

**COURT OF APPEAL**

**REGINA**

**RESPONDENT**

**v.**

**PATRICK HENRY FOX**

**APPELLANT**

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**AFFIDAVIT OF PATRICK HENRY FOX**

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I, Patrick Henry Fox, presently incarcerated at Fraser Regional Correctional Centre (FRCC) in the City of Maple Ridge in the Province of British Columbia, solemnly affirm and say as follows:

1. I am the appellant and personally know about the matters referred to in this Affidavit, except where they are based on information and belief, in which case I believe them to be true.
2. I have been in custody since May 2016, excluding three brief periods totaling three and a half months (2.5 months in December 2018 - March 2019; 4 weeks in August - September 2020; 5 days in August 2021). All of that time has been spent at North Fraser Pretrial Centre (NFPC) and FRCC, except for about five weeks which was spent in US DHS custody in the US.
3. At both NFPC and FRCC I have absolutely no access to searchable case law and no access to educational material on Canadian law from which to educate and inform myself in litigating an appeal. At FRCC I have no access to case law at all.

4. On 2020-08-19 I was transported from NFPC to the Provincial Court by the Sheriffs first thing in the morning. While at the courthouse I was, at all times, either in holding cells where there is no contact with anyone outside the holding cell area, or I was in the courtroom. At the end of the day I was transported back to NFPC by the Sheriffs, where I was immediately moved to the COVID induction unit and confined to my cell for the rest of the day. At no point on 2020-08-19 did I have access to a telephone, the internet, or contact with anyone outside of the courtroom, the Sheriffs, and the jail staff.
5. On 2022-02-23, at my trial in another matter, Det. Dent testified on cross-examination that when he testified on 2020-11-26 at my trial in this matter, that he had “reviewed parts of the previous file” he meant he had reviewed parts of the “current” file.
6. On 2022-02-23, at my trial in another matter, Det. Dent admitted while testifying, that his purpose at my trial in this matter was to testify only about what I had said when he interviewed me, regardless of how it was said, the context in which it was said, or the circumstances under which it was said.
7. In all three of the cases which Crown Counsel Chris Johnson has prosecuted against me from 2019 through the present, the Crown has claimed or caused circumstances intended to result in an adjournments of the trial on the first day of the trial:
  - a) In the matter of BCPC file 244069-6-B (BCCA file CA46979), at the start of the trial, Mr. Johnson claimed the Crown had, just days before, received new evidence from the VPD which the Crown had not yet been able to disclose to me and for that reason requested an adjournment. I requested to waive my right to disclosure and proceed immediately. Mr. Johnson insisted it would not be fair to me to proceed without giving me an opportunity to review the new evidence. Crown inadvertently admitted it did not intend to use any of the new evidence. The judge granted the adjournment.
  - b) In the matter of BCPC file 244069-7-B (BCCA file CA47391), Crown withheld

almost all disclosure material until three days before trial then provided me 107 pages and over two hours of audio/video recordings of my conversations with the police. Crown also withheld its witness list until the morning of the trial. When I objected to the calling of a witness I hadn't received notice of the judge told me all he would do is adjourn the trial.

- c) In the matter of BCPC file 244069-8-B (BCCA file CA48145), at the start of the trial (2021-10-14), Mr. Johnson claimed the children of at least one of his witnesses had recently been diagnosed with COVID-19 so the witnesses were unable to attend court at that time. Mr. Johnson refused to say which witness. The trial was adjourned. At court, on 2021-10-14, Mr. Johnson informed me he intended to call Det. Dent, the Lead Investigator, as a witness. I told Johnson, if Dent is going to be called I will need disclosure of the audio/video recordings of his interview of me, and the transcript of his testimony from the trial in 244069-7-B in order to attack his credibility on cross-examination. Johnson agreed that was reasonable and said he would provide it. At the second trial date (2021-11-23), Crown had still not provided the requested disclosure related to Det. Dent, so the trial was adjourned again. Before the next trial date, Crown provided me a transcript of the Dent interview but not the audio/video recordings. Shortly thereafter I was provided the audio/video recordings of the Dent interview by the Appeals Section of the BCPS, for use in preparing this appeal. At the next trial date (2022-01-10) Mr. Johnson claimed that his witness, Det. Dent, had tested positive for COVID-19 that morning and could not appear. The trial was adjourned. At the next trial date (2022-01-27) Mr. Johnson failed to have his witness, Det. Tanino, available, claiming he thought I had agreed to admit to her statements. The trial was adjourned. On 2022-02-23 the trial proceeded after four Crown originated adjournments over a six month period.

Patrick Fox 2022-04-07  
Signature of Appellant