IN THE MATTER OF: **Law Enforcement Review Act**

Complaint No. 5328

BETWEEN:

R. J. M.,

Complainant,

- and -

D.P.
and E.T.,

Respondents.

REASONS FOR JUDGMENT delivered by The Honourable Judge Giesbrecht, held at the Law Courts Complex, 408 York Avenue, in the City of Winnipeg, Province of Manitoba, on the 13th day of June, 2005.

APPEARANCES:

MR. R. D., for the Complainant.

MR. J. WEINSTEIN, for the Winnipeg Police Association.

NOTE: For the purposes of distribution, personal information has been removed by the Commissioner.

EXCERPT FROM JUNE 13, 2005

THE JUDGE: My apologies at the outset. I have a cold so I'm coughing - I'll try not to do too much of that.

I just want to briefly review the history of these proceedings. On November 24th of last year, 2004, I found that the respondent officers, Sergeant P. and Constable T., had abused their authority by searching the apartment on Hargrave Street without lawful authority. In this regard I found that the officers had committed a disciplinary default within the meaning of s. 29 of the Law Enforcement Review Act.

On the same date I dismissed three other alleged disciplinary default, which had been complained of by Ms. M., as she then was, having found that these allegations had not been established on clear and convincing evidence.

The matter was then ultimately set to today's date for a hearing to determine the penalty to be imposed for the disciplinary default which the respondents were found to have committed.

Now this is several months later and as has been pointed out, this is a matter that has been outstanding for a very long time with the alleged events having occurred in May of 2000, some five years ago now. And there have been a variety of delays and preliminary motions, and since the finding of the disciplinary default there were some delays because of the availability of Mr. Weinstein. In any event the matter ultimately is now before me for the determination of an appropriate penalty. Section 28 of the Law Enforcement Review Act provides that where an officer has been found to have committed a disciplinary default the provincial judge hearing the matter shall hear submissions

of the parties and details of the service record of the respondent officers. After this hearing the judge shall then order one or more of the penalties that are set out in section 30 of the Act for each disciplinary default which has been committed. The penalties are set out in s. 30 in diminishing order of seriousness and they are as follows:

> "a) dismissal;
> b) permission to resign, and in default of resignation within seven days, summary dismissal;
> c) reduction in rank;
> d) suspension without pay up to a maximum of 30 days;
> e) forfeiture of pay up to a maximum of 10 days' pay;
> f) forfeiture of leave or days off not to exceed 10 days;
> g) a written reprimand;
> h) a verbal reprimand; and
> i) an admonition."

Obviously the most serious penalty is dismissal, the least serious is an admonition and there are a number of penalties in between. This is the extent of the authority that a judge has having found a disciplinary default.

In this case I have heard submissions on behalf of the complainant, Ms. M., or H. as she now is; and as well the respondent officers. I also heard evidence from Staff Sergeant J. P. of the Winnipeg Police Service who provided the Winnipeg Police Service records of each of the respondent officers. These service records were marked as

exhibits at the hearing. In addition a binder of character reference letters and materials was filed on behalf of the respondent officers.

The submissions on behalf of the officers and the complainant are certainly very far apart. The complainant submits through her assistant, her father Mr. D., that the appropriate penalty for Sergeant P. in this case would be a reduction in rank. Mr. D.'s position is that Sergeant P. was promoted to the rank of sergeant while this complaint to the Law Enforcement Review Agency was pending, and that such a promotion should therefore not have been granted. Accordingly, he suggests that Sergeant P. should be reduced to the rank he held prior to his promotion, which appears to have been in about 2002 although I think the service record indicates that it was effective January of 2003, but that's consistent with the evidence that we heard.

Respecting Constable T. it is suggested by the complainant that an appropriate penalty would be the loss of a week's pay.

Mr. Weinstein, on behalf of the respondent officers cites their exemplary records, the very large number of positive character references that have been filed, and what he says is the relatively minor nature of the disciplinary default that the officers have been found to have committed. Mr. Weinstein submits that the penalty at the least serious end of the scale is appropriate, namely that an admonition should be the penalty that is imposed in this case.

