

IN THE MATTER OF:

Law Enforcement Review Act  
Complaint No. 5575

BETWEEN:

C. H.,

Complainant,

- and -

P/SGT M. P.

and

CST. D. L.,

Respondents.

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**TRANSCRIPT OF PROCEEDINGS** had and taken before The Honourable Judge Everett, held at the Law Courts Complex, 408 York Avenue, in the City of Winnipeg, Province of Manitoba, on the 29th day of January, 2004.

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**APPEARANCES :**

**MR. D. GUÉNETTE**, for the Commissioner.

**MR. P. MCKENNA**, for the Winnipeg Police Association.

**MR. C. H.**, in person.

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JANUARY 29, 2004

THE CLERK: Court is open, the Honourable Judge Everett presiding. You may be seated.

THE COURT: Thank you. Okay we'll have the appearances for the record please.

MR. MCKENNA: Your Honour, Paul McKenna for the respondent officer Sergeant P.

THE COURT: Thank you.

MR. GUÉNETTE: Denis Guénette for the commissioner, Your Honour. Also in the courtroom from the commissioner's office James Haslam, H-A-S-L-A-M, he's an investigator.

THE COURT: Yes.

MR. H.: And I'm C. H., for myself.

THE COURT: Okay. I'll just see, I'm going -- it's your application sir so I'm, I'm going to hear from you but I'm --

MR. H.: I'll tell you I'm not really prepared either so.

THE COURT: Are, are you asking for an adjournment or --

MR. H.: No, no -- no, no.

THE COURT: Okay, so I'm just going to hear from the lawyers --

MR. H.: Maybe I'll flow it around.

THE COURT: Pardon?

MR. H.: I'm not really familiar with the proceedings or how they're going to go so whatever you can do to assist it would be -- that's what I'm asking for.

THE COURT: Okay. Well, first of all I'm going to find out what the position of the two lawyers is here today.

MR. H.: Okay.

THE COURT: And then you don't have to worry I

know you're not familiar with a courtroom setting but you'll, you can just tell me in your own words what you think, where you think the commissioner went wrong and what it is you're after and, and we'll take it from there. But first I'll hear from the lawyers and see what preliminary matters there are to deal with.

MR. MCKENNA: No preliminary matters, Your Honour, other than the ban on publication under 13(4.1).

THE COURT: Yes, so ordered.

MR. MCKENNA: Thank you.

MR. GUÉNETTE: Nothing for us to add either, Your Honour.

THE COURT: Okay. Okay sir, is it Mr. H., or?

MR. H.: Yeah, it's just H., yes.

THE COURT: Am I pronouncing your name correctly?

MR. H.: Yeah.

THE COURT: Okay why don't you just -- you understand that this is, you're asking me to review the commissioner's decision?

MR. H.: Sure.

THE COURT: And --

MR. H.: I, I -- I'll just -- I understand what's going on.

THE COURT: Okay, stand up when you speak in court.

MR. H.: Maybe I'll just lean, I'd like to have something I can lean on.

THE COURT: Okay.

MR. H.: I understand the commissioner's position, we spoke on this topic and I've been making complaints with LERA since '99 when I --

THE COURT: Not about this because this didn't --

MR. H.: I'd say that this is all same part of a package that was --

THE COURT: But this happened in '03.

MR. H.: -- and if you read the complaint, which you've read the complaint --

THE COURT: Yes, I've read it all.

MR. H.: -- May the 2nd in '99 there's a lawsuit and, coincidentally, the night before I go get this, the last piece of evidence that Martin Pollock needs is the night of a police raid, right and --

THE COURT: Um-hum, okay I'm only dealing with -- just so you understand --

MR. H.: With that night.

THE COURT: Okay don't, let's get one thing straight, I'm going to give you all the time in the world that you need to speak --

MR. H.: The point is is --

THE COURT: -- but I don't want you to interrupt me.

MR. H.: Okay.

THE COURT: I'm only dealing with the review of the commissioner's decision on the night involving the search warrant.

MR. H.: Okay, and --

THE COURT: That's all I can deal with here.

MR. H.: See my issues with it are the timing of the raid.

THE COURT: Okay.

MR. H.: Now I understand that there is a problem with the legislation maybe not being strong enough to deal with certain situations. I've been told that before you know, we don't have the mandate to deal with this now. And on previous occasions I've had other LERA complaints dismissed and it's for that reason.

Now I don't sit, it doesn't sit well with me, all right --

THE COURT: Okay well no one's arguing --

MR. H.: -- but I understand, I understand that if that's the problem then that's the problem.

THE COURT: But no one's arguing that I don't have the mandate here today, so.

