

VANCOUVER
MAY 20 2022
COURT OF APPEAL
REGISTRY

COURT OF APPEAL

REGINA

v.

PATRICK HENRY FOX

AFFIDAVIT #1 OF CHRIS JOHNSON, Q.C.

I, Chris Johnson, Q.C., of the City of Vancouver, Province of British Columbia,
AFFIRM THAT:

1. I have personal knowledge of the matters deposed to in this affidavit, except where they are said to be based on information and belief, in which case I believe them to be true.
2. I am a lawyer with the Vancouver law firm of Johnson Doyle. My practice is largely devoted to criminal defence work, but on occasion I conduct special prosecutions or act as *ad hoc* Crown counsel.
3. I have acted as *ad hoc* Crown in the following three matters involving Patrick Henry Fox, each involving one or more counts of breach of probation:
 - (a) Information 244069-6-B, which resulted in a conviction by Judge Phillips on August 19, 2020;
 - (b) Information 244069-7-B, which resulted in a conviction by Judge Rideout on November 26, 2020;
 - (c) Information 244069-8-B, which resulted in a conviction by Judge Denhoff on February 25, 2022.

4. In all three matters, Mr. Fox chose not to retain counsel and was thus self-represented throughout the proceeding. In each matter, Mr. Fox was not released on bail pending trial and he was convicted after a contested trial.

Mr. Fox's capabilities as a self-represented litigant

5. In prosecuting the above-mentioned matters, I have both appeared with Mr. Fox in court, and spoken to him off the court record,¹ on many occasions. I have seen him make submissions on issues of evidence and procedure, cross-examine Crown witnesses, and provide trial judges with closing arguments.

6. Based on this experience, in my opinion Mr. Fox is an intelligent person who is focussed and well-organized in court. He always comes to court with his materials organized, and appears to have prepared notes regarding submissions and cross-examination questions. Compared with other self-represented persons with whom I have dealt, Mr. Fox has a good understanding of the legal issues involved in his cases.

Pretrial disclosure and witnesses in proceedings on Information 244069-7-8

7. Information 244069-7-8 was sworn on September 17, 2020. Later that same day, Mr. Fox appeared for a bail hearing before Judicial Justice Rogers. The matter was adjourned for one week at Mr. Fox's request, to September 24, 2020.²

8. Mr. Fox appeared again for a bail hearing on September 24 and October 5, 2020, but both times the matter was put over, at his request, to permit him to obtain documents that he wished to use at the bail hearing.³ At the October 5 appearance, the matter was put over to October 20.⁴

¹ In this affidavit, I use the term "off-the-record", or similar wording, simply to mean that the conversation did not occur in the presence of a judge and was therefore not recorded by DARS.

² Supplementary Transcript, September 17, 2020, pp. 1-6.

³ Supplementary Transcript, September 24, pp. 8-10, and October 5, 2020, pp. 8-17.

⁴ Supplementary Transcript, October 5, 2020, pp. 8-17.

9. Also at the October 5 court appearance, Mr. Fox asked for disclosure, and I agreed to provide it to him.⁵ Later that day, at 1:53 p.m., I emailed Crown legal assistant Vivienne Deng to ask that the disclosure be prepared so that it could be sent to Mr. Fox prior to his next court appearance. At 2:12 p.m., Ms. Deng emailed me to say that she was no longer working at the Crown office at 222 Main Street, and that Crown legal assistant Kelsea Goodwillie would assist me in preparing the disclosure to be sent to Mr. Fox. At 2:16 p.m., I emailed Ms. Goodwillie to ask that she start the process of providing Mr. Fox with disclosure. Attached as Exhibit A is a printout of an email thread containing these communications, redacted to remove some email addresses and phone numbers.

10. At 10:47 a.m. on October 9, 2020, I emailed Ms. Goodwillie to follow up on my email to her from October 5. She responded by email at 10:52 a.m., confirming that she was working on getting the disclosure ready, and indicating that she was working with Shannon Simpson to address how to do so given a concern that Mr. Fox had previously stolen a laptop.⁶ Ms. Simpson is a Crown paralegal.

11. The emails mentioned in the previous two paragraphs reflect an ongoing concern, on both my part and the part of the Crown office more generally, that Mr. Fox might misuse any disclosure provided to him. The reasons for this concern include: (a) the website that was the subject of the breach of probation charges contained disclosure materials that Mr. Fox had received from the Crown, including in the criminal harassment prosecution; (b) he appeared to be very adept regarding computer technology; and (c) the Crown suspected Mr. Fox of stealing a laptop on which disclosure had been provided to him in the proceedings associated with Information 244069-6-8.

12. On October 14, 2020, Ms. Goodwillie emailed me to say that she had some initial disclosure that could be sent at that time in paper form, but that she

⁵ *Ibid*, p. 17, lines 22-29.

⁶ Exhibit 8, email dated October 15, 2020, at 4:31 p.m.

was still in the process of preparing the electronic disclosure, which she expected would be completed the following week. Ms. Goodwillie also noted that this electronic disclosure still had to be vetted by me. Attached as Exhibit B is a printout of an email thread containing this communication, redacted to remove some email addresses and phone numbers.

13. On October 15, 2020, paper copies of some initial disclosure materials were sent to Mr. Fox at North Fraser Pretrial Centre (NFPTC), as reflected in the copy of the continuous disclosure letter attached to this affidavit as Exhibit C. Exhibit C sets out the items that were included in this disclosure package.

14. Also on October 15, 2020, at 4:31 p.m., Ms. Goodwillie emailed me to say that she was sending me some electronic disclosure to be vetted prior to it being sent to Mr. Fox. Attached as Exhibit D is a printout of an email thread containing this communication, redacted to remove privileged information (p. 3), passwords (p. 5), and some email addresses and phone numbers.

15. Based on Ms. Goodwillie's email, I believe that my assistant likely accessed the electronic disclosure materials on or about October 15 or 16, 2020. The usual process would be for her to then print the materials out for my review.

16. As noted, Mr. Fox's bail hearing had been set for October 20, 2020. However, prior to this appearance he had called my office to say that he wanted to be arraigned before having a bail hearing.⁷ Accordingly, at the court appearance on October 20, Mr. Fox was arraigned and pleaded not guilty, and a trial date was set for one-and-a-half days on November 26 and 27, 2020. Mr. Fox did not ask the court to set a further date for a bail hearing, and the matter was adjourned to November 26.⁸

17. At this same court appearance, I asked Mr. Fox whether he had received the disclosure that was sent to him on October 15. Mr. Fox confirmed that he had received the disclosure, but noted that it contained only a very brief narrative and

⁷ Supplementary Transcript, October 20, 2020, p. 20, lines 11-40.

⁸ *Ibid*, p. 19-24.

a couple of statements related to his arrest. I indicated that this was an initial disclosure package, and that I was in the process of arranging for a package of electronic disclosure to be provided to him on a laptop.⁹

18. Prior to the trial dates being set on October 20, Mr. Fox and I had engaged in courtroom discussions in the absence of the presiding judge, on at least two occasions, regarding which witnesses might be called at the trial. Mr. Fox told me that he wanted DC Dent to be called as a witness. I readily agreed to do so, as DC Dent was a witness who I would have called in any event, given that he had interviewed Mr. Fox and during this interview Mr. Fox had made statements that supported the Crown case against him.

