

244069-7-B
Vancouver Registry

In the Provincial Court of British Columbia
(BEFORE JUDICIAL JUSTICE RODGERS)

Burnaby, B.C.
September 17, 2020

REGINA

v.

PATRICK HENRY FOX

PROCEEDINGS AT
JUDICIAL INTERIM RELEASE HEARING

Crown Counsel appearing by
teleconference:

C. Johnson

Defence Counsel:

A. Nelson, Duty Counsel

Proceedings

1 Burnaby, B.C.
2 September 17, 2020
3

4 (VIDEOCONFERENCE COMMENCES)
5 (ACCUSED FROM REMOTE LOCATION)
6

7 THE COURT: Good evening, sir. What's your name,
8 please?

9 THE ACCUSED: Patrick Fox.

10 THE COURT: Mr. Fox. Now just a minute. Mr. Johnson,
11 we have to get in touch with Chris Johnson, is
12 that right?

13 UNIDENTIFIED SPEAKER: That's correct.

14 THE COURT: Okay. I'll see if I can get him on this
15 line here.
16

17 (TELECONFERENCE COMMENCES)
18 (CROWN COUNSEL MR. JOHNSON FROM REMOTE
19 LOCATION)
20

21 MR. JOHNSON: Hello, Chris Johnson.

22 THE COURT: Hello Chris, it's Justice Rodgers, formerly
23 Judge Rodgers. I'm dealing with the bail hearing
24 of Mr. Fox. Mr. Fox is presently before me by
25 video from the jail at Vancouver. And also on the
26 line is Mr. Andrew Nelson, who is duty counsel.
27 So I'm going to hear first of all from you
28 please, Mr. Johnson.
29

30 **SUBMISSIONS FOR CROWN BY MR. JOHNSON:**
31

32 MR. JOHNSON: Yes, Your Worship. Nice to hear your
33 voice. It's been awhile.

34 Mr. Fox is before you on two allegations of
35 breach of probation. One is a probation order
36 which emanated from the Supreme Court of British
37 Columbia in 2017, and the other is a probation
38 order which was just granted, I believe, on August
39 the 19th of this year, when Mr. Fox was convicted
40 of breaching probation.

41 Just briefly by way of some background,
42 Mr. Fox was charged with a number of offences in
43 Supreme Court back in 2017. He elected to have a
44 trial by jury. The jury convicted him of criminal
45 harassment and firearms offences, and he was
46 sentenced by Madam Justice Holmes.

47 He was sentenced on the charge of criminal

Submissions for Crown by Mr. Johnson

1 harassment to a sentence of three years
2 imprisonment followed by probation for three
3 years, and on the firearms offence he was
4 sentenced to ten months imprisonment which was
5 consecutive to the three years.

6 And so he's still on probation out of Supreme
7 Court. And that probation order ordered Mr. Fox
8 to remove a website.

9 And Mr. Fox's former spouse, Your Worship, is
10 a woman by the name of Desiree Capuano. Mr. Fox
11 has engaged in a campaign of criminal harassment
12 against Ms. Capuano, and continues to do that.

13 He -- he did have, at the time of the Supreme
14 Court matter, a website called

15 www.desireecapuano.com. That website is full of
16 information and allegations, many of them, the
17 Crown says, false, relating to his former spouse.

18 THE ACCUSED: They are true. The allegations are true.
19 Stick with the facts, please.

20 MR. JOHNSON: And more -- more recently, he's operated
21 a website called www.desicupuano.com. It was that
22 website, the operation of which he was convicted
23 of before Judge Phillips just last month -- just a
24 few weeks ago, in fact -- and at the time of his
25 conviction, he was sentenced to time served of six
26 months on that matter, and in addition was
27 sentenced to probation, and was required within 24
28 hours to remove that website.

29 The police said it came to their attention
30 that that website was operational after Mr. Fox
31 was released in August, and they've conducted an
32 investigation and found that, not only was that
33 website operational but that Mr. Fox had added
34 information to it, including allegations related
35 to the Attorney General and why he wasn't being
36 charged with criminal harassment. I believe it
37 mentioned myself, I'm told, but I haven't seen it.

38 But in any event, Mr. Fox, when he was
39 sentenced by Judge Phillips, indicated that under
40 no circumstances would he ever remove the website,
41 and in fact he's proved that by his prior conduct
42 and his subsequent conduct.

43 The Crown says that there is a serious risk
44 that Mr. Fox, if released, will continue the
45 offence, and he's in fact adamant that he will
46 continue the offence.