MR. H.: Okay I don't know what your mandate is or what your powers are here today. I understand what I've been told before is that it could be legislative mandate isn't wide enough for the commissioner to fully investigate, when I've reviewed the file that I picked up two days ago. You know given the commissioner's familiarity with my situation, even if they're looking at that day some tougher questions should be asked as to why that night, that day, for an individual who the police force forced to be no longer to be living at that residence.

THE COURT: Okay.

MR. H.: And if you look at the complaint between the 21st of February to the 28th prior to that, the week before, there was a great deal of police presence in my life, in my face at the time, right. They forced, they went to the person who I have a rent to own situation with, a police officer, and I was -- got a phone call saying get rid of Mr. K. or you're both getting evicted. They forced him out of the house. On both the sergeants' statements that are there right now, they both confirm and say that if they had known K. was no longer at that address they would not have attended my house that night, right. And given what I was going to have done the next day, I was -- and the coincidences of things that have happened over the years concerning the parallel of the lawsuit and the police, I was expecting a problem that evening, around that time, just like there always seems to be, which is why there is a --

THE COURT: Okay, well why don't you just tell me

the whole story, from start to finish.

MR. H.: Of what happened that night?

THE COURT: Whatever you think is relevant.

MR. H.: I've read all the statements, I can see where there's the things that, the statements where we agree and where I think there are lies. I was there that evening; Sergeant B. was the fellow at the door when I asked for the warrant. I went to unlock the door. When I asked for the warrant he started becoming belligerent, which is when he started forcing his way in, the bike was smashing between the door and the alcove. My dog started getting irate, my concern became my dog, right, not so much what we know -- whatever they're going to do to me I don't really care. I'm having masked men entering my house the night I'm going to get evidence. Without a warrant. They weren't too concerned about, yes we have a warrant we'll show you when you get in, you know.

B. was calm, okay, at the door and I even went to let, open the door and then I went, I better ask for a warrant before I just let officers in. And when I asked is when he reacted and that's when the door started to be forced. That's when I was aware it wasn't one or two police officers outside but a gaggle of them. And when I went from my previous experience I had, in February '97 supposedly officers entered my home on Arlington because they got a call about a burglary supposedly, and I woke up to, to officers who'd gone through three doors, it was on the upstairs of a duplex, threatening to shoot my door, wanting ID for everyone in the house, which is my first time I had anything to do with LERA, which is a complaint I never pursued. And the costs I ate, it was the 2nd time in four years and I cooperate when the police, when the police come near me. Given my situation with them at the moment, when I asked for the warrant I wanted to see a warrant. This could



have all been cleared up on the stairs. I didn't need to have my house, my rights and my privacy invaded.

THE COURT: Um-hum.

MR. H.: I didn't need to have a mess in my house that they caused.

And then there's, you know, I'm a guy who got taken down a gravel road and beaten on by police officers. So when I'm, the night before, going to get evidence to make, hold those two accountable, having another eight or 10 of them violate me by not showing a warrant, come in the house and make the mess, you can imagine how I feel as the individual who it's happening to.

THE COURT: Um-hum.

MR. H.: You know, subsequently, we find out that this, I assume it's the entire unit that comes, as this rogue patrol and (inaudible) and what they're doing in my house on that kind of evidence, on that evening I think is suspicious and deserves to be investigated.

Now whether it's within the commissioner's mandate or not, you know. The interviews I read, they're pretty soft interviews and if, you know, you're wanting me to point out, this is where the lies are in the interviews, this is where, you know, the officers and I agree. You know, there's a, having to do with what time they arrived and left. The canine unit reports only when in there and it seems to coincide with what I say are the time that the officers were at my house. There seems to be a lot of other pieces of evidence or information that you should have there. If you're trying to tell me that this was an above the boards operation that doesn't seem to be there. And if one Winnipeg police officer forces C. K. out of my home other Winnipeg police officers shouldn't be attending trying to get Mr. K. They were, you know, we know full well that he lived in my home. The police have been to get Mr. K. at

my home, never with a problem and they were there September, October, December and in February, and it's not that any of us are uncooperative with the police. And if it's just a matter of the police officer who forced him out of the house didn't give the information to this other arm of the police force that's something that should be fixed so it doesn't happen again to me or anyone else.

And there's statements in there where they show, I guess, a printout of, you know, police incidences either at the address or under my name. I don't know what the computer searches are, I'm not familiar with the police documents, but there's a listing of things at the house. What's missing from that listing is, you know -- there's a police report and incident for the May 2nd thing where I'm the victim. It's not on any of those printouts. There's things that should be on those printouts that might make people be a little more careful when they're going to do something against me at the moment.