19. During these same off-the-record discussions, Mr. Fox agreed to make certain admissions regarding noncontroversial matters. While I hoped that he would not retract these admissions, I nonetheless planned to have the witnesses in question ready to testify, if possible, just in case.

20. By letter to me dated October 31, 2020, a copy of which is attached to this affidavit as Exhibit E, Mr. Fox addressed the issues of disclosure and a witness list as follows:

Also, as you know, we're less than four weeks away from the scheduled trial date and I've still not received your witness list or the disclosure. Obviously, I would like to investigate your witnesses before I cross-examine them, and I may need time to obtain evidence to rebut any evidence you intend to offer, so if it gets too close to trial before the disclosure is provided then I may need to request a continuance.

However, I believe your case is going to be based solely on my "admissions" and the testimony of one or two VPD officers – in which case, I'm ready to proceed with the trial right now.

21. On reading this letter, I viewed the second of the two paragraphs set out above as reflecting my earlier discussions with Mr. Fox as to the witnesses who would be called at trial, as well as the fact that the Crown would be relying on statements that he had made during his interview with DC Dent. For this reason,

⁹ *Ibid*, p. 22, line 43 to p. 23, line 8.

and because in the letter Mr. Fox said that he was ready to go to trial right now if the Crown was simply relying on his "admissions" and the evidence of one or two VPD officers, I saw no need to respond. (I viewed the first of the two paragraphs set out above either as a strategy by Mr. Fox to guard against the Crown calling a "surprise witness", or as reflecting his hope that, despite our previous conversations, the Crown might decide to call Ms. Capuano as a witness.)

22. Apart from this October 31 letter, neither my firm nor, to my knowledge, the Crown office at 222 Main Street, received any letters from Mr. Fox regarding this matter between the time of his arrest on September 17 and his conviction on November 26, 2020.

23. In his Affidavit #1, at paragraph 28, Mr. Fox says that in late October or early November he left a voice message with my office asking that I schedule both a bail hearing and a pretrial conference to address outstanding disclosure issues. I have no memory of Mr. Fox leaving such a voice message. But in any event, at the time I read Mr. Fox's October 31 letter, which would have been in early November, I was aware that the trial was weeks away, and I was also aware, from previous discussions with Mr. Fox, that he knew that he could request either a bail hearing date or a pretrial conference himself by contacting the court registry

24. On November 3, 2020, Ms. Goodwillie emailed me asking whether I had vetted the electronic disclosure. She indicated that she was still waiting to hear back from Ms. Simpson regarding the method of disclosing the materials to Mr. Fox, but that this could be sorted out once the materials were ready to be disclosed.¹⁰

25. On November 18, 2020, at 8:36 a.m., Ms. Goodwillie emailed me to ask if I had any updates further to her November 3 email. I responded by email at 9:11 a.m., stating that I would finish reviewing the disclosure by the next day.¹¹

¹⁰ Exhibit D, p. 4.

¹¹ Exhibit D, pp. 3-4.

26. On November 20, 2020, at 9:57 a.m., Ms. Goodwillie emailed me to inquire whether I had completed my review of the disclosure. I responded by email at 2:01 p.m., indicating that I had reviewed the disclosure and that it could now be provided to Mr. Fox, hopefully as soon as possible. Ms. Goodwillie replied at 2:10 p.m., asking whether I thought the material could be disclosed as a paper copy. I answered her in the affirmative at 3:18 p.m.¹²

27. However, at 3:50 p.m. that same day, Ms. Goodwillie emailed to say that she had been speaking to Ms. Simpson, and realized that the disclosure included audio/video materials for which there was no transcript, and so the disclosure would need to be made electronically. I agreed with this suggestion, provided the disclosure could be made on Monday, which was November 23.¹³

28. In a case that is not complex, like this one, it is not unusual for a police interview to be available only in audio or video form. Had Mr. Fox asked me to request that the police transcribe the interview prior to the trial, I would have done so, but he made no such request. For example, I did exactly that when he asked me for a transcript of this interview prior to his trial before Judge Denhoff on Information 244069-8-B.

29. On November 23, 2020, Ms. Goodwillie emailed me at 12:51 p.m. to say that: an encrypted hard drive had been sent to NFPTC that morning; she had been in touch with the Deputy Warden; and she had received confirmation that the hard drive had been received "with no issues".¹⁴

30. A copy of the letter sent to the Deputy Warden along with the above-mentioned hard drive is attached to this affidavit as Exhibit F. A copy of the continuous disclosure letter sent to Mr. Fox as part of the materials on the hard drive is attached to this affidavit as Exhibit G.

¹² Exhibit D, pp. 2-3.

¹³ Exhibit D, pp. 1-3.

¹⁴ Exhibit D, p. 1.

31. The disclosure materials couriered to Mr. Fox on November 23, 2020, contained "witness lists" for both civilian and police witnesses (RTCC, Supp. A.B., pp. 11-12). DC Dent was the first officer named on the police witness list, and his involvement was described as "Interview accused". DC Dent's "will say" indicated that he was a police witness and that he had interviewed the accused (Supp. A.B., p. 23). In addition to video and audio recordings of the interview itself (Supp. A.B., Tabs B and C), the disclosure materials also contained DC Dent's interview outline, a handwritten note regarding the interview, a Task Action Report setting out various statements Mr. Fox made during the interview, and another Task Action Report indicating that DC Dent had obtained a copy of Mr. Fox's probation conditions (Supp. A.B., pp. 31 -37).¹⁵

32. The delay in getting the electronic disclosure to Mr. Fox was the result of my heavy schedule and personal obligations during this period. As I explain below at paragraph 50, it was not the result of any improper purpose pursued in bad faith.

33. On the morning of November 26, 2020, I spoke to Mr. Fox before the trial started about admissions, as I later indicated to Judge Rideout.¹⁶ During this off-the-record discussion, I confirmed with him that the Crown was calling DC Dent as a witness. (As explained above, Mr. Fox had already known that DC Dent would be a Crown witness, and I disagree with his suggestion to the contrary at paragraph 12 of his Affidavit #1). Mr. Fox expressed no surprise at this information. He also agreed that, since DC Dent would be testifying, the Crown did not need to play the video of the interview as part of its case.¹⁷ Further, during this pretrial discussion, Mr. Fox did not express any concern that: (i) he had not received the electronic disclosure until November 23; or (ii) he did not have a transcript of his interview with DC Dent.

¹⁵ Counsel for the respondent on appeal, David Layton, informs me and I believe that the Crown will be filing a supplementary appeal book containing this disclosure, and I have reviewed a "pre-filing" version of that volume for the purpose of providing the pinpoint citations in the main text above.

¹⁶ Transcript, p. 2, line 42 to p. 3, line 19

¹⁷ Transcript, p. 3, lines 19-29.

34. I asked Mr. Fox to permit the Crown to lead the evidence of his statements at the interview through DC Dent, instead of by calling DC Dent and also playing the entire interview in court, because the interview was over an hour long and, for the purposes of the Crown case, I was content to rely on the statements that DC Dent had mentioned in his Task Action Report. However, if Mr. Fox had asked that the Crown play the video of the entire interview at his trial, I would have acceded to his request.

