, we're
here really to take stock of Mr. Fox's attempts to
obtain information --

THE COURT: Oh yeah.

MR. WOLFE: -- from CBSA.

THE COURT: Yeah.

MR. WOLFE: Identify potential witnesses, and find out
from him whether or not he's been successful in
subpoenaing anyone from CBSA or elsewhere.

THE COURT: Right.

MR. WOLFE: So that -- because we have a continuation
date in March.

THE COURT: That's right. Okay, I remember now.

Mr. Fox, how's it going?

THE ACCUSED: Things are progressing. I did receive a
number of very interesting responses from CBSA.
But putting that aside for a moment, on the issue
of the document that I had received about the FOSS
log that we had discussed at the previous hearing,

Proceedings

BAN ON PUBLICATION 517(1) CCC

1 and I had sent a letter asking them for further
2 clarification on that matter, I haven't received
3 any response on that. Lately they've been -- they
4 seem to have been taking the position of just not
5 responding to anything, so more and more of the
6 outstanding requests have been getting forwarded
7 to the Privacy Commissioner. Although, I did
8 receive a very curious response last week from
9 them that almost seems to -- well, how can I say
10 it?

11 The RCMP had some emails at -- that they
12 brought up at the trial that were not disclosed
13 prior to the trial, that seem to show some
14 communication between the RCMP and CBSA regarding
15 the security video footage from March 15th.

16 THE COURT: Yeah.

17 THE ACCUSED: CBSA, though, is now claiming that those
18 emails possibly don't exist.

19 THE COURT: What do you mean "possibly don't exist"?

20 THE ACCUSED: Well, one of the people that the RCMP was
21 claiming to have communication with, whose name
22 was in those emails, was Alexander Low [phonetic].
23 He's an administrative superintendent. So I had
24 requested all emails from Alexander Low which
25 referenced or pertained to me. The ones that were
26 returned have nothing to do with what the RCMP was
27 claiming, or what the RCMP had disclosed. And so,
28 it seems like it's kind of suggesting that maybe
29 there's some question about the authenticity of
30 the emails that the RCMP was basing their
31 testimony on. But --

32 THE COURT: Well, I mean the bottom line is what you
33 were -- you were solely concerned with some
34 information about March 15th between 4 and 6 p.m.,
35 is my understanding.

36 THE ACCUSED: Yes.

37 THE COURT: And with respect to that --

38 THE ACCUSED: Right. With respect to that, CBSA is
39 being notably silent on that. They have not
40 responded to the request that I sent to the
41 analyst that had provided that to me. And I've
42 also forwarded -- forwarded their official
43 response to the Privacy Commissioner. And,
44 obviously, I haven't received a response from the
45 Privacy Commissioner yet.

46 THE COURT: Mm hmm.

47 When are we set for, Mr. Wolfe? When is the

Proceedings

BAN ON PUBLICATION 517(1) CCC

1 continuation?

2 MR. WOLFE: 2, 4, and 6 of March 2020.

3 THE COURT: March 2, 4, and 6. Okay.

4 THE ACCUSED: At this point, I'm looking at -- I've
5 begun some communication with lawyers, to possibly
6 get counsel to assist with subpoena applications
7 for CBSA.

8 THE COURT: Yeah, why don't you get a lawyer to help
9 you with the disclosure aspects and that -- I mean
10 possible subpoenas, because it's difficult for you
11 to do when you're in custody.

12 THE ACCUSED: Yes.

13 THE COURT: And I know you don't want to be represented
14 at trial, but this would just be to facilitate the
15 matter moving forward. You can get the
16 information you want. Do you know somebody that
17 could help you?

18 THE ACCUSED: Are you asking me do I know a lawyer who
19 can help me?

20 THE COURT: Yeah.

21 THE ACCUSED: There's one lawyer in particular that
22 might be willing to touch my case. Most lawyers
23 want to stay as far away from all of this as
24 possible. The biggest problem I'm having, though,
25 is that LSS will only fund a lawyer if that lawyer
26 is going to completely represent me. They seem to
27 have an aversion to funding a lawyer just for
28 limited purposes like this.

29 THE COURT: You've applied for the limited purpose?

30 THE ACCUSED: I've spoken with LSS. I haven't put in a
31 formal application about that, though. And their
32 response was, "Well, we don't really do that. We
33 can fund a lawyer for you if that lawyer is going
34 to represent you, but not in a limited capacity
35 like this." So what I might have to do is hire
36 the lawyer to represent me, and then beyond
37 disclosure and --

38 THE COURT: Well, you're a person who's in custody
39 who's having difficulty getting disclosure that
40 you say is relevant to your case.