THE COURT: Okay.

MR. H.: Yeah.

THE COURT: And the, the lawsuit you're talking about what, what's that all about?

MR. H.: I had -- on there you'll see March 26, '99 a police incidence at my house, threats et cetera, that's a problem I had with a former employer that resulted in a LERA complaint. I had a former employer trying to ban me from working in my landscaping business. He failed. On the first day I had to wait. I was told by my lawyer at the time to wait until things finished with the courts before you start your business, which I did. On the 28th of April of '99, I think it's Judge Jewers ruled and gave me the right to be running a business. May the 2nd I started working and on coffee break at work I was taken by police on a ride through River Heights ending up in a gravel road on

train tracks and then left back in River Heights at a Macs, with witnesses.

And LERA played pool with the chief's office and I think it's Internal Review, for about eight months. You know it's our jurisdiction, it's your jurisdiction. No we're going to move ahead on an investigation. No we're not going to move ahead. Just, you know -- I know none of that has anything to do with this, I'd like to bring it in to -- you know there's a reason why and when I went -- May the 2nd that happened.

May the 13th I went out for the first time after being severely injured and one of the officers with another police officer showed up at the Pony Corral, two minutes after I walked in the door, and was being threatening.

That complaint LERA ruled that they didn't have the jurisdiction. I wrote a letter to the, same kind of letter, I appeal it.

THE COURT: Um-hum.

MR. H.: For some reason I never heard boo back on that one and we're sitting here now with this one going forward to this point, which I still don't understand why we're going forward with this one when -- I think July of 2000 or 2001 is when LERA decided that the May the 2nd incident had, they had no mandate, there was no reason to discipline anyone and within the 30 days I sent a letter to Gord Mackintosh saying I want this reviewed, I don't agree; I think it's wrong and I've still to date, have heard nothing about it.

I've been to the ombudsman because those complaints were assigned to a part-time, the '99, May 2nd, '99, May 13th, '99 were assigned to a part-time employee who worked a half-day every two weeks. Similarly my employment problems with that former employer were assigned in the government to a part-time or someone on sick leave. So

it's, I think December '99 I was fed up and I went to the ombudsman, I went, like this is ridiculous. I've been on a gravel road beaten and injured and they're playing form letter tag amongst agencies and no one's doing bupkis (phonetic).

Finally it got into Professional Standards and a whole, you know, two and a half years later they found witnesses and this and that is what the law suit is about. I try to focus on May the 2nd and May the 13th because that is the severest, but I shouldn't be sitting at my house thinking I'm going to have another gravel road incident the night before I go get evidence. And there is a bike, with the doors locked and a bike in the way to keep people from causing me grief the night before, because there's non-stop grief with the police department. The little -- and I was warned, and after the Pony Corral when Martin Pollock came into my -- he warned me that, you know, if you're going to pursue this you're going to have hassle.

THE COURT: Okay wait a minute, I'm sorry, I'm confused. You're saying it was Martin Pollock that came into the -- I thought it was a police officer?

MR. H.: On May the 13th when I was at the Pony Corral I decided the representation I had at the time maybe wasn't sufficient.

THE COURT: Um-hum.

MR. H.: D. N., at the time who was one of my customers, wanted to know if they're at the Pony Corral in your face at the moment, because I was on the phone with him from the restaurant.

THE COURT: Um-hum.

MR. H.: He goes, you're going to need the Pollocks. This is out of my league. I don't really understand what they're doing. I can help you get out of there tonight safe but I think you should be seeing the

Pollocks. And at my first appointment I was warned it would be a difficult ground. I just think, given what was going on the next day, the situation, the police involvement for the eight days leading up to the raid and there are no drugs in the house. They were there for 45 minutes. If they really were looking for drugs, not just trying to cause me grief, there's a whole bunch of places in my living room and dining room that they should have looked.

Most of these raids last four or five hours if not longer. During the course of this raid they bragged that they get drugs 99 per cent of the time, well I knew full well they weren't getting drugs in the house. I took them to the only drugs in the house, which was two roaches in a jar I have. Here's all the drugs in the house. I really had nothing to hide. Like none of the officers even say I was being uncooperative. Although they keep saying that I'm accusing them of conspiracy. I don't know what they're up to but that word is not a word I use. It's a word other people use to try and demean me when I make complaints and because of it it's just not a word I use.

THE COURT: Um-hum.

MR. H.: I don't know what they're up to, I just think they're just pulling my chain and I'm a little fed up.

THE COURT: Maybe they're just trying to paraphrase.

MR. H.: You know I'd like to know why a cop car, 603, is parked outside my house this morning when I go walk out the door. You know it just, it just gets enough already.