In terms of the matters to be considered in determining an appropriate penalty in a proceeding of this kind, I don't disagree with my colleague, Chartier, provincial judge in the Lawson case, which was referred to

by Mr. Weinstein, that being a decision which was marked as part of the materials in Exhibit 1, a decision given on March the 8th of 2005. Judge Chartier listed a number of factors that should be considered in determining an appropriate penalty, this being at paragraph 11. He also indicated that this list was not meant to be exhaustive but stated that the factors that he felt were of significance were the following:

> a) the seriousness of the disciplinary default;
> b) the respondent's service record including the length of the respondent's service, all prior internal disciplinary offences and penalties imposed therefore, all prior disciplinary defaults under LERA and the penalties imposed therefore, all official commendations given to the respondent;
> c) the penalties imposed on other police officers in similar circumstances; and
> d) the respondent's conduct since the incident.

Again I agree that these are all relevant factors to be looked at.

In determining what is an appropriate penalty the framework or the background and the purpose of the Act, in

my view, must also be looked at. In this regard I had an exchange with Mr. Weinstein in terms of what is the purpose of the penalty hearing under the Law Enforcement Review Act. Mr. Weinstein suggests that the purpose of this penalty hearing is to provide corrective discipline for the respondent officers. He suggests that all of the positive information before me provides a circumstantial guarantee that an admonishment will suffice for these officers in these circumstances. He suggests that the court, when imposing penalties, should start with the least serious penalty. That there should be a progression or incremental penalties imposed based on previous conduct of the officers.

Mr. Weinstein also suggests that there is no room under the Law Enforcement Review Act for general deterrence, deterrence to others or sending a message to other officers or the public.

This is an area where obviously there is not a great deal of authority or jurisprudence. The Act, in my view, does have a broader purpose than merely as a corrective disciplinary measure for particular respondent officers. And in this regard my earlier decision dealing with the preliminary motion in this case on February 10th of 2004, paragraph 31, is relevant. I reviewed some of the very limited case law dealing with the purpose of this act and I found that there was a broader public interest purpose of the Law Enforcement Review Act aside from mere discipline of particular officers. I have not changed my view. I stated at paragraph 31 as follows:

> I agree with counsel for the commissioner that the Law Enforcement Review Act fulfills a

broad public interest and that this purpose must be kept in mind when interpreting s. 6(6) of the Act. This public interest purpose was recognized by the court in Blair v. Soltys [1999] Man. Judgments No. 470, a decision of the Manitoba Court of Queen's Bench. In that case the respondent police officer argued that there was no jurisdiction to conduct a hearing because he had resigned and he was no longer a member of the police force. It was his position that the Act was exclusively disciplinary in nature. Mykle, J. on appeal adopts the reasons of the hearing Judge Giesbrecht, Associate Chief Judge, who had concluded that the scope and purpose of the Act was much wider than simply being a disciplinary vehicle. Giesbrecht, A.C.J. had stated: '…Law makers have wrestled for years with the problem of trying to find a balance between an open and fair system for responding to complaints from citizens about possible police abuses on the one hand while at the same time not hampering the vital work the police do. The complainant, the police officer,

> the police service and the province all have an interest. From the individual police officers perspective the Act may appear to be purely disciplinary in nature but it has a much broader public purpose as well. It is designed to promote both respect for the police and respect for the individual.'"

This was what Associate Chief Judge Brian Giesbrecht had said at the hearing of that case. This decision was upheld by the Manitoba Court of Queen's Bench on review to that court and in my view is binding on me. I still am of the same mind, that there is some broader public interest purpose to this act. That is not to say that I disagree with Judge Chartier in the Lawson case when he says the Act is disciplinary in nature rather than penal, but there is in addition this overriding broad public purpose that also has to be kept in mind. Judge Chartier in his decision at paragraph 8 stated:

> "Clearly the Act is disciplinary in nature rather than penal. Indeed the nature of discipline itself is corrective rather than punitive. The main objective at the disciplinary default hearing stage should be to determine what corrective measures would be necessary to rectify the objectionable acts or omissions."

I agree with that statement, but when it is said by Judge Chartier that the main objective should be to determine what corrective measures are necessary to rectify the objectionable acts or omissions I do not take that, or take him to be saying that the corrective measures are to rectify only the conduct of the respondent officers.