41 THE ACCUSED: Yes.

42 THE COURT: I would think that Legal Services Society,
43 who hasn't had to expend any money on your actual
44 trial representation, could assist you in that
45 regard. You know, it seems to me that that would
46 be a useful -- a useful expenditure of the funds
47 that are there to represent people who are in

Proceedings

BAN ON PUBLICATION 517(1) CCC

1 custody.
2 Maybe I would have a transcript of today's
3 proceedings. Madam Registrar, can we have one
4 prepared --
5 THE CLERK: Yes, Your Honour.
6 THE COURT: -- on an expedited basis, provided to Mr.
7 Fox. Maybe he could use that with Legal Services.
8 MR. WOLFE: On that point, I wonder if Mr. Fox could
9 advise whether he received a copy of the
10 transcript from the last appearance.
11 THE COURT: Yeah, I ordered a transcript.
12 THE ACCUSED: Yes, and I have that here.
13 THE COURT: Okay. So you can use that as well with the
14 Legal Services Society.
15 THE ACCUSED: Thank you.
16 THE COURT: I mean, that's the only thing I can
17 suggest. I mean, you're going to have -- it's
18 just pragmatic. It's impossible, practically
19 speaking, for you to do some of the things you
20 want to do while you're in custody.
21 THE ACCUSED: Yes.
22 THE COURT: I mean the access that you have to
23 communication devices, etc., is limited, and it
24 would really smooth things over if you had
25 somebody to assist you with that.
26 THE ACCUSED: Yes, it would.
27 THE COURT: Certainly a lawyer.
28 MR. WOLFE: Sorry to interrupt. Is Mr. Fox comfortable
29 identifying the lawyer he thinks who might help
30 him out?
31 THE ACCUSED: Not at this point. Not yet.
32 MR. WOLFE: Okay.
33 THE ACCUSED: Until I know for certain whether or
34 not --
35 MR. WOLFE: Sure, okay.
36 THE COURT: Okay.
37 THE ACCUSED: There is one other recent stumbling block
38 that I've been dealing with, with respect to North
39 Fraser, that for some reason just came up recently
40 with them; they are officially refusing to allow
41 me to send more than seven items, mail items per
42 week, which usually isn't an issue, because I
43 might have one or two items. But sometimes I'll
44 get a lot of responses back, say from the RCMP or
45 CBSA, and within a one-week period I might have to
46 send 10 or 12. And so, lately, they've been
47 complaining about that and actually withholding

Proceedings

BAN ON PUBLICATION 517(1) CCC

1 some of my outgoing mail until the following week,
2 which I wasn't aware of. So I just wanted to make
3 sure that the court was aware of that, because
4 that might potentially become an issue.
5 THE COURT: Yeah.
6 MR. WOLFE: Well, I'll tell you what. I'll send an
7 email.
8 THE ACCUSED: I think part of the problem was because
9 ADW Campbell, I guess, had left. And I believe
10 that's who Mr. Wolfe was primarily dealing with.
11 And for some reason maybe ADW Campbell didn't
12 inform the other staff.
13 MR. WOLFE: No, no, no, I've dealt with more than one
14 assistant deputy warden out there.
15 THE ACCUSED: Okay.
16 MR. WOLFE: So --
17 THE COURT: All right. Thank you, Mr. Wolfe, for doing
18 that. I appreciate that.
19 It doesn't sound like there's much that we
20 can do today except confirm March 2nd.
21 MR. WOLFE: Before I send the email, if I may ask you
22 directly, is this like a one-off problem? Like --
23 if I'm going to write an email, I've got to make
24 sure I'm on solid ground here, right? So --
25 THE ACCUSED: There have been three times that the
26 staff has brought it to my attention. Two
27 previous times -- not the most recent time, but
28 the two previous times, the staff said, "Oh, okay,
29 well since this is related to evidence in your
30 case we'll let it go." This most recent time,
31 though, I actually have a written response from
32 the ADW here, saying that no, they're only going
33 to allow seven items per week.
34 MR. WOLFE: Who is it signed by?
35 THE ACCUSED: Well, it's actually just a CS that signed
36 it, but she was speaking on behalf of --
37 MR. WOLFE: Who's the CS?
38 THE ACCUSED: Or not -- yeah, CS Bionder [phonetic].
39 But she -- I confirmed with her that she was
40 speaking on behalf of ADW Kay, K-a-y.
41 THE COURT: Yeah, all right.
42 Thanks, Mr. Wolfe, for doing that.
43 All right, Mr. Fox, yeah, you're still
44 waiting for responses from the Privacy
45 Commissioner with respect to some complaints about
46 the speed at which disclosure is coming from
47 Canada Border Services, right?

