



CA46979

COURT OF APPEAL

REX

RESPONDENT

v.

PATRICK HENRY FOX

APPELLANT

ORDER

BEFORE:

THE HONOURABLE MADAM JUSTICE STROMBERG-STEIN
THE HONOURABLE MR. JUSTICE HUNTER
THE HONOURABLE MADAM JUSTICE HORSMAN

Vancouver, British Columbia, on November 25, 2022

THE NOTICE OF APPEAL AGAINST CONVICTION AND APPLICATION TO ADDUCE FRESH EVIDENCE of the appellant from the conviction entered by the Honourable Judge N. Phillips, a Judge of the Provincial Court of British Columbia, at Vancouver, on August 19, 2020, upon Count 1 as set forth in the attached copies of the Information and Warrant of Committal, coming on for hearing today; ON HEARING the appellant, appearing on his own behalf, and David Layton, KC, counsel for the respondent; AND ON READING the materials filed herein; AND ON JUDGMENT BEING PRONOUNCED ON THIS DATE;

THIS COURT ORDERS that the fresh evidence filed on the appeal is not admitted for any purpose.

THIS COURT ORDERS that the appeal from conviction is dismissed.

APPROVED AS TO FORM:

David Layton, KC
Counsel for the Respondent

ENTERED

NOV 30 2022

VANCOUVER REGISTRY
VOL 370 55



BY THE COURT

DEPUTY REGISTRAR

INFORMATION / DÉNONCIATION

Court Identifier: 2040: PRA
Court File Number: 244069
Type Reference: B
Inf. Seq Number: 6
Agency File Number: 401:19-49074

DNA: ☐ SOR: ☐ K File: ☐

CANADA:

PROVINCE OF BRITISH COLUMBIA
PROVINCE DE LA COLOMBIE-BRITANNIQUE

"By Indictment"

This is the information of / Les présentes constituent la dénonciation de **R Gill**, a / un(e) **Court Liaison Officer** (the "Informant" / le "Dénonciateur") of / de **Vancouver**, British Columbia / Colombie-Britannique.

The informant says that the informant has reasonable and probable grounds to believe and does believe that / Le dénonciateur déclare qu'il a des motifs raisonnables et probables et croit effectivement que

Count 1

Patrick Henry FOX, between March 7 and March 21, 2019, at or near Vancouver, in the Province of British Columbia, while bound by a probation order made by The Honourable Madame Justice Holmes in the Supreme Court of British Columbia on November 10, 2017, did without reasonable excuse fail to comply with such order by making publicly available the website, www.desicapuano.com, contrary to Section 733.1(1) of the Criminal Code.

Count 2

Patrick Henry FOX, between March 7 and March 21, 2019, at or near Vancouver, in the Province of British Columbia, while bound by a probation order made by The Honourable Madame Justice Holmes in the Supreme Court of British Columbia on November 10, 2017, did without reasonable excuse fail to comply with such order by accessing the internet or any computer or cellular network, contrary to Section 733.1(1) of the Criminal Code.

THE INFORMATION SWORN ON **DECEMBER 4, 2019** CONTAINS A TOTAL OF 2 COUNTS ON 1 PAGE.

SWORN / AFFIRMED BEFORE ME /
ASSERMENTÉ / AFFIRMÉ DEVANT MOI
ON / CE 4TH DAY OF / JOUR DE **DECEMBER, 2019**
AT / À **VANCOUVER**
BRITISH COLUMBIA / COLOMBIE-BRITANNIQUE

D. Toy 2019.12.04 10:11:37
-08'00'

A JUSTICE OF THE PEACE IN AND FOR THE
PROVINCE OF BRITISH COLUMBIA /
UN JUGE DE PAIX DANS ET POUR LA
PROVINCE DE LA COLOMBIE-BRITANNIQUE

Other Signer

Wed Dec 4 2019 10:08:54

SIGNATURE OF INFORMANT /
SIGNATURE DU DÉNONCIATEUR

Patrick Henry FOX: Warrant
PROCESS / ACTE DE PROCÉDURE ISSUED

D. Toy 2019.12.04 10:12:03
-08'00'

A JUSTICE OF THE PEACE IN AND FOR THE
PROVINCE OF BRITISH COLUMBIA /
UN JUGE DE PAIX DANS ET POUR LA
PROVINCE DE LA COLOMBIE-BRITANNIQUE

**Warrant of Committal
Upon Conviction - Form 21**
Canada: Province of British Columbia

Police File No.
401:19-49074

Court File No.
2040:244069-6-B

IND

Proceeded: **By Indictment**
D.O.B.: November 24, 1973

Primary Enf. Agency:
Ban - none

To the **Peace Officers** in the Province of British Columbia and to the **Keeper of a Provincial Correctional Centre** (the "place of detention").