35. When Mr. Fox objected to DC Dent being called as a witness on the ground that he had not received a Crown witness list, despite making "multiple requests", I was not concerned that the trial process might be unfair, because Mr. Fox had known that DC Dent would be a Crown witness, and had actually wanted DC Dent to be called by the Crown. I therefore briefly responded by indicating that Mr. Fox had received full disclosure indicating DC Dent's evidence.¹⁸ But I do not agree with Mr. Fox's claim to have made multiple requested for a witness list. Rather, he had made this request once only, in his October 31 letter, and in that letter he requested a witness list only if the Crown was not confining its case to his statements at the interview and the evidence of one or two VPD officers.

36. After DC Dent had finished testifying, I met with Mr. Fox to ask whether he wanted the Crown to call any other evidence. As I indicated to Judge Rideout, he did not ask me to do so.¹⁹ During this discussion, Mr. Fox did not raise any concerns about the timing of the disclosure, the absence of a transcript of the interview, or my decision to lead the evidence of his statements solely through DC Dent, instead of playing the interview in court. Had he raised these or any other concerns with me, I would have conveyed them to Judge Rideout or encouraged him to do so himself.

Retrieval of Crown disclosure after the trial

¹⁸ Transcript, p. 4, lines 5-25.

¹⁹ Transcript, p. 23, line 39 to 46, and p. 24, lines 39-43.

37. On November 27, 2020, Mr. Fox wrote to the Crown office at 222 Main Street indicating that the disclosure material had been taken back from him on that day, and asking to have it returned so that he could prepare for his sentencing and an appeal. Mr. Fox added that, if the Crown was unwilling to provide him with the disclosure, he sought to "schedule a hearing at the earliest opportunity so that I may present the matter to the court". A copy of this letter is attached to this affidavit as Exhibit H.

38. Ms. Goodwillie sent me a copy of Exhibit H by email on December 10, 2020. In her email, she confirmed that she had taken steps to retrieve the hard drive "shortly after the trial was adjourned", by which I took her to mean shortly after Mr. Fox was convicted. Later the same day, I emailed Ms. Goodwillie to ask whether we were permitted to provide this disclosure to Mr. Fox in paper copy form. Attached as Exhibit I is a printout of an email thread containing these communications, redacted to remove some email addresses and phone numbers.

39. On December 29, 2020, Mr. Fox wrote to me indicating that: in his November 27 letter he had asked for the disclosure so that he could prepare for sentencing; and his understanding was that this letter had been forwarded to me. He repeated his request for the disclosure. A copy of this letter is attached to this affidavit as Exhibit J.

40. On January 12, 2021, Ms. Goodwillie emailed me to say that Ms. Simpson had been communicating with Deputy Regional Crown Counsel Patti Tomasson and the Deputy Warden at NFPTC regarding the best method to get disclosure to Mr. Fox.²⁰ My understanding from this email is that the suggestion being proposed was that Mr. Fox would receive the disclosure on a "read-only" BC Prosecution Service laptop, and that his box of legal materials would be searched on his release from custody to ensure that he did not take the laptop with him.

²⁰ Exhibit I, email sent January 12, 2021, at 9:16 a.m.

41. On January 21, 2021, Mr. Fox's matter was to be spoken to in court for the purpose of setting a date for sentencing, but Mr. Fox did not appear, and the matter was put over to February 2, 2021.²¹

42. At the court appearance on February 2, the matter was put over for one day to allow me to obtain a date for the sentencing.²² At this same appearance, Mr. Fox asked for the disclosure, particularly the interview with DC Dent, for use in preparing for sentencing, although when asked by Judge Rideout he was unable to say how it would be useful to him in this regard. Mr. Fox said that if the Crown had any concerns about him publishing the material, he already had a copy of it, albeit not with him in the jail, and it was going to be published, so not providing him with another copy now would not "affect that at all". At Judge Rideout's request, I agreed to provide him with this disclosure.²³ However, it was not apparent to me how the disclosure would assist Mr. Fox in preparing for or making submissions at his sentencing.

43. On February 3, 2021, the matter was set for sentencing for April 12. Mr. Fox stated that at the sentencing he would be relying extensively on the video of the interview with DC Dent, and I confirmed that I would provide him with this video.²⁴

44. On February 18, 2021, Mr. Fox wrote to me asking again for the disclosure so that he could prepare for sentencing. He also stated that, "If you're concerned about the material being published, you're too late to do anything about that." A copy of this letter is attached to this affidavit as Exhibit K.

45. On April 9, 2021, I responded to Ms. Goodwillie's email from January 12, 2021, indicating that I was agreeable to Mr. Fox receiving the disclosure in the manner that she had suggested.²⁵

²¹ Supplementary Transcript, January 21, 2021, p. 27.

²² Supplementary Transcript, February 2, 2021, pp. 29-36.

²³ Supplementary Transcript, February 2, 2021, p. 31, line 17, top. 33, line 21.

²⁴ Supplementary Transcript, February 3, 2021, pp. 38-40.

²⁵ Exhibit I, email sent April 9, 2021, at 2:36 p.m.

46. In his submissions at the sentencing hearing on April 12, 2021, Mr. Fox stated that he was "very unprepared" to proceed because he had not received the disclosure material, namely, the interview with DC Dent. Mr. Fox said that he wished to rely on the video as mitigating evidence, to show that his statements to DC Dent were made sarcastically or jokingly. Judge Rideout said that he had made his finding, and that Mr. Fox could appeal the conviction. He did not grant Mr. Fox's request for disclosure, and instead continued with the sentencing hearing.²⁶

No suggestion to Mr. Fox that charges might be withdrawn or stayed

47. In his Affidavit #1, at paragraphs 9 to 18, Mr. Fox alleges that the Crown's failure to provide a witnesses list or disclosure, or to respond to "any of my correspondence", led him to believe: first, that the Crown was not going to call any witnesses at trial, and in particular was not going to call DC Dent as a witness; and second, that the Crown was going to withdraw or stay the charges prior to or at the start of the trial.

48. However, Mr. Fox never expressed these professed beliefs to me. Moreover, I never suggested to him that the Crown might not be calling any witnesses, and in particular might not be calling DC Dent. Rather, I made clear to Mr. Fox well in advance of the trial that DC Dent would be a Crown witness. Also, I did not suggest to Mr. Fox that the charges might be stayed or withdrawn. Rather, I indicated that the Crown was going to take the matter to trial, as reflected in my setting a trial date at the court appearance on October 20, 2020.

49. During our off-the-record discussion prior to the start of the trial on the morning of November 26, 2020, Mr. Fox never expressed any surprise that I was going to call DC Dent as a witness, or that I was not withdrawing or staying the charges against him.

Alleged abuse of process

²⁶ Transcript, p. 44, line 31 to p. 46, line 12.

50. Contrary to Mr. Fox's assertion, for example at paragraphs 57, 84-89, 92 and 97 of his factum, I did not knowingly and deliberately withhold disclosure from him until three days before the trial, or withhold the identities of the witnesses I intended to call until the morning of the trial, for the purpose of coercing him into either adjourning the trial, proceeding with the trial unprepared, or pleading guilty. Nor did I act in bad faith in any other way regarding the disclosure or the identities of the prosecution witnesses.

51. Contrary to Mr. Fox's assertion, for example at paragraphs 58, 71, 76 and 90-99 of his factum, I did not knowingly and deliberately mislead the court regarding Mr. Fox's statements to DC Dent.

52. Contrary to Mr. Fox's assertion, for example at paragraphs 60 and 108-109 of his factum, I did not use the criminal prosecution against him as retaliation for repeatedly publicly exposing corruption and misconduct within the BC Prosecution Service and the justice system, nor did I use the prosecution as a means of attempting to coerce Mr. Fox into discontinuing the exposing of that corruption and misconduct.