But I know we're dealing with this one issue. You have --

THE COURT: Well I'll give you some --

MR. H.: -- Sergeant (sic) L., based on an informant, there's no information and both P. and L. say

they wouldn't have raided if they had known. And I don't care, you know, if a police officer from a different division, unit whatever made K. leave by going to my landlord because he was out of the house on the 23rd. Now I had police on a Monday, Animal Services and police the next day, I don't know if really recall --

THE COURT: And why was that?

MR. H.: There was a health department and police, three, two or three cruiser cars for dog shit. It was warm, I'd been in the hospital, it had melted a bit and they wanted the yard cleaned up.

THE COURT: Okay.

MR. H.: So they bring, they come with a health officer and two or three squad cars. Well I've had health officers at my house about dog shit before and it's not with cruiser cars. And it just was an escalation, a phone call and me saying C. you have to leave or we're both out of here. You know I can't afford another lawsuit or case or, I just don't need the hassle, you know.

THE COURT: Um-hum.

MR. H.: Plus I also am not dying to be alone at the point where I'm just about to get the evidence in the lawsuit based on what's been going on for years. None of which LERA ever can act on.

THE COURT: What evidence was it that you were about to get?

MR. H.: I have nerve damage from the assault on May the 2nd and I was going to the neurologists and there's only four in the province --

THE COURT: Um-hum.

MR. H.: -- and there's a wait.

THE COURT: Um-hum.

MR. H.: And my appointment had been rescheduled from October to March 1st and if I had missed it it would be

another eight months or, you know, however long it takes. You miss a neurology appointment you're in a queue.

THE COURT: Um-hum.

MR. H.: It took me a year and a half before I actually got the appointment.

THE COURT: Um-hum.

MR. H.: So that's, you know, a medical problem, it has nothing to do with this. You're in line if you want to see a neurologist.

Once that reports out Martin's, you know, filed papers, everything is moving ahead --

THE COURT: Right.

MR. H.: -- just on the affidavits and I'm going to move ahead with that. I just don't want anymore police raids or any -- you know, how good is this tip that this person got. And given the media attention that these people have at the moment with the other incidences they're involved with, how good is their credibility. And I'm fully under, aware that eight cop statements versus just me at home alone they win all the time and that's the way the courts work. Maybe it's time for that status quo to be re-evaluated or at least in this case let's just look at.

THE COURT: Um-hum.

MR. H.: I know the police work a lot on, you know, too many coincidences all at once, there's something there. Well if you take my court cases with my employer and the police and the coincidences over the years, whether it's in the LERA legislated mandate or not, it shouldn't be allowed to happen. You know, and I don't really buy, you know -- I know what are the lies in the two statements from B. and P. I, do I have proof there, no, because it's my word against theirs, I'm in the house.

But there are other information in this file that should probably be there that I just don't see. You should

at least double-check what was going on the week beforehand. Who went to see N. G. (phonetic) and say, get K. out of the house?

THE COURT: Who went to see who?

MR. H.: Which police officer went to N. G. --

THE COURT: Okay who -- you lost me there, who's Norm --

MR. H.: My landlord, the person I'm in a rent to own situation with.

THE COURT: Oh, oh, oh.

MR. H.: He's also a witness and involved in the lawsuit, a former customer.

THE COURT: Oh I see.

MR. H.: A friend. Mr. K.'s in this house, he's under surveillance (inaudible) and I got a phone call an hour later saying, get him out of the house or your both going to be evicted. I don't care what our deals are. I don't care about your finances, just get him out of the house.

THE COURT: Um-hum.

MR. H.: Well which police officer went to him to get him out of that house because if it's true, if they really wouldn't have attended if they had known K. wasn't there, they, they forced him not to be at that address a week before they raided. And I'm not saying these eight officers. These eight officers may be pawns --

THE COURT: Um-hum.

MR. H.: -- the one's actually involved, but someone in that Winnipeg Police Force had knowledge that he was there. There was cars outside the house a week before. They forced him to move and then they raided the night before I go get evidence. I'd just been out of the hospital. I had two Teflon plates put in. I had an infection that went out of control. I was going for



needlepoint injection, had just cleaned the house, was still taking anti-bacterials and pain killers for it and these cops came in and turned everything into a mess. Turned over everything. They seemed to be more into my legal papers than maybe a sack of drugs taped under the dining room table. And I couldn't really see what they were doing but what I could see in my line of vision where I could be in the house, there are places where at least I stick my hand and look, if you're really looking for drugs. And I've asked around amongst, you know -- drug raids are four, five hours or longer if you're looking coke. They're not half an hour.