In my view a strong inference can be drawn, that the public interest purpose of the Act also mandates that some consideration be given to the impact of corrective measures on the public, which includes all members of the public, including the complainant, the respondent police officers themselves; police forces and police services as well as other police officers. So while I would not use the phrase general deterrence or sending a message or denunciation, which are all terms that are used in the criminal law sentencing context, it is my view that the purpose of the Act contemplates something more than mere concern for correcting one particular officers behaviour. There is, in my view, an education function or aspect to the Act as set out in the decision in Blair and Soltys. This purpose of the Act also has to be taken into account at this stage of the proceedings. Otherwise, in my view, what would be the purpose of proceeding with these hearings when officers have retired or have left the force prior to or during the course of the hearing. I appreciate that Mr. Weinstein and his firm have many times argued that this is not a proceeding that should continue when an officer is no longer on the force or has retired or has resigned or has left the force. However, there is case authority that indicates that these hearings are appropriate even when officers have left the police force. In my view the only

possible purpose in that event would be this broader public purpose that was referred to in the Blair and Soltys case which I have adopted.

So with that in mind not only is this a matter for personal individual correction or discipline but also the broader public purpose as set out in the case I've referred to. This purpose also has to be looked at in terms of what kind of education can be achieved through the penalty phase of these proceedings. What kind of corrective discipline might be imposed that would result in some impact on other members of the public including other police officers and police forces as well?

With that background there are, in my view, two aspects to be looked at. Judge Chartier set out what the factors were to be looked at. In my view those factors can be divided up fairly neatly into two categories. This is not unlike the sentencing process I suppose in a criminal law context, although I should make it very clear that we are not dealing with a crime, we are not dealing with a sentencing, we are dealing with a penalty and we are dealing with a disciplinary default. But there are some similarities I think in terms of the sentencing process that Mr. Weinstein himself referred to.

On the one hand we have to look at the respondent officers, their background, their record of service, their situation as police officers, the character references they've provided, the work they do in the community, and all of their background and their situation has to be looked at.

On the other hand we must look at the nature and the circumstances of the disciplinary default that has been found to have been committed. So those are the two aspects that could be very loosely related I suppose, to the

background and circumstances of an offender and the circumstances and the nature of an offence, in a criminal law context.

In terms of the respondent officers in this case there's no question that there's nothing on the service record of either of these officers that is anything but positive. Constable T. has been a police officer since December of 1994, just over 10 years now. She has two entries on her service record apart from the fact that she became a police officer on a particular day in 1994. Both entries relate to good conduct. In April of 2000 and April of 2002 there are two entries of what are described as a conduct form submitted regarding good work performed. There is nothing negative on her record. There is no prior disciplinary default under this Act or internal disciplinary procedures or anything of any kind of a negative nature.

Dealing with Sergeant P., he has been a police officer since 1987, about 18 years now. In 1989, '94 and two entries in 2000 for a total of four conduct forms submitted, in each case for good work performed, over the course of his career on four occasions. In addition to that in May of 1999 there's a certificate of commendation where he was awarded a day of leave with pay and this being, I gather, in relation to the events where he rescued people from a burning building. He was promoted to Sergeant in January of 2003, I believe if I'm reading the record correctly. There is nothing of a negative nature on his record. There are no disciplinary defaults under this Act, no internal disciplinary matters. There is nothing negative.

Both are senior officers with the Winnipeg Police Force. Both are officers who have provided numerous

character references listing their many good traits and the many good things they have done, not only on the police force, but as members of the community. I think it's fair to say that both have distinguished themselves as police officers. The letters attest to their value as human beings, as members of the community and members of the police force. And this was acknowledged and no issue was taken with this characterization of these two officers by the complainant. There is simply nothing negative, or of a negative nature on their official records.

I will not go into the details of the character references. I can say I read them all and there is no question that they present a picture of two officers who have worked hard, and are proud members of the police force. They are people that are admired for traits of fairness and kindness and bravery and many other things. Their volunteer activities aside from the police force are mentioned. There are letters from friends, from family, from co-workers, from in some cases civilians and strangers who have made mention of positive things about these officers. So these are factors that are certainly worthy of note and are commendable.

Both officers are family people. Both are volunteers in the community. These letters point out that both have participated in various community events, and in fundraising for charity. They do more than their work as police officers, they also contribute to the community in other ways. Constable T. certainly contributes through her volunteer work on the national diving team. It is clear from the letters that have been submitted that Constable T. is also an important role model in her community. Not only in Grand Rapids First Nation but also to young aboriginal

people everywhere in the province.

So there is no question considering the nature, the background and the character of these officers, that only positive comments can be made and no one takes issue with that.