53. Contrary to Mr. Fox's assertion or implication in paragraph 7 of his Affidavit #2, I did not seek or cause adjournments for improper purposes in his trials before Judge Phillips on Information 244069-6-B, and before Judge Denhoff on Information 244069-8-B.

AFFIRMED BEFORE ME at the)
City of Vancouver in the Province)
of British Columbia, this 19th)
day of May, 2022)



Brent P. Anderson, lawyer)

A Commissioner for taking)
Affidavits for British Columbia)

Brent Anderson
Johnson Doyle Nelson & Anderson
601 - 325 Howe Street
Vancouver, BC V6C 1Z7



Chris Johnson, Q.C.)

Christopher S. Johnson Q.C.
Johnson Doyle
601 - 325 Howe Street
Vancouver, BC V6C 1Z7

Goodwillie, Kelsea AG:EX

From: Goodwillie, Kelsea AG:EX
Sent: Friday, October 9, 2020 10:52 AM
To: 'Chris Johnson'
Subject: RE: R. v. Fox

This is Exhibit "A" referred to in the
Affidavit of Chris S. Johnson
Sworn before me at Vancouver
in the Province of British Columbia,
this 19th day of May A.D. 2022

*A Commissioner for taking Affidavits
within the Province of British Columbia*

Hi Chris,

Shannon and I are working together on this. I am starting the disclosure, but we are just trying to find a way to get him the disclosure because he has stolen one of our laptops. Shannon is looking into this, and I will keep you in the loop.

Thank you,

Kelsea Goodwillie

Major Trial Legal Assistant
Vancouver Crown Counsel Office
B.C. Prosecution Service | Ministry of Attorney General
204-222 Main Street | Vancouver BC V6A 2S8
Telephone [REDACTED] | **Fax** (604) 660-4347

From: Chris Johnson <chris@johnsondoyle.com>
Sent: Friday, October 9, 2020 10:47 AM
To: Deng, Vivianne AG:EX [REDACTED]
Cc: Goodwillie, Kelsea AG:EX [REDACTED]
Subject: Re: R. v. Fox

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hi Kelsea,
I'm just following up on this.
-Chris

Sent from my iPhone

On Oct 5, 2020, at 2:16 PM, Chris Johnson <chris@johnsondoyle.com> wrote:

Congrats on your move, Vivianne.
Kelsey, could you start the process of providing Mr. Fox with disclosure please? There is a definite method to it which we have to flow carefully. Any questions, just ask me! Or actually, probably better to start with people who really understand it, such as Aileen and Shannon. -Chris

Sent from my iPhone

On Oct 5, 2020, at 2:12 PM, Deng, Vivianne AG:EX [REDACTED] wrote:

Hi Chris,

Is this the 244069-7-B? It was a pleasure working with you, but I've moved to the Hornby office. Kelsea should be the assistant for this file now. I've cc'd her for you.

Kelsea, this is a file where we have to be really careful with disclosure as the accused is very knowledgeable about tech. I'm not sure if you've come across this file yet or if I briefed you about it before I left. Aileen and Shannon are great resources on how to disclose things.

Thank you,

Vivianne Deng

Major Trials Legal Assistant

Vancouver Regional Crown Counsel

5th Floor - 865 Hornby Street

Vancouver, B.C. V6Z 2G3

Telephone: [REDACTED] | **Fax:** 604-660-4198

Main Line: 604-660-4100

<image001.png>

This communication (both the message and any attachments) is confidential and protected by solicitor-client, litigation, or prosecutorial discretion privilege. It is only for the use of the intended recipient. Its contents must not be released to, or used by, anyone else without my express permission. If you have received this communication in error, please delete or destroy the message and any attachments immediately, and notify me by telephone or email.

From: Chris Johnson <chris@johnsondoyle.com>

Sent: Monday, October 5, 2020 1:53 PM

To: Deng, Vivianne AG:EX [REDACTED] >

Subject: Re: R. v. Fox

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hello Vivianne,

You may be aware that Mr. Fox is in custody again, this time on an Information with 2 breach charges. He wants the particulars. Will you be handling this? His next appearance is October 20th at 9:30 in 101, so I'd like to get them to him before then if possible.

-Chris

Sent from my iPhone

On Jul 14, 2020, at 4:24 PM, Deng, Vivianne AG:EX

[REDACTED] wrote:

Hi Chris,

Not sure if you need to take a look at the attached? It's dated February 21, 2020 so I'm not sure why I'm getting this NOW...

Thank you,

Vivianne Deng

Legal Assistant

Vancouver Crown Counsel Office

B.C. Prosecution Service | Ministry of Attorney General

204-222 Main Street | Vancouver BC V6A 2S8

Telephone [REDACTED] | **Fax** (604) 660-4347

<image001.png>

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<Scan_20200714.pdf>

Goodwillie, Kelsea AG:EX

From: Goodwillie, Kelsea AG:EX
Sent: Wednesday, October 14, 2020 8:40 AM
To: 'Chris Johnson'
Subject: RE: R. v. Fox

This is Exhibit " B " referred to in the Affidavit of Chris S. Johnson

Sworn before me at Vancouver
in the Province of British Columbia,
this 15th day of May A.D. 2022


A Commissioner for taking Affidavits
within the Province of British Columbia

Hi Chris,

We are still sorting out how to get the electronic disclosure to Mr. Fox. I do have the initials that we can send to him as a paper copy now, and we can send out the remaining disclosure at a later date, if that is ok with you? I am in the process of converting the multi-link VPD electronic disclosure into a single-link (Shannon has told me we need to do this for his disclosure). The additional disclosure will need to be reviewed by you. How would you like to do this? I could send it via SFTS, or courier over a disc. I am not sure how long it will take to finish converting it, but I would imagine this part will be done by next week. Let me know!

Thank you,

Kelsea Goodwillie

Major Trial Legal Assistant
Vancouver Crown Counsel Office
B.C. Prosecution Service | Ministry of Attorney General
204-222 Main Street | Vancouver BC V6A 2S8
Telephone [REDACTED] | **Fax** (604) 660-4347

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Kelsea, this is a file where we have to be really careful with disclosure as the accused is very knowledgeable about tech. I'm not sure if you've come across this file yet or if I briefed you about it before I left. Aileen and Shannon are great resources on how to disclose things.

Thank you,

Vivianne Deng

Major Trials Legal Assistant

Vancouver Regional Crown Counsel

5th Floor - 865 Hornby Street

Vancouver, B.C. V6Z 2G3

Telephone: [REDACTED] | **Fax:** 604-660-4198

Main Line: 604-660-4100

<image001.png>

This communication (both the message and any attachments) is confidential and protected by solicitor-client, litigation, or prosecutorial discretion privilege. It is only for the use of the intended recipient. Its contents must not be released to, or used by, anyone else without my express permission. If you have received this communication in error, please delete or destroy the message and any attachments immediately, and notify me by telephone or email.

From: Chris Johnson <chris@johnsondoyle.com>

Sent: Monday, October 5, 2020 1:53 PM

To: Deng, Vivianne AG:EX [REDACTED]

Subject: Re: R. v. Fox

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hello Vivianne,

You may be aware that Mr. Fox is in custody again, this time on an Information with 2 breach charges. He wants the particulars. Will you be handling this? His next appearance is October 20th at 9:30 in 101, so I'd like to get them to him before then if possible.