THE COURT: Um-hum.

MR. H.: There's lots of places in my house, my attic, my garage, the van in the backyard, they never even went. If they were truly looking for cocaine and there was none at the residence. I was never worried about that, maybe worried that they suddenly find it because that's a different -- I was more worried about them planting drugs than them finding drugs.

But they -- one of the things they have in there is that they offered -- they're the ones who came to put the dog outside. I wanted to put my dog in the bedroom because it has a locked door, not the bathroom, and they're the ones that came to me and said, put it outside. (Inaudible) was like, well then you're not looking at the garage. I didn't (inaudible) to mouth off to them but I really kind of went, you're not here for drugs at all. You look up the flue in the fireplace, the ashes, the grill. You go down the tubes to the basement from the fireplace. You'd rip open the, the cushions in the living room couches the same way you did in the basement, but the living room couches weren't Styrofoam and unfolded from the, you know how there's the cover on the pillow, downstairs it was just (inaudible) ripped to shreds,

upstairs, no. Upstairs was all the boxes. If I was in the room in the area, you know, in the back bedroom and stuff they'd take, they took the plants out of the pots, roots bound and (inaudible) and looked everywhere, and not where I'm sitting.

There seems to be a lack of consistency and if this -- it's not because the house is too large for that many people to search in half an hour. They were really there an hour, not like Sergeant P.'s report was. He may have been there only half an hour because I didn't see or have any contact with him until probably 20 minutes into this, you know, so he might be telling the truth that he was only there for half an hour, but not the eight. I actually thought there were 10 of them. Whether there might be eight on the drug unit and two on the canine, I sure they could clear that up.

THE COURT: Um-hum.

MR. H.: I don't know how many poles with the noose or the hoops were coming at me and the dog.

Plus they, they also -- whoever had the canine units were, where are the Pitbulls? And not a Pitbull, it's, where are the Pitbulls? Like they had knowledge of what was in that house, because the former roommate had two dogs.

THE COURT: Um-hum, were they Pitbulls?

MR. H.: Part, mixed. One of the puppies --

THE COURT: Yours was a Rottweiler wasn't it?

MR. H.: I have a South African Rottweiler, a really well behaved one but when the cops came into the house on Arlington, when he was a puppy, the guns and the whole tension has made him kind of hate police.

THE COURT: Um-hum.

MR. H.: If you know what I mean. And I never, like the thing is, I never went through with complaining

that time.

THE COURT: Um-hum.

MR. H.: And that one costs me, you know, three doors, a broken window, locks and whatever and I decided not complain, it might be in my best interest, and I regret it a lot.

But there's something going on here. This raid isn't just this isolated little thing me. It's not like the police had no contact with us. K. moved because he wasn't paying his rent and they just showed up.

THE COURT: Um-hum.

MR. H.: And, you know, when N. G. tells me, I just had a police officer here telling me that K.'s under surveillance and either you both go, he goes or you both leave, I don't care what our deal is, you know. As far as I'm concerned from May the 2nd, you know, this whole thing is about keeping me from running my business and as long as I'm in that house I can run my business with customers, no matter what antics go on because I have good customers.

THE COURT: What kind of landscaping business is it?

MR. H.: It used, used to be high-end. I do nice landscaping, Japanese gardens and a good design. I used to be Shelmerdines, that kind of competitor. Since May the 2nd I lost half my customers by the time I got out of the hospital and it's been a struggle ever since.

THE COURT: Um-hum.

MR. H.: Although I had a court ruling come out May 7th of this year of '03, in the driver (inaudible) suddenly my business has dramatically improved. I'm on the

verge of being as big as I was in '98, before all this happened. Which is kind of why I adjourned in October and I've been concentrating on getting the business bigger.

THE COURT: Um-hum.

MR. H.: Because obviously no Legal Aid, I had representation for this, the only thing they ever would agree to represent me for and then they forced me to -- once I notified them that this was going forward I needed to re-qualify and I went (inaudible) whatever.

But anyways, that is basically the crux of it.

THE COURT: Okay.

MR. H.: I mean once they speak I might have something more to say.

THE COURT: Okay, I'll give you a chance in case there's something that occurs to you after you hear from the other two lawyers.

MR. H.: Well they're more familiar with these hearings than I am and --

THE COURT: Pardon me?

MR. H.: They're more familiar with these hearings and --

THE COURT: Yes. Okay well I'll give you a chance to talk again at the end.

MR. H.: Okay.

THE COURT: Okay, Mr. McKenna.