So that is one aspect that I must consider. We then have to look at the nature of the disciplinary default and it is on this particular point that I disagree with the position taken by Mr. Weinstein. He has categorized this particular disciplinary default as falling at the least serious end of the spectrum. Mr. Weinstein talks about the fact that the officers weren't rude, they weren't discourteous, they didn't use uncivil language. He submits that the finding that I made related simply to a general search of the apartment that was not authorized. Mr. Weinstein submits that in this case such a general search of the apartment amounted to conduct on a much lesser scale than would be rude, or discourteous or uncivil language or behaviour.

I agree with Mr. Weinstein that there are degrees of conduct in terms of seriousness. I also agree with Mr. Weinstein that in terms of my finding of a disciplinary default for the unauthorized search of the apartment that the penalty must be imposed based on the least serious of the facts that are consistent with my decision and my findings. I agree that I found that there was consent of a sort to looking at the stereo, although I also found that it was not consent in the true sense of what has been defined as consent in the criminal law. I found that there was certainly justification for examining the child in all the circumstances, in light of the marks that were seen on the child and a genuine concern about child abuse. Although I

also indicated that it might have been pursued in a more diplomatic fashion. I also found that any consent to any search that was given was not a valid one and was not a clear informed consent in the circumstances. Ultimately I found that there was a general search of the apartment. A general walking around or roaming around of the apartment. I found that the officers had been invited into the apartment and took advantage of that invitation to walk around and look around. There was no consent to such a search. There was no lawful authority for such a search. So I agree with Mr. Weinstein that that is the basis of the finding. It is the general walking around and looking around the apartment, which I indicated was not lawful. There was no lawful authority for such a search, and I found that this was a search and that did amount to a disciplinary default in these circumstances.

I do disagree though with Mr. Weinstein in that I regard this behaviour as being more serious than rude or discourteous language, or being uncivil or discourteous. And again it's very difficult to assess the degrees of seriousness but I harken back to, and I made comments in some detail in my decision about the privacy interest in a person's home and the sanctity of a person's home. These are not things that I invented, these are things that have been around for many years, that courts have commented on time and time again. I appreciate that these comments are not always understood in the way that they are meant and that people do not always agree with them. But ultimately, as I indicated at pages 35 to 36 of my decision in finding a disciplinary default, the sanctity of a person's home has been upheld and commented on at length for a very long time. This goes back to the 16 hundreds where a person’s home was

described as a castle and a fortress for a person's refuge and repose (I'm paraphrasing); to more recently where Justice Cory in the Silveria case in 1995 commented as follows:

> "There is no place on earth where persons can have a greater expectation of privacy than within their dwelling house."

He went on to say:

> "It is hard to imagine a more serious infringement of an individual's right to privacy. The home is the one place where persons can expect to talk freely, to dress as they wish and within the bounds of the law to live as they wish. The unauthorized presence of agents of the state in a home is the ultimate invasion of privacy."

So there is no question that over the years courts, all the way up to the Supreme Court of Canada have commented time and time again on the sanctity of a person's home and the fact that it is the ultimate invasion of privacy of a person's home when there is the unauthorized presence of agents of the state.

Now certainly there are procedures in place to lessen that invasion if you will, to insure that there is authorization for entry to homes. And again, as I've said

in my decision, I sympathize with police officers who are on the front lines, who find it hard to keep up with the changing law. The Charter has added a great deal of complexity to a police officer's work. But ultimately we are left with a situation where a person's home is sacrosanct unless there is a lawful authority to be present.

So with respect to Mr. Weinstein's position, it is my view that an unlawful search of a person's home is more serious than would be a police officer using rude or discourteous or uncivil language in a different place or on the street. It is the kind of conduct in my view that does require correction. I also expect that anything that happens today, with respect to the respondent officers, no doubt will have some impact on them. The mere fact that they have been involved in these proceedings for so long, there is no question that that must be a stress on the officers and that there is some corrective discipline inherent in the process and the procedure itself.

I also would expect that any person present in this room, including the respondent officers, would be very upset if any agent of the state came into their home uninvited and I mean uninvited in the sense of what is meant by consent in law, if without lawful authority they had their privacy invaded. This is why it is in my view a more serious matter where we're dealing with an unauthorized search of a home.