Proceedings

BAN ON PUBLICATION 517(1) CCC

1 THE ACCUSED: Yes.

2 THE COURT: Okay.

3 THE ACCUSED: Yeah.

4 MR. WOLFE: But I have to -- if I may put on the
5 record, I'm keen to have this thing continue in
6 March without any further adjournments.

7 THE ACCUSED: Well --

8 THE COURT: Well, everybody is.

9 MR. WOLFE: Sure; right?

10 THE ACCUSED: Right. I would like to point out that
11 the issue of the identity of the officers that
12 were working at the west counter at the Douglas
13 Border Crossing on March 15th, 2019, between 4 and
14 6 p.m., I've submitted a number of requests to the
15 Field Officer Supervisor at Douglas Border
16 Crossing, and an [indiscernible] request, which
17 they didn't respond to at all. And then I
18 forwarded it to the Privacy Commissioner. It is
19 peculiar to me that, if Mr. Wolfe would like this
20 matter to move forward, and if he believes that
21 what I'm saying is not true, I don't understand
22 why he couldn't just contact CBSA and say, "Look,
23 can we please have this person testify, or at
24 least get the identity" --

25 THE COURT: Well, I suggested that many times. It's
26 easy to disprove your allegations.

27 THE ACCUSED: Right.

28 THE COURT: But I'm not running the case, so --

29 THE ACCUSED: I mean Mr. Fo -- or Mr. Wolfe has had
30 five months to simply make a single request to
31 CBSA for the identity of those parties so they
32 could be subpoenaed, but he hasn't.

33 THE COURT: So there's limited options for you, Mr.
34 Fox. You can do it -- you can try to get the
35 information yourself; you can testify about what's
36 within your knowledge if you want to call evidence
37 yourself; there's a couple of options you have.
38 But again, I can't give you legal advice.

39 THE ACCUSED: No, no, I'm not seeking legal advice.
40 I'm just pointing out that Mr. Wolfe seems anxious
41 for this to proceed. Mr. Wolfe, if what he's
42 saying is true, if he sincerely believes his
43 argument, he could easily have CBSA provide the
44 identities of those people, so that he could
45 subpoena them, so that they could come and testify
46 that I'm lying.

47 THE COURT: Well, you haven't even testified yet. So

Proceedings

BAN ON PUBLICATION 517(1) CCC

1 if you testify under oath and there's no evidence
2 to rebut your story, well, that's the case, I've
3 got to deal with it. I'm going to have to deal
4 with it at some point. So, all right?
5 THE ACCUSED: Okay.
6 THE COURT: But you have to get advice about that.
7 Do we need another date? Do we need an
8 interim date?
9 MR. WOLFE: Sure.
10 THE COURT: Mid-February maybe -- no, I 'm actually --
11 THE CLERK: [Indiscernible].
12 THE COURT: Okay. Yeah, sure. Sure thing.
13 It's going to have be before the -- the 14th,
14 because I'm away as of the 14th, so --
15 MR. WOLFE: All right.
16 THE COURT: Maybe the 13th or something like that?
17 MR. WOLFE: I'm not around. I'm away from the 12th of
18 February until the 18th. So if you want to --
19 THE COURT: Okay, and then we start March 2nd; right?
20 MR. WOLFE: I can --
21 THE COURT: The 11th are you around?
22 MR. WOLFE: Yeah, I'm in 101, but, you know, I -- do
23 you know where you are?
24 THE COURT: Oh, okay. Maybe pop up to where I am on
25 the 11th.
26 MR. WOLFE: Yeah. Do you know where you are on that
27 day?
28 THE COURT: Let me have a look. I think I'm scheduled
29 -- oh, that doesn't help. I'm in North Vancouver
30 that week.
31 MR. WOLFE: Okay.
32 THE COURT: We could arrange, I suppose --
33 MR. WOLFE: Do it by video?
34 THE COURT: -- to do it by telephone.
35 MR. WOLFE: Sure.
36 THE COURT: If you were, say, in 100 or something, I
37 could appear by phone.
38 MR. WOLFE: Sure, I'm open to making a 100 appearance
39 on the 11th.
40 THE COURT: Yeah.
41 MR. WOLFE: Sure.
42 THE COURT: Okay. What time do they get here on the
43 bus? What time do they get here?
44 THE ACCUSED: Usually about 9:15.
45 THE COURT: 9:15. Okay.
46 THE ACCUSED: But if the next appearance is just going
47 to be another conference like this --