MR. MCKENNA: Thank you, Your Honour, I'll try to pull this together a little because we appreciate Mr. H.'s lack of experience in this area but -- and he went off in some, in some areas that I really don't know anything about. But what becomes clear when I hear Mr. H. is that he is trying to develop a circumstantial case that would have you believe and would have the Law Enforcement Review Agency believe that there was some sinister timing to this raid.

I don't know, for starters, how the police would

know about his dealings with Martin Pollock if he hasn't filed a claim. And I certainly don't know how they would know about an appointment with a neurologist, but it is well within the commissioner's role and his capability to assess circumstantial evidence. And to say simply that because somebody has a neurological appointment the next morning that has to do with a police lawsuit. That, that this is what would trigger a raid on a -- I'm not sure if it's a roommate or somebody who was sharing space, is a leap that, obviously, the Law Enforcement Review Agency didn't want to make and it's well within their right not to do that.

THE COURT: Um-hum.

MR. MCKENNA: If you analyze the, the -- the material from the interview that LERA had with the sergeant, Sergeant P., and that is found at pages 38 to 42 of the material. If you analyze it and, and you heard from, from Mr. H. himself that the officers were asking about Pitbulls and he said they knew perfectly well that this individual had dogs. And in his complaint you, you see on one of the earlier pages of his complaint, you'll see that he describes them coming in and some have some batons with loops.

THE COURT: Um-hum.

MR. MCKENNA: These, you know, the ones to get the, the loop around the dog's neck and, and when you, when you stack that up with what Sergeant P. tells Mr. Haslam during the interview he, he says that the first thing they had to do was get control of the dogs. It turned out to be one but nevertheless one is, is one, one too many if you don't have control over it and it's a Rottweiler and it's coming at you. And they at first were thinking of putting it in the, in the bedroom and of course it's a room that they have to search and eventually there's a decision made to put it outside. I don't, I don't think that Mr. H. is saying that any harm came to the dog by putting it outside

so I don't know that, that the decision to put the dog outside is anything that is really within the realm of the Law Enforcement Review Agency. Certainly within the proper conduct of police officers to secure a scene for their safety and for Mr. H.'s safety nobody needs to have a dog surprising them, coming at them. It is a standard procedure.

They provided -- then, then Sergeant P. (sic) gets, P. gets Mr. H. to the table and sits down with him and they go over the search warrant. Now, it is very common not to give the search warrant until the scene is under control. In fact it, it -- it really goes against officer safety to do otherwise. To try to show someone a search warrant while one of your colleagues is being mauled by a Rottweiler is senseless. So that again is, is not something that happens immediately. The question, I think, for the Law Enforcement Review Agency to, to deal with was whether or not it was given in a reasonable period of time. And they, they advised that they gave it to him at the table and then he phoned his lawyer. They said that they phoned the lawyer within about five minutes. Mr. H. was adamant that the lawyer would be able to establish that that was not true and so LERA phoned the lawyer and the lawyer was not able to establish that. He said he couldn't say when the search warrant was given but that it was not part of the conversation. When he was phoned from the home there was no conversation about, about a search warrant. There was just a conversation that there was a search warrant --

THE COURT: If.

MR. MCKENNA: -- and, and then when you, when you -- when you look at the comments that he had to make about Sergeant P. are very, very complimentary comments where he says on a couple of occasions, you know, he seemed like an honest officer and a decent --

THE COURT: I'll just confirm that from Mr. H. You're --

MR. H.: You know what, to be honest with you, I thought B. was bad cop and P. was good cop and when P. walked in, you know, he was in the home but, you know, he made himself aware to me. He was only decent.

THE COURT: So you, you --

MR. H.: But I went, this is good cop, bad cop, that's the bad cop --

THE COURT: Um-hum.

MR. H.: -- and here's the good cop.

THE COURT: Just, just to confirm so that Mr. McKenna doesn't have to argue --

MR. H.: I agree, Mr. P. was --

THE COURT: Officer P., you don't have a complaint against the way he treated you?

MR. H.: I, he's got a lot -- him and I disagree with his statement but he's a nice guy. He was only decent, spoke to me decently.

THE COURT: Okay.

MR. H.: His -- the way the events unfolded in his statement aren't exactly what happened.

THE COURT: Are or aren't?

MR. H.: Aren't. That's the only reason I don't feel so warm about him anymore is; you're kind of lying.

THE COURT: Okay.

MR. H.: That's the qualification, yes but at the time he was decent.

THE COURT: I understand.

MR. MCKENNA: And, and you, you have as well Sergeant L. who told the, the Law Enforcement Review Agency that the house was a disaster when they entered it and his words to Mr. Haslam were, you would have to see it to believe it. And there was no report whatsoever of damage.