In a different context such a search of a home would lead to exclusion of evidence. Evidence has been excluded in some cases that are extremely serious. I cannot think of a more serious case than the Feeney case where there was the exclusion of evidence on a murder charge, where the court found that there was an invasion of this

man's privacy. So there is no question that the privacy of a home has been seen as being a very important sacrosanct principle in the law and that an unlawful search therefore is a serious matter. There is no question that the nature of the search, and the manner of the search have to be looked at. I recognize what Mr. Weinstein said about the findings that I made in this case and I am not resiling from those findings. I certainly appreciate that there are circumstances where an unlawful search might be much more intrusive, and might be much more serious. However, I do regard this as a serious disciplinary default and a more serious one than might be the case for some of these other situations that have been directed to me related to the use of language or rude or discourteous language.

Mr. Weinstein argues that an admonition in this case would be a sufficient correction to insure that the officers would not commit the same act again. I have considered at some length whether the various comments I made in my decision which were addressed to the Winnipeg Police Service more generally, related to policies and guidelines and practices relating to, for example, the obtaining of a Feeney warrant, which by the evidence in this case appears to be a practice that is seldom if ever contemplated or very rarely contemplated, should be a factor in determining an appropriate penalty. I am mindful that some of those comments were made because it was my view that this was appropriate pursuant to s. 33 of the Law Enforcement Review Act. The absence of such guidelines and policies and practices might have an impact on individual officers going about their duties as were Sergeant P. and Constable T. on this particular day back in 2000.

I'm also mindful of the fact that when dealing

with issues related to consent and when warrants need to be obtained and so on, there are sometimes misunderstandings about what the law is and that the law can change from time to time. To some extent at least the behaviour of the respondent officers in this case would seem to be in accordance with the general practice or at least the understood practice of the Winnipeg Police Service based on the evidence before me.

When looking at the nature of an admonition and looking at the broader purpose of the Act and the education function for the public and for other police officers and police services, I'm of the view that an admonition does not fulfill that broader general purpose of the Act in this case. And I am particularly mindful of s. 32(4), which wasn't alluded to in any of the submissions but s. 32(4) of the Law Enforcement Review Act provides that:

> "Notwithstanding anything in this Act, where no penalty other than an admonition is imposed against a member for a disciplinary default under this Act, the member's Chief of Police shall not record the disciplinary default or the admonition on the member's service record."

So in effect what that would mean is that there would be no entry on the service record. The Act certainly provides for this and provides that the least serious penalty should not be reflected on a member's service record.

While on the one hand the character of and the

work done by these officers and the background of these officers can be said to be exemplary based on all of the evidence at this hearing, it is my view that the nature of the disciplinary default is serious enough that it does require some entry on the service records, even balanced against the exemplary nature of the respondent officers. I did consider very seriously whether an admonition would satisfy what I regard as the broader public interest purpose of this act; whether it would serve to act as a disciplinary measure, a corrective measure, to serve this broader public interest as well as that of the respondent officers in terms of the need for corrective discipline.

I am not aware of any other like cases. And looking at various LERA decisions there have been very few findings of disciplinary defaults. Where such findings have been made I was not able to find any case that dealt with an issue where there was a finding of an unlawful search. And I suppose this might have only been since the advent of the Charter that there would be any cases like that and perhaps in more recent years where there have been more detailed comments about the privacy of a person's home and searches and so on. There were not any similar cases. When Judge Chartier says (and I agree with him) that one should look at like cases to determine what's an appropriate penalty I wasn't able to find any assistance in that regard.

So ultimately I am left to consider the background of the officers, and the nature of the disciplinary default in this case, and it is my view that an admonition would not be sufficient. And primarily the reason for that is that this penalty would not end up on the respondent’s service record. This was a concern that was expressed time and time again by the complainant and her spokesperson, why wasn't

this on the record. Well there are good reasons why pending proceedings are not on a secure record and good reason why a person's promotion might have absolutely nothing to do with pending matters, but it strikes me that where there is a serious disciplinary default, as I have found this to be, there ought to be some entry on the service record.

By the same token Mr. D.'s representations and submissions that this default deserves a reduction in rank or it deserves a loss of pay, in my view is also not appropriate. I appreciate the concern that has been expressed by Mr. D. throughout. He indicated that he was not seeking this as a means of punishment but more, I gather, as some sort of message. He was concerned that the promotion had happened for Sergeant P. at a time when this matter was outstanding. This is not something that is before me in terms of what the promotion procedures are or why this should or should not have been granted. It would strike me from looking at the service record provided for Sergeant P. that in his time with the police there would be all sorts of reasons why he might have been promoted based on his record of service.