Proceedings

BAN ON PUBLICATION 517(1) CCC

1 THE COURT: Yeah.
2 THE ACCUSED: -- I guess I could appear by video. I
3 mean --
4 THE COURT: Yeah, why don't you appear by video, then.
5 You can appear, Mr. Wolfe, by video. I can
6 attend -- and hopefully they have some room in 100
7 I could appear by telephone.
8 MR. WOLFE: So could we set it directly from here to
9 Court 100 on the 11th?
10 THE COURT: Yeah, we'll try that. They'll tell us if
11 we can't at some point in time, at any event. But
12 you're here on the -- the next appearance will be
13 by video on the 11th.
14 THE CLERK: [Indiscernible].
15 THE COURT: Yeah, I direct set things if I want to
16 direct set things.
17 THE CLERK: [indiscernible]
18 THE COURT: 101?
19 THE CLERK: [indiscernible]
20 THE COURT: You're going to be in 101?
21 MR. WOLFE: Yes.
22 THE COURT: Put it in 101 and they can move it up.
23 Yeah. They're always telling me I can't do stuff,
24 but it's necessary to do it, in order for the
25 trial to go ahead. So I don't -- I used to do
26 what they asked me to, and I'm too old to do that
27 anymore, so I won't do it. Okay.
28 THE ACCUSED: There was one other thing that was
29 discussed at the previous hearing that I just want
30 to ask if Mr. Wolfe has any progress on: the
31 possibility of having the CBP officer that I first
32 spoke with testify or provide some statement.
33 Remember I had asked you about that, and you said
34 maybe you'd look into it. Because they would be
35 able to testify about whether or not they were
36 notified by CBSA prior to me presenting myself to
37 them.
38 THE COURT: Isn't that the sticking point? That's
39 assuming that you actually met with somebody on
40 the 15th, and that hasn't been established yet,
41 has it?
42 THE ACCUSED: Well, the thing is, if CBSA had notified
43 them that I was on my way over there, I must have
44 spoken with someone. That's what that proves, is
45 that I must have presented myself.
46 THE COURT: Okay, I'm not going to -- Mr. Wolfe.
47 MR. WOLFE: I'm sorry, it's like I'm not going to get

Proceedings

BAN ON PUBLICATION 517(1) CCC

1 involved in a fishing expedition or running around
2 and grabbing this witness or this guy --
3 THE COURT: That's the whole issue, Mr. Fox --
4 MR. WOLFE: Yeah.
5 THE COURT: -- is we're trying to get information about
6 your dealings with CBSA and the CBSA won't
7 cooperate.
8 MR. WOLFE: It's -- then Crown is - like, conscripted
9 to do investigation. And I'm not being cheeky
10 here.
11 THE ACCUSED: But the thing is --
12 MR. WOLFE: I'm not being cheeky, I'm just saying that
13 straight out.
14 THE COURT: It doesn't matter. The bottom line is, Mr.
15 Fox, is you keep wanting to get evidence to
16 buttress your defence.
17 THE ACCUSED: The thing is --
18 THE COURT: The defence that you're going to have to
19 testify to advance. If you testify under oath and
20 there's no evidence, no evidence to rebut your
21 story --
22 THE ACCUSED: Mm hmm.
23 THE COURT: -- that's the case that I'm going to have
24 to deal with.
25 THE ACCUSED: Okay.
26 THE COURT: Okay?
27 THE ACCUSED: The thing is, I'm not asking Mr. Wolfe to
28 get evidence in my favour.
29 THE COURT: Mm hmm.
30 THE ACCUSED: I'm asking Mr. Wolfe to get evidence that
31 he claims to believe would prove his case.
32 THE COURT: Yeah, I understand that. Mr. Wolfe
33 understands that.
34 MR. WOLFE: Right.
35 THE COURT: Okay, the 11th. Thank you.
36 Thank you, Mr. Fox, we'll see you on the
37 11th.
38 THE ACCUSED: Thank you.
39
40 (PROCEEDINGS ADJOURNED TO FEBRUARY 11, 2020
41 TO CONFIRM TRIAL DATE)
42
43
44 Transcriber: K. Riis
45
46
47

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

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.

K. Riis

K. Riis
Court Transcriber