No City Claim to my knowledge that was ever filed in this and certainly City Claim has the jurisdiction to deal with all of these and they do deal with them when people file these types of complaints. It's not, you don't go to the Law Enforcement Review Agency for, for reimbursement for these, these types of things because if the warrant is lawful and if there's something that's been accidentally broken you take it to City Claims and they'll fix it. And there's absolutely no indication in here that he saw officers willfully damaging things. And there is no report whatsoever of any damage, Your Honour.

Two days ago, in a hearing before Judge Newcombe, Judge Newcombe made an interesting comment and I don't have the transcript, it's just two days ago.

THE COURT: Um-hum.

MR. MCKENNA: And he said that LERA is the gatekeeper for these complaints and, and they have a role to play in separating the wheat from the chaff. And he said that at some point what you have to say has to ring true. It's got to ring true in some way and if it doesn't time after time, step after step ring true than the commissioner is allowed to deal with it in the fashion that he does when he closes the file. And in this particular case you, you have, for starters, the motive for, for doing this doesn't ring true at all, the motive for the search warrant does not ring true. It, there is nothing at all. I mean in, in fact what, what -- what has happened in front of you is, is now Mr. Heber has actually watered down his theory, because in the complaint he says that there's a conspiracy, claims a conspiracy that he is the victim of this police raid because he's going the next day to deal with some evidence that will help out in an action against a police officer. And then, as he's speaking to you and making his presentation here this afternoon, he says, for all I know the police may be



pawns in this matter and there may be some other officers. So he is here to try to bolster a claim that the commissioner has erred and he is watering down the whole theory before you and showing you just how weak his theory is when he says to you, and I think he's being quite candid when he says that, that for all he knows the police may be pawns in all this. And it was a leap for the commissioner, which the commissioner was not willing to take. It is an even bigger leap for you hearing that type of a comment. You shouldn't make that leap whatsoever. There's, there was nothing public about Mr. H.'s, I believe it was an appointment, he says, with a neurologist. There's nothing public about that, and certainly nothing that the police officers would know. It's -- they don't have a database that tells them when neurologists are, are seeing people and as you can well imagine.

Even when he talks about how somebody, a police officer went to see N. G. to get Mr. K. removed, and he says, which officer went to see him? Well, he want's the commissioner to take some evidentiary leaps of circumstantial evidence and it, and it -- we went through that this morning. It's a, the commissioner can make some findings with regard to circumstantial evidence, whether or not something supports an inference. Mr., Mr. H. doesn't even know who the officer is that goes and tells Mr. G. to get rid of Mr. K.. So to be able to tie all of that in and say that the sergeants, Sergeant P. and B. are leading a raid to, I don't know what, to discourage Mr. H. from going to the neurologist the next day. I think that's what he's asking you to, to accept and I don't think you ought to accept that. That is too much of

a leap.

I was somewhat confused by a comment that on the one hand it's a heavy-handed raid in the sense that they're causing all sorts of damage and on the other hand if it was a real raid they would have torn the living room --

THE COURT: Um-hum.

MR. MCKENNA: -- upholstery apart. I'm somewhat confused by that. I don't know that, I don't if Mr. H. is saying, inviting them to have a more severe raid on and clearly in his own opinion it was not a severe search.

And when, when you think of the words of, of -- of Judge Newcombe when he says that something has to ring true along the way, and, and you think of what Sergeant L. said about you, you'd have to see this place to believe it. And you keep in mind what Mr. H. told you today is that just two days before that, I believe two days before that, the health department was at, at the house and so what rings true here, Your Honour? I think that what rings true here is the version that the officers have given and Mr., Mr. Pollock supposedly is supposed to be able to help from an evidentiary stand point, can't help out in that regard. None of the circumstantial evidence if capable of the leap and the place was a mess beyond belief according to Sergeant L. When you take all that together, Your Honour, I think you can come to no other conclusion that you ought not to interfere with the commissioner's ruling. Unless you have any further questions those are my comments.

THE COURT: No, not at this point, thank you.

MR. MCKENNA: Thank you.

MR. GUÉNETTE: Of course, Your Honour, our brief is very narrow in scope.

THE COURT: Um-hum.

MR. GUÉNETTE: It addresses the question about what is the provincial judge's role in reviewing the

commissioner's decision.

THE COURT: Um-hum.

MR. GUÉNETTE: This is a brief we've presented on a number of occasions, in fact I'm sure we've presented it to Your Honour on a number of occasions as well. I don't think there's any --

THE COURT: Are you taking the position of correctness or reasonableness?