-Chris

Sent from my iPhone

On Jul 14, 2020, at 4:24 PM, Deng, Vivianne AG:EX

[REDACTED] wrote:

Hi Chris,

Not sure if you need to take a look at the attached? It's dated February 21, 2020 so I'm not sure why I'm getting this NOW...

Thank you,

Vivianne Deng

Legal Assistant

Vancouver Crown Counsel Office

B.C. Prosecution Service | Ministry of Attorney General

204-222 Main Street | Vancouver BC V6A 2S8

Telephone [REDACTED] | **Fax** (604) 660-4347

<image001.png>

This communication (both the message and any attachments) is confidential and protected by solicitor-client, litigation, or prosecutorial discretion privilege. It is only for the use of the intended recipient. Its contents must not be released to, or used by, anyone else without my express permission. If you have received this communication in error, please delete or destroy the message and any attachments immediately, and notify me by telephone or email.

<Scan_20200714.pdf>



This is Exhibit "C" referred to in the
Affidavit of Chris S. Johnson

Sworn before me at Vancouver
in the Province of British Columbia,
this 19th day of May A.D. 2022

*A Commissioner for taking Affidavits
within the Province of British Columbia*

October 14, 2020

PARTICULARS IN THE MATTER OF

REGINA v. FOX, Patrick
COURT FILE NO. 244069-7B

APPEARANCE/TRIAL DATE: October 20, 2020

TO: THE ACCUSED PERSON AND HIS/HER LEGAL COUNSEL

Initial Disclosure October 15, 2020 via courier to NFPC- kg

- ✓ Information #244069-7B (1 pg);
- ✓ Criminal Record (2 pgs);
- ✓ Conviction List (2 pgs);
- ✓ Booking Report (1 pg);
- ✓ Probation Order dated June 12, 2020 (1 pg);
- ✓ Probation Order dated August 19, 2020 (2 pgs);
- ✓ McNeil Report (1 pg);
- ✓ Narrative (3 pgs);
- ✓ HOLLAND, Robert VA2341 – RCC Statement (2 pgs);
- ✓ ROBERTS, Nicole VA2685 – RCC Statement (2 pgs).

Please find attached a copy of the Crown's particulars in relation to the charges.

TO THE ACCUSED

TAKE NOTICE THAT this disclosure material is provided to you for the sole purpose of assisting you to make full answer and defence in this prosecution. You must not use the material for any other purpose or for any other case.

1. The material may contain private or confidential information. You must keep it secure and not copy it or provide to any other person, other than your legal counsel, without the prior written permission of Crown Counsel.
2. The conditions set out above also apply to any further or additional disclosure material provided to you in relation to this prosecution.

3. If you are unable or unwilling to comply with these conditions, please immediately return the material to Crown Counsel.
4. If it is your intention to apply to exclude evidence under the section 24(2) of The Canadian Charter of Rights and Freedoms, you must give the Crown timely notice of the evidence you intend to rely on to support your application as well as the specifics of your argument and any remedy you seek.

TO THE ACCUSED AND DEFENCE COUNSEL

TAKE NOTICE THAT the Crown intends to produce the documents and records contained in this disclosure material, and any related testimony, at the trial or preliminary inquiry, pursuant to the *Canada Evidence Act*, *BC Evidence Act*, *Controlled Drugs or Substances Act* or the *Criminal Code*.

TO DEFENCE COUNSEL

TAKE NOTICE THAT this disclosure material is provided to you for the sole purpose of assisting the accused to make full answer and defence in this prosecution and not for any other purpose or any other case and also on the following conditions:

- a) You must keep the material in a secure fashion.
- b) You may permit access to the material or copy it for the use of the accused or persons acting under your supervision (for example, articling students, associate counsel, paralegals) in the preparation and presentation of the defence but only on the condition that they not copy it or provide access to it by anyone else.
- c) You must not copy or provide access to the material to any person or counsel who is not acting under your supervision. Notwithstanding the foregoing, you may copy the material and use it in conducting the defence (for example, in cross-examining a witness, providing material to the court, or providing witnesses with copies of their own statements).
- d) You may permit access to the material or copy it for the use of any expert retained to assist in the preparation and conduct of the defence but only on the condition that they not copy it or provide access to it by anyone else.
- e) You must not permit access to the material by or copy it for any person other than those referred to in conditions 2, 3, and 4, above, without the prior written consent of the Crown or a court order.

- f) If you are unable or unwilling to comply with any of these conditions, please immediately return this disclosure material to Crown Counsel.

VANCOUVER CROWN COUNSEL OFFICE

Enclosures

Re: R. v. Fox

Monday, May 2, 2022 1:18 PM

Subject	Re: R. v. Fox
From	Chris Johnson
To	Goodwillie, Kelsea AG:EX
Sent	Monday, November 23, 2020 1:34 PM

This is Exhibit " D " referred to in the
Affidavit of... Chris S Johnson
Sworn before me at... Vancouver
in the Province of British Columbia,
this... 19th day of... May... A.D. 2022.

.....
*A Commissioner for taking Affidavits
within the Province of British Columbia*

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Thank you!

Sent from my iPhone

On Nov 23, 2020, at 12:51 PM, Goodwillie, Kelsea AG:EX [REDACTED] wrote:

Hey Chris, just wanted to let you know that the encrypted hard drive was sent this morning, and I have been in contact with the deputy warden as well. I just received confirmation that it was received with no issues.

Thanks,

Kelsea Goodwillie

Major Trial Legal Assistant
Vancouver Crown Counsel Office
B.C. Prosecution Service | Ministry of Attorney General
204-222 Main Street | Vancouver BC V6A 2S8
Telephone [REDACTED] | **Fax** (604) 660-4347

From: Chris Johnson <chris@johnsondoyle.com>

Sent: Friday, November 20, 2020 3:51 PM

To: Goodwillie, Kelsea AG:EX [REDACTED]

Subject: Re: R. v. Fox

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Yes I'm ok with that as long as we can have it sent on Monday. -Chris

Sent from my iPhone

On Nov 20, 2020, at 3:50 PM, Goodwillie, Kelsea AG:EX [REDACTED]
wrote:

Sorry Chris, hopefully this will be the last email before the disclosure is officially sent off.

I have just been discussing this with Shannon, and we realized that we will need to disclosure the audio/video, so no matter what we will need to do electronic disclosure. We

can't sent it on a disc because the jail won't take them. Shannon said she can get a padlock to be sent on Monday. Are you ok with this? The audio/video is his statement, and there is no transcript for it unfortunately.

Kelsea Goodwillie

Major Trial Legal Assistant
Vancouver Crown Counsel Office
B.C. Prosecution Service | Ministry of Attorney General
204-222 Main Street | Vancouver BC V6A 2S8
Telephone [REDACTED] | **Fax** (604) 660-4347

From: Chris Johnson <chris@johnsondoyle.com>

Sent: Friday, November 20, 2020 3:18 PM

To: Goodwillie, Kelsea AG:EX [REDACTED]

Subject: Re: R. v. Fox

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Yes let's do paper only. If there are police phone numbers in it please delete them first

Sent from my iPhone

On Nov 20, 2020, at 2:10 PM, Goodwillie, Kelsea AG:EX
[REDACTED] wrote:

Hey Chris, thanks for letting me know. Did you see my other email regarding the method of disclosure? Do you think we can disclosure this as a paper copy?