Whereas **Patrick Henry Fox** (the "offender") was convicted on **August 19, 2020** before **Judge N Phillips** on the following charge(s) and it was adjudged on **August 19, 2020** that the offender for his/her offences be committed to a place of detention in the Province of British Columbia for the term(s) as specified below:

Count 1, between March 7, 2019 and March 21, 2019, at or near Vancouver BC, did commit an offence of Failure to comply with probation order, contrary to section 733.1(1) Criminal Code.

SENTENCE: Jail: 1 Day(s) [Jail Term that would have been imposed before Credit Granted: 6 Month(s) ; Actual Pre-Sentence Time in Custody: 4 Month(s) ; Credited Pre-Sentence Time in Custody: 6 Month(s) ;]; Probation Order: 6 Month(s);

See a total of 1 Charge

Accordingly, you are commanded, in Her Majesty's name, to arrest the offender if it is necessary to do so in order to take the offender into custody, and to convey him/her safely to a place of detention and deliver him/her to the keeper thereof. You, the **Keeper**, are commanded to receive the offender into custody in a place of detention and imprison him/her for the term prescribed above, and this is a sufficient warrant for so doing.

Dated / Fait le **August 19, 2020**
at / à **Vancouver**

British Columbia / Colombie-Britannique

D. Toy 2020.08.19 15:42:09
-07'00'

A Clerk of the Court on behalf of / Un greffier du tribunal au nom du
Judge / juge N Phillips of the Provincial Court / de la cour provinciale, in
and for the Province of British Columbia / dans et pour la province de la
Colombie-Britannique

Notes: See attached: ☐ Information(s) ☐ Probation Order ☐ Pre-Sentence Report
☐ Indictment(s) ☐ Conditional Sentence Order ☐ Medical/Psychiatric Documents
☐ Record of Proceedings
☐ Sentence imposed in offender's absence (warrant sent to police)
☐ Other:

Warrant executed by:

Date:

PCR 024
Form 21

Jail
04/2011 BL15:32-19.08.2020

File, Sheriff

Page 1 of 2

Warrant of Committal (Jail)

Mandat de dépôt sur déclaration de culpabilité - Formulaire 21

Canada: Province de la Colombie-Britannique

Nu. de dossier de la police Nu. de dossier du greffe
401:19-49074 2040:244069-6-B

IND

Procédé : par mise en accusation

D.D.N. : November 24, 1973

Org. prim. d'app. de la loi :

Ban - none

Aux agents de la paix de la province de la Colombie-Britannique et au gardien d'un (le <<lieu de détention>>).

Attendu que **Patrick Henry Fox** (le(la) <<contrevenant(e)>>) a été déclaré coupable le **August 19, 2020** devant le juge **N Phillips** de l'(des) inculpation(s) suivante(s) et que le **August 19, 2020** il a été décidé que le(la) contrevenant(e) doit être incarcéré(e) pour son(ses) infraction(s) dans un lieu de détention dans la province de la Colombie-Britannique pour la(les) période(s) indiquée(s) ci-après :

Count 1, between March 7, 2019 and March 21, 2019, at or near Vancouver BC, did commit an offence of Failure to comply with probation order, contrary to section 733.1(1) Criminal Code.

SENTENCE: Jail: 1 Day(s) [Jail Term that would have been imposed before Credit Granted: 6 Month(s) ; Actual Pre-Sentence Time in Custody: 4 Month(s) ; Credited Pre-Sentence Time in Custody: 6 Month(s) ;]; Probation Order: 6 Month(s);

Voyez 1 inculpation

En conséquence, il vous est ordonné, au nom de Sa Majesté, d'arrêter le(la) contrevenant(e), si cela est nécessaire pour l'amener en détention, et de le(la) conduire sûrement au lieu de détention et de l'y remettre au gardien dudit lieu de détention. Il vous est ordonné, à vous le gardien, de recevoir le(la) contrevenant(e) et de l'incarcérer dans le lieu de détention pour la durée de la peine prescrite ci-dessus. Les présentes sont, pour ce faire, un mandat suffisant.

Notes: Voir annexe: ☐ Acte(s) d'accusation ☐ Ordonnance de probation ☐ Rapport présentiel
☐ Dénonciation(s) ☐ Ordonnance de condamnation avec sursis ☐ Documents médicaux/psychiatriques
☐ Procès-verbal
☐ Peine prononcée en l'absence du (de la) contrevenant(e) (mandat envoyé à la police)
☐ Autres:

Mandat exécuté par:

Fait le:

PCR 024
Form 21

Jail
04/2011 BL15:32-19.08.2020

File, Sheriff

Page 2 of 2

Mandat de dépôt (prison)

CA46979
Vancouver Registry

VANCOUVER
NOV 25 2022
COURT OF APPEAL
REGISTRY

COURT OF APPEAL

Rex

RESPONDENT

v.

Patrick Henry Fox

APPELLANT

ORDER

David Layton, KC
BC Prosecution Service
Criminal Appeals & Special Prosecutions
6th Floor, 865 Hornby Street
Vancouver, B.C. V6Z 2G8
Phone: (604) 660-0717
david.layton@gov.bc.ca