47 So the Crown says that he ought to be

Submissions for Crown by Mr. Johnson

1 detained on the secondary ground.
2 There is a cause for concern on the primary
3 ground as well, Your Worship. Mr. Fox has --
4 after the Supreme Court matter, he was
5 subsequently charged with breach matters and
6 firearms, and was convicted of attempting to
7 transport firearms from Canada to the United
8 States, which is alarming given that it is
9 believed that his former spouse lives in the
10 United States.
11 He was sentenced on that matter earlier in
12 2019. I believe -- I'm not sure if the record is
13 before you or not -- but he received a sentence of
14 12 months, much of it time served at that point in
15 time.
16 THE COURT: Yes.
17 MR. JOHNSON: So this is an individual who has been
18 convicted on several occasions now with offences
19 related to firstly his former spouse and secondly
20 breaching the orders, and seems to do so with
21 impunity.
22 And in fact, just as I say, has advised the
23 judge and in fact advised the police I am told
24 when they interviewed him yesterday, that he will
25 never take down the website.
26 I can advise that the website is operated
27 through a server which is located in the United
28 States, and that server is not subject to Canadian
29 court orders, and so the court orders here have
30 not been successful.
31 I think that -- I am told by the police that
32 they were successful in convincing the website
33 operators to close Mr. Fox's website for about six
34 months while he was in jail, but that's where that
35 stands.
36 And so I say that it's a reasonable
37 expectation that Mr. Fox not operate this very
38 harmful website, and Mr. Fox obviously is
39 continuing to do that.
40 THE COURT: All right. Well, thank you, Mr. Johnson.
41 Mr. Fox, I'm going to explain the procedure
42 to you, and then I will answer any questions that
43 you may have.
44 THE ACCUSED: Well, may I respond to Mr. Johnson's
45 comments? Many of his comments were grossly
46 inaccurate.
47 THE COURT: Well, no, it's not the time for that. The

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1 time is --
2 THE ACCUSED: [Indiscernible].
3 THE COURT: The time is to see about getting you out of
4 jail if possible.
5 Now let me explain the procedure to you.
6 THE ACCUSED: Sure.
7 THE COURT: You're entitled to a bail hearing. You can
8 have that bail hearing tonight before me, and I
9 will decide whether you should be released or
10 whether you should be kept in jail until such time
11 as these charges have been dealt with. And
12 that'll be a few weeks or a few months --
13 THE ACCUSED: Weeks?
14 THE COURT: -- depending on -- on what you want to do.
15 The other choice you have is to adjourn this
16 matter until tomorrow when you would appear before
17 a judge by video, with the assistance of a lawyer,
18 to present a release plan for you.
19 It seems to me that this is a serious matter
20 --
21 THE ACCUSED: It's not. He is just making up a bunch
22 of crap. Anyway, I'm sorry [indiscernible]
23 THE COURT: In view of your refusal to comply with
24 court orders, it is a serious matter.
25 THE ACCUSED: I don't care. This is -- let's just
26 adjourn this for a week. I'll come back and make
27 another bail hearing at that time.
28 THE COURT: All right. If that's what you wish,
29 Mr. Fox. It will give you a chance to speak to a
30 lawyer as well.
31 THE ACCUSED: [Indiscernible] represent myself. I
32 don't want a lawyer.
33 THE COURT: All right then. Well, you're --
34 THE ACCUSED: [Indiscernible] Mr. Johnson, go fuck
35 yourself.
36 THE COURT: Oh, that's not a nice thing to say.
37 THE ACCUSED: I mean, it's Mr. Johnson, not for you.
38 THE COURT: Oh, okay. Well, you're adjourned then,
39 back in custody for one week, to the 24th of
40 September. You'll appear by video at 9:30 in the
41 Provincial Court of British Columbia, at 222 Main
42 Street, and I'll put that into the initial
43 appearance room, but you'll be assigned to
44 courtroom to speak with a judge.
45 Mr. Fox, do you have any questions about all
46 that?
47 THE ACCUSED: None whatsoever, thank you.

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1 THE COURT: All right. Thank you and good night.

2 THE ACCUSED: Thank you.

3 THE COURT: Thank you, Mr. Johnson.

4 MR. JOHNSON: Thank you, Your Worship.

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6

7

(VIDEOCONFERENCE CONCLUDED)

8

(TELECONFERENCE CONCLUDED)

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10 (PROCEEDINGS ADJOURNED TO SEPTEMBER 24, 2020,

11 AT 9:30 A.M. FOR CONTINUATION)

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14 Transcriber: L. Jamieson

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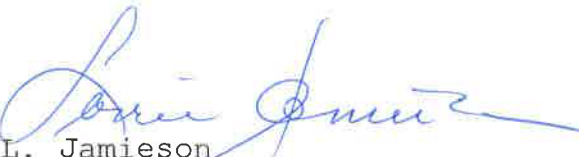
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5 I hereby certify the foregoing to
6 be a true and accurate transcript
7 of the evidence recorded on a sound
8 recording apparatus, transcribed to
9 the best of my skill and ability.
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16 L. Jamieson
17 Court Transcriber
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