Thank you,

Kelsea Goodwillie

Major Trial Legal Assistant
Vancouver Crown Counsel Office
B.C. Prosecution Service | Ministry of Attorney General
204-222 Main Street | Vancouver BC V6A 2S8
Telephone [REDACTED] | **Fax** (604) 660-4347

From: Chris Johnson <chris@johnsondoyle.com>

Sent: Friday, November 20, 2020 2:01 PM

To: Goodwillie, Kelsea AG:EX [REDACTED]

Subject: Re: R. v. Fox

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hello Kelsea,

Sorry this has taken awhile, but yes I did review the entire docs of disclosure that you sent me, and it can now be disclosed to Mr. Fox, hopefully as soon as possible. No deletion need to be made. Yours Chris

PS: We do not want to disclose anything too Mr. Fox that would indicate where his former spouse, Desiree Capuano resides, or her contact information. I see none of that in this file, so we are good. -Chris

On Nov 20, 2020, at 9:57 AM, Goodwillie, Kelsea AG:EX
[REDACTED] wrote:

Good morning Chris,

Have you been able to review everything yet? I have asked Shannon for a time estimate for how long it will take to get things disclosed on our end, and I will let you know when she gets back to me. With trial in less than a week, will this be sufficient time for Mr. Fox to review his disclosure?

I have not have any further conflicts for the witnesses, so that is good news.

Sorry I keep bugging you. Patience is not my virtue.

Thanks!

Kelsea Goodwillie

Major Trial Legal Assistant
Vancouver Crown Counsel Office
B.C. Prosecution Service | Ministry of Attorney General
204-222 Main Street | Vancouver BC V6A 2S8
Telephone [REDACTED] | **Fax** (604) 660-4347

From: Chris Johnson <chris@johnsondoyle.com>

Sent: Wednesday, November 18, 2020 9:11 AM

To: Goodwillie, Kelsea AG:EX [REDACTED]

Subject: Re: R. v. Fox

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hello Kelsea,

I'm in the process of reviewing the electronic disclosure. Will have that done by tomorrow.

I didn't realize we hadn't notified witnesses! Can you please notify the ones I checked off [REDACTED]? I've talked to one or two of them who are available. I don't technically need them all but let's see who is available once we notify.

-Chris

Sent from my iPhone

On Nov 18, 2020, at 8:36 AM, Goodwillie, Kelsea AG:EX

[REDACTED] wrote:

Good morning Chris, any updates?

Thank you,

Kelsea Goodwillie

Major Trial Legal Assistant

Vancouver Crown Counsel Office

B.C. Prosecution Service | Ministry of Attorney General

204-222 Main Street | Vancouver BC V6A 2S8

Telephone [REDACTED] | **Fax** (604) 660-4347

From: Goodwillie, Kelsea AG:EX

Sent: Tuesday, November 3, 2020 11:32 AM

To: 'Chris Johnson' <chris@johnsondoyle.com>

Subject: RE: R. v. Fox

Hi Chris,

Just touching base on this matter. I see the dates have been set for the end of this month. Do you need me to notify anyone for this? Have you been able to review the disclosure yet? I haven't heard anything from Shannon regarding the method of disclosing the electronic materials, but if they are ready to go out then we will sort that out. Let me know ☺

Thanks!

Kelsea Goodwillie

Major Trial Legal Assistant

Vancouver Crown Counsel Office

B.C. Prosecution Service | Ministry of Attorney General

204-222 Main Street | Vancouver BC V6A 2S8

Telephone [REDACTED] | **Fax** (604) 660-4347

From: Goodwillie, Kelsea AG:EX

Sent: Thursday, October 15, 2020 4:31 PM

To: 'Chris Johnson' <chris@johnsondoyle.com>

Subject: RE: R. v. Fox

Hi Chris,

I am sending the electronic disclosure over for your review now via SFTS.

There is also multimedia – arrest and interview of FOX. I had to compress each of them individually because it was taking way too long and causing my computer to crash. The password for each file is [REDACTED]. Please let me know if you want me to make any changes regarding vetting.

Thanks!

Kelsea Goodwillie

Major Trial Legal Assistant
Vancouver Crown Counsel Office
B.C. Prosecution Service | Ministry of Attorney General
204-222 Main Street | Vancouver BC V6A 2S8
Telephone [REDACTED] | **Fax** (604) 660-4347

From: Chris Johnson <chris@johnsondoyle.com>
Sent: Friday, October 9, 2020 10:47 AM
To: Deng, Vivianne AG:EX [REDACTED]
Cc: Goodwillie, Kelsea AG:EX [REDACTED]
Subject: Re: R. v. Fox

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hi Kelsea,
I'm just following up on this.
-Chris

Sent from my iPhone

On Oct 5, 2020, at 2:16 PM, Chris Johnson
<chris@johnsondoyle.com> wrote:

Congrats on your move, Vivianne.
Kelsey, could you start the process of providing Mr. Fox with disclosure please? There is a definite method to it which we have to flow carefully. Any questions, just ask me! Or actually, probably better to start with people who really understand it, such as Aileen and Shannon. -Chris

Sent from my iPhone

On Oct 5, 2020, at 2:12 PM, Deng, Vivianne AG:EX
[REDACTED] wrote:

Hi Chris,

Is this the 244069-7-B? It was a pleasure working with you, but I've moved to the Hornby office. Kelsea should be the assistant for this file now. I've cc'd her for you.

Kelsea, this is a file where we have to be really careful with disclosure as the accused is very knowledgeable about tech. I'm not sure if you've come across this file yet or if I briefed you about it before I left. Aileen and Shannon are great resources on how to disclose things.

Thank you,

Vivianne Deng

Major Trials Legal Assistant

Vancouver Regional Crown Counsel

5th Floor - 865 Hornby Street

Vancouver, B.C. V6Z 2G3

Telephone: [REDACTED] | **Fax:** 604-660-4198

Main Line: 604-660-4100

<image001.png>

This communication (both the message and any attachments) is confidential and protected by solicitor-client, litigation, or prosecutorial discretion privilege. It is only for the use of the intended recipient. Its contents must not be released to, or used by, anyone else without my express permission. If you have received this communication in error, please delete or destroy the message and any attachments immediately, and notify me by telephone or email.

From: Chris Johnson <chris@johnsondoyle.com>

Sent: Monday, October 5, 2020 1:53 PM

To: Deng, Vivianne AG:EX [REDACTED]

Subject: Re: R. v. Fox

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hello Vivianne,

You may be aware that Mr. Fox is in custody again, this time on an Information with 2 breach charges. He wants the particulars. Will you be handling this? His next appearance is October 20th at 9:30 in 101, so I'd like to get them to him before then if possible. -Chris

Sent from my iPhone

On Jul 14, 2020, at 4:24 PM, Deng, Vivianne AG:EX

[REDACTED] wrote:

Hi Chris,

Not sure if you need to take a look at the attached? It's dated February 21, 2020 so I'm not sure why I'm getting this NOW...