Having said that, I do not feel that this incident, although I've categorized it as more serious than rude or uncivil language, is deserving of what is essentially one of the harshest penalties that the Act provides, aside from dismissal. With the exemplary background, and the exemplary record of Sergeant P. both before and after this incident there is simply, in my view, no basis for a reduction in rank in this case.

Moreover, with respect to the issue of the loss of pay, yes that might send a message but in my view the appropriate, corrective message, if one is needed for these

officers, and the appropriate consideration for the broad public interest purpose of the Act can be obtained through an entry on the service record. When I look at the many years that have passed and the many positive comments in the letters, loss of pay is not required. It struck me in reading the letters that there would be very few people in this province who would be able to find this many people to write good things about them as both of these officers did. It is my view that notwithstanding my finding of a serious disciplinary default, and serious circumstances, because of the sanctity of a person's home, that a verbal reprimand, which would result in an entry on the service record, which is the next least serious penalty I can impose aside from an admonition, is appropriate in this case.

So balancing all of the circumstances in this case it is my view that the appropriate penalty, having regard to the disciplinary default that I found in this case is a verbal reprimand. Pursuant to s. 28 of the Act I am directing the chief of police to enter such a verbal reprimand on the respondents' service records. Thank you.

MR. WEINSTEIN: Just, only one --

THE JUDGE: Yes.

MR. WEINSTEIN: -- other issue and just, I can't really ask the court for an order, Sergeant P. brought It up, I don't think he had realized that the letters would have gone out to all the parties. I just want to ask, I don't know if Mr. D. has the binder back, there are addresses, there are phone numbers of some of these individuals, some of whom are with the, with the police force. And I'm prepared to still provide Mr. D. with a binder of those letters so that he can keep, but I'm, I'm simply asking that if they can just be returned to me so I can just cross out any of the, the addresses and phone numbers of these individuals. I'm mostly concerned with those who are, who are members of the force.

THE JUDGE: All right, Mr. D.--

MR. D.: No, I, I respect that and I --

THE JUDGE: -- do you have any concerns about that?

MR. D.: -- I'm --

MR. WEINSTEIN: And I know that he wouldn't put it to any ill use but I just, I need to do that for the sake of it being done and then I will hand it back to him.

THE JUDGE: All right, you don’t have any difficulty with that?

MR. D.: No I'm, no I certainly do not. I'll give it to your office.

THE JUDGE: So I take it that the, obviously the exhibit is here --

MR. WEINSTEIN: But, and it can remain.

THE JUDGE: -- and we can't do anything about the, the exhibit because these people are actually inviting myself or whoever, to whom it may concern to follow-up on that. But I, I don't think it's an unfair request.

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MR. D.: Uh-uh.

THE JUDGE: People provide letters in all cases, often are, should be assured of some, not anonymity but at least some protection from their address and their phone numbers. So I gather if you --

MR. WEINSTEIN: And simply if I can have it back and I'll courier it back to --

THE JUDGE: -- if you give it back to Mr. Weinstein you undertake then to courier it back to him exactly as is with just the addresses --

MR. WEINSTEIN: Correct.

THE JUDGE: -- and phone numbers deleted.

MR. WEINSTEIN: That's correct.

MR. D.: As a matter of fact for convenience it's in the car downstairs parked outside in handicap, I could get it upon completion here or I could bring it to your office. I, I agree, I understand.

MR. WEINSTEIN: You know what I'm just going to maybe -- I'm just, I'll just talk to Mr. D. after. I'm going to remain at the courthouse so I can just grab it now and courier right out.

THE JUDGE: All right you can sort that out. All right.

MR. WEINSTEIN: Thank you, Your Honour.

THE JUDGE: Thank you very much.

THE CLERK: Order all rise.

THE JUDGE: Good afternoon.

(EXCERPT CONCLUDED)

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CERTIFICATE OF TRANSCRIPT

I hereby certify the foregoing pages of printed matter, numbered 1 to 21, are a true and accurate transcript of the proceedings, transcribed by me to the best of my skill and ability.

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ALAIN ROCH
COURT TRANSCRIBER

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