Thank you,

Vivianne Deng

Legal Assistant

Vancouver Crown Counsel Office

B.C. Prosecution Service | Ministry of Attorney General

204-222 Main Street | Vancouver BC V6A 2S8

Telephone [REDACTED] || **Fax** (604) 660-4347

<image001.png>

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<Scan_20200714.pdf>

<image001.png>

Chris Johnson Q.C.

chris@johnsondoyle.com

Johnson Doyle Nelson & Anderson

Barristers & Solicitors

601-325 Howe Street

Vancouver, BC V6C 1Z7

Phone: 604-688-8338

Fax: 604-688-8356

This message, including any attachments, is confidential and may contain privileged information intended only for the person(s) named above. Any other distribution, copying or disclosure is strictly prohibited. If you are not the intended recipient, please notify us immediately

by reply email and permanently delete the original transmission from us, including any attachments, without making a copy.

This is Exhibit "E" referred to in the
Affidavit of Chris S. Johnson

Sworn before me at Vancouver
in the Province of British Columbia,
this 19th day of May A.D. 20.....


A Commissioner for taking Affidavits
within the Province of British Columbia

Patrick Fox
1451 Karpis Ave
Port Coquitlam, BC
V3C 1S2

2020-10-31

Attn: Chris Johnson
Johnson Doyle Nelson & Anderson
601 - 325 Howe St.
Vancouver, BC V6C 1Z7

Re: R. v. Patrick Fox;
BCPC File 244069-7-B

Dear Mr. Johnson:

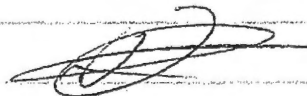
I have received the evidence I have been waiting
for and am now ready to proceed with the bail
hearing. Therefore, I respectfully request you schedule
a bail hearing at the earliest opportunity.

Also, as you know, we're less than four weeks away
from the scheduled trial date and I've still not
received your witness list or the disclosure. Obviously,
I would like to investigate your witnesses before I cross
examine them, and I may need time to obtain evidence.

to rebut any evidence your intend to offer, so if it gets too close to trial before the disclosure is provided then it may need to request a continuance.

However, I believe your case is going to be based solely on my "admissions" and the testimony of one or two VPD officers - in which case, I'm ready to proceed with the trial right now.

Sincerely,



Patrick Fox



This is Exhibit " ⁵ ~~R~~ " referred to in the
Affidavit of ^{DA} Chris S Johnson
Sworn before me at Vancouver
in the Province of British Columbia,
this 19th day of May A.D. 20.....

.....
*A Commissioner for taking Affidavits
within the Province of British Columbia*

November 23, 2020

North Fraser Pre-Trial
1451 Kingsway Avenue
Coquitlam, BC V3C 1S2

Dear Deputy Warden:

RE: R. v. FOX
244069-7B Court File:

A hard drive with the serial number 2187562 containing the disclosure belonging to Patrick FOX has been couriered to your institution today. The password for the hard drive is 8097981. Upon receipt of the hard drive itself, please ensure the password is verbally communicated to Mr. Fox so that he may access the disclosure.

I understand that any computer made available to Mr. Fox for the purpose of reviewing this electronic disclosure will not have an attached printer nor will it have internet or e-mail capabilities. Please advise if this is not the case.

Thank you for your attention to this request,

Yours truly,

A handwritten signature in dark ink, appearing to read "K Goodwillie".

Kelsea Goodwillie
Legal Assistant
BC Prosecution Service



This is Exhibit "F" referred to in the
Affidavit of... *Chris S. Johnson*
Sworn before me at... *Vancouver*
in the Province of British Columbia,
this... *19th* day of... *May*... A.D. 20... *22*

.....
A Commissioner for taking Affidavits
within the Province of British Columbia

November 23, 2020

PARTICULARS IN THE MATTER OF

REGINA v. FOX, Patrick
COURT FILE NO. 244069-7B
APPEARANCE/TRIAL DATE: October 20, 2020

TO: THE ACCUSED PERSON AND HIS/HER LEGAL COUNSEL

As of November 23, 2020 to NFPC via courier – kg

- ✓ RTCC V1 (107 pgs);
- ✓ Multimedia:
 - Arrest of Accused;
 - Interview with Accused.

Initial Disclosure October 15, 2020 via courier to NFPC– kg

- ✓ Information #244069-7B (1 pg);
- ✓ Criminal Record (2 pgs);
- ✓ Conviction List (2 pgs);
- ✓ Booking Report (1 pg);
- ✓ Probation Order dated June 12, 2020 (1 pg);
- ✓ Probation Order dated August 19, 2020 (2 pgs);
- ✓ McNeil Report (1 pg);
- ✓ Narrative (3 pgs);
- ✓ HOLLAND, Robert VA2341 – RCC Statement (2 pgs);
- ✓ ROBERTS, Nicole VA2685 – RCC Statement (2 pgs).

Please find attached a copy of the Crown's particulars in relation to the charges.

TO THE ACCUSED

TAKE NOTICE THAT this disclosure material is provided to you for the sole purpose of assisting you to make full answer and defence in this prosecution. You must not use the material for any other purpose or for any other case.

1. The material may contain private or confidential information. You must keep it secure and not copy it or provide to any other person, other than your legal counsel, without the prior written permission of Crown Counsel.
2. The conditions set out above also apply to any further or additional disclosure material provided to you in relation to this prosecution.
3. If you are unable or unwilling to comply with these conditions, please immediately return the material to Crown Counsel.
4. If it is your intention to apply to exclude evidence under the section 24(2) of The Canadian Charter of Rights and Freedoms, you must give the Crown timely notice of the evidence you intend to rely on to support your application as well as the specifics of your argument and any remedy you seek.

TO THE ACCUSED AND DEFENCE COUNSEL

TAKE NOTICE THAT the Crown intends to produce the documents and records contained in this disclosure material, and any related testimony, at the trial or preliminary inquiry, pursuant to the *Canada Evidence Act*, *BC Evidence Act*, *Controlled Drugs or Substances Act* or the *Criminal Code*.

TO DEFENCE COUNSEL

TAKE NOTICE THAT this disclosure material is provided to you for the sole purpose of assisting the accused to make full answer and defence in this prosecution and not for any other purpose or any other case and also on the following conditions:

- a) You must keep the material in a secure fashion.
- b) You may permit access to the material or copy it for the use of the accused or persons acting under your supervision (for example, articling students, associate counsel, paralegals) in the preparation and presentation of the defence but only on the condition that they not copy it or provide access to it by anyone else.
- c) You must not copy or provide access to the material to any person or counsel who is not acting under your supervision. Notwithstanding the foregoing, you may copy the material and use it in conducting the defence (for example, in cross-examining a witness, providing material to the court, or providing witnesses with copies of their own statements).

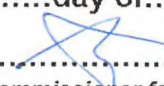
- d) You may permit access to the material or copy it for the use of any expert retained to assist in the preparation and conduct of the defence but only on the condition that they not copy it or provide access to it by anyone else.
- e) You must not permit access to the material by or copy it for any person other than those referred to in conditions 2, 3, and 4, above, without the prior written consent of the Crown or a court order.
- f) If you are unable or unwilling to comply with any of these conditions, please immediately return this disclosure material to Crown Counsel.

VANCOUVER CROWN COUNSEL OFFICE

Enclosures

This is Exhibit "H" referred to in the
Affidavit of Chris Johnson

Sworn before me at Vancouver
in the Province of British Columbia,
this 19th day of May A.D. 2022


A Commissioner for taking Affidavits
within the Province of British Columbia

Patrick Fox
1451 Kipsley Ave
Pest Coquitlam, BC
V3C 1S2

2020-11-27

Attn: Crown Counsel
222 Main St, #204
Vancouver, BC V6A 2S8

Re: R. v. Fox;
Covert File 204069-7-B;
Disclosure material

Dear Sir/Miss:

I respectfully request to be provided a copy of all of the disclosure material in the referenced matter. It was provided to me on 2020-11-23 - a mere three days before the trial - and it was taken back from me today.

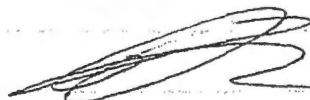
Although the trial may be over, I'm still going to require access to the disclosure for the purpose of preparing for sentencing and, of course, for the appeal.

If you are unwilling to provide the disclosure material I

request you please schedule a hearing at the earliest
opportunity so I may present the matter to the court.

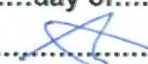
Thank you.

Sincerely,



Patrick Fox

From: [Chris Johnson](#)
To: [Goodwillie, Kelsea AG:EX](#)
Subject: Re: 244069-7B FOX letter
Date: Tuesday, April 13, 2021 1:14:02 PM

THIS IS Exhibit "A" referred to in the
Affidavit of Chris S. Johnson
Sworn before me at Vancouver
in the Province of British Columbia,
this 19th day of May A.D. 2022

A Commissioner for taking Affidavits
within the Province of British Columbia

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Sounds good to me. Thanks again for all your help. I'm happy to have this file finished with!
-Chris

Sent from my iPhone

On Apr 13, 2021, at 12:13 PM, Goodwillie, Kelsea AG:EX
 wrote:

Hi Chris,

The only disclosure he should still have is the small paper disclosure we sent in the very beginning. I'm not sure if this is something we would be able to have returned, if he even still has it? It was very small. I do have the hard drive, so that's one less thing to worry about...

Kelsea Goodwillie

Major Trial Legal Assistant
Vancouver Crown Counsel Office
B.C. Prosecution Service | Ministry of Attorney General
204-222 Main Street | Vancouver BC V6A 2S8
Telephone  | Fax (604) 660-4347

<image001.png>

From: Chris Johnson <chris@johnsondoyle.com>
Sent: Monday, April 12, 2021 10:17 AM
To: Goodwillie, Kelsea AG:EX 
Subject: Re: 244069-7B FOX letter

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hello Kelsea,

Mr Fox was sentenced today to a sentence of 16 1/2 month in jail, plus one year of

probation. Less time served he now has to serve an additional 6 months. I'm wondering what our protocol is regarding any disclosure that he still has? Thank you for all of your help in this matter.

-Chris

Sent from my iPhone

On Apr 9, 2021, at 2:36 PM, Chris Johnson <chris@johnsondoyle.com> wrote:

Hello,

Yes I am agreeable to that. -Chris

Sent from my iPhone

On Jan 12, 2021, at 9:16 AM, Goodwillie, Kelsea AG:EX

[REDACTED] wrote:

Good morning,

Shannon has been trying to sort out the best method for getting Mr. Fox his disclosure. She has been having many discussions with Patti and the deputy warden at North Fraser. Patti has said no to further paper disclosure, and the deputy warden has explained that having them hold onto the hard drive isn't ideal because they are not there around the clock, so he may not have access to the hard drive every time he wants it. The solution they have come up with is to have his file flagged so his legal box is searched when he is released, and the hard drive returned to us. This will become the new "Fox disclosure protocol" if you are agreeable to it. Please let me know if you think this is acceptable.

Thanks!

Kelsea Goodwillie

Major Trial Legal Assistant

Vancouver Crown Counsel Office

B.C. Prosecution Service | Ministry of Attorney General

204-222 Main Street | Vancouver BC V6A 2S8

Telephone [REDACTED] | Fax (604) 660-4347

From: Chris Johnson <chris@johnsondoyle.com>

Sent: Thursday, December 10, 2020 6:06 PM

To: Goodwillie, Kelsea AG:EX [REDACTED]

Subject: Re: 244069-7B FOX letter

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Under the Fox disclosure protocol are we allowed to provide him with paper copies? -Chris

Sent from my iPhone

On Dec 10, 2020, at 3:33 PM, Goodwillie, Kelsea AG:EX [REDACTED] wrote:

Hey Chris, we received the attached letter from FOX, requesting his disclosure. I did get the hard drive back from north fraser shortly after the trial was adjourned. Please let me know if you need anything.

Thanks!

Kelsea Goodwillie

Major Trial Legal Assistant

Vancouver Crown Counsel Office

B.C. Prosecution Service | Ministry of Attorney

General

204-222 Main Street | Vancouver BC V6A 2S8

Telephone [REDACTED] | Fax (604) 660-4347

<2020-12-10-244069-7B Letter from FOX.pdf>

This is Exhibit "J" referred to in the
Affidavit of Chris S. Johnson

Sworn before me at Vancouver
in the Province of British Columbia,
this 19th day of May A.D. 2022


A Commissioner for taking Affidavits
within the Province of British Columbia

Patrick Fox
1451 Kinslerway Ave
Port Coquitlam, BC
V3C 1S2

2020-12-29

Attn: Chris Johnson
Johnson Doyle Nelson & Anderson
325 Howe St, Suite 601
Vancouver, BC V6C 1Z7

Re: R. v. Patrick Fox;
BCPC File 244069-7-B;
Disclosure material - second request.

Dear Mr. Johnson:

On 2020-11-27 I sent a letter to the BCPS office at 222
Main St, requesting a copy of the disclosure material in
this matter because I will need it in preparing and
presenting my sentencing submissions. It is my
understanding that letter has been forwarded to you.

I have still not received any response to that request.

I assume you are also aware of the recent (2020-11-30)

editorial I wrote/published regarding proper handling of this case so I'm not going to repeat everything covered therein. I believe it is sufficient to say I intend to rely on or refer to specific segments of the VPS interview video to support my position on sentencing. I have a right to do so, and therefore the BCS is legally required to provide me that video so I can prepare my sentencing submissions.

Thank you.

Sincerely,



Patrick Fox

This is Exhibit " K " referred to in the
Affidavit of... Chris S. Johnson

Sworn before me at... Vancouver
in the Province of British Columbia,
this... 19th day of... May... A.D. 20... 21

.....
A Commissioner for taking Affidavits
within the Province of British Columbia

2021-02-18

Patrick Fox
1451 Kimpsey Ave
Port Coquitlam, BC
V3C 1S2

Attn: Chris Johnson
Johnson Doyle Nelson & Anderson
325 Howe St, #601
Vancouver, BC V6C 1Z7

Re: R. v. Patrick Fox;
BCPC File 244069-7-B

Dear Mr. Johnson:

1. I'm going to assume David Elg's office has already forwarded you (through the BCPS) a copy of my letter dated 2021-02-03, so I'm not going to bother repeating all that herein.
2. I formally request, yet again, a copy of the previously disclosed material, for the purpose of preparing my sentencing submissions.

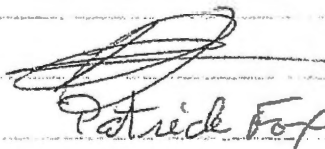
If you're concerned about the potential loss of BCPS

handcuffs you can always provide the material on a DVD-ROM. If you're concerned about the material being published, you're too late to do anything about that.

3. I will also require, at the sentencing hearing, a copy of the audio/video of the VPD interview to be played, on the record, and entered as an exhibit.

If you have any questions, let me know. If you don't provide me the disclosure material with sufficient time before the next appearance I'll just have to request another adjournment.

Sincerely,



Patrick Fox