MR. GUÉNETTE: Well it depends on the, it depends the, the scope, what actual decision it is. If it's something more a question of law we'd say correctness, if it's a question about the sufficiency of the investigation --

THE COURT: Um-hum.

MR. GUÉNETTE: -- the part of the commissioner's, that really does fall within the commissioner's own area of expertise. I mean that's what the office is, it's an office to investigate.

THE COURT: Um-hum.

MR. GUÉNETTE: We submit that on that standard it's a standard of reasonableness.

THE COURT: Okay, and which one do you think applies in this case, the, the reasonableness then?

MR. GUÉNETTE: Well it would --

THE COURT: A question --

MR. GUÉNETTE: -- depend on the aspect of the case. In some parts I think I hear that there's a question, the suggestion is the conclusion is faulty and in other aspects the suggestion is maybe there was other steps that should have been taken in the investigation, so depending on what the focus is it would be correctness. For the conclusion reasonableness for whether the, the investigation was done properly.

THE COURT: Well how --

MR. GUÉNETTE: Should that phone call have --

THE COURT: Help me out here, where are you seeing the question of law here argued, argued by the --

MR. GUÉNETTE: The question of law --

THE COURT: Yeah.

MR. GUÉNETTE: -- would be whether the commissioner properly concluded, based on the evidence that was uncovered, whether there was a sufficiency of evidence to justify a public hearing.

THE COURT: So on the sufficiency of the evidence you're saying that's a question of law and the standard would be correctness?

MR. GUÉNETTE: Yeah.

THE COURT: And on the -- okay. Okay, you can go on, or do you have anymore to, to argue on --

MR. GUÉNETTE: That's, that's pretty well it.

THE COURT: Do you want to apply the facts to that or --

MR. GUÉNETTE: No we --

THE COURT: -- you're not taking any position on the merits.

MR. GUÉNETTE: -- no, we don't take positions on that.

THE COURT: Right, okay.

MR. MCKENNA: Your Honour, I just wonder if I can clarify one very quick point?

THE COURT: Yes.

MR. MCKENNA: Thank you. On the issue of the circumstantial evidence, which as you know from Judge Smith's decision is something that the commissioner can deal with and such a great deal of this is circumstantial evidence.

THE COURT: Um-hum.

MR. MCKENNA: It is our position that if the

commissioner can deal with it then clearly it ought to be on a test of reasonableness as to how he has treated it because the circumstantial evidence allows you to make an inference or decide not to make an inference. He has decided not to make an inference and that should withstand the test of reasonableness because it's within his realm to do that.

THE COURT: Right or has he decided not to make an inference or has he simply, and I might be, this might just be semantics, or is he saying no, no inference can be drawn here. It's not that he's declining his jurisdiction to make the inference --

MR. MCKENNA: Yes.

THE COURT: -- he's saying I infer nothing from what I've seen.

MR. MCKENNA: I apologize if I wasn't clear, that's what I meant to say, that he's --

THE COURT: The, the second then.

MR. MCKENNA: -- he's refusing to take it and make the inferential leap. He's refusing to make --

THE COURT: Right, they do not add up to the inference you're asking me to make.

MR. MCKENNA: That's right, yes, thank you.

THE COURT: Right, I understand you, thank you. Okay, back to you now sir.

MR. H.: Okay, sorry. All I have to say about any of the -- because I've -- I'm not trying to get LERA to create anything. I've, since any of these, since March the 26th, when I first started having problems and calling the police because I was assaulted and getting no service. Following a process doing what I'm supposed to.

THE COURT: You mean May, right?

MR. H.: March 26th of '99 it was a security guard --

THE COURT: Oh.

MR. H.: -- my former employer. I phoned the police, nothing happens. Right, that's my first interaction with LERA, right.

THE COURT: Um-hum.

MR. H.: Now, Mr. McKenna's saying, you know, you have to look at things that ring true. You have a warrant by Constable L. and I, you know, there word is considered gold but look at the individual, look at the unit, look at the investigations that they're under, and at the time this happened I had no idea who these people were, right. Well who was in my house? But all of these individuals are currently under -- have been suspended under investigation. There's not -- I don't believe this, the state of my basement was so bad. Well I'm sure Constable L. in his line of words, work has been in way worse basements. Yes someone moved out of there in a rush, angry at me and it was just the normal stuff of a roommate leaving out. You know, newspaper, cardboards (sic), boxes whatever, but I just didn't get around to cleaning up.

THE COURT: I should ask you, can you particularize for me what exactly the damage was that was caused?

MR. H.: The damage that was caused is making the mess, the dents in the alcove from the bike banging against, between the door and the alcove, the toilet in the upstairs bathroom that they seemed to pay particular attention to.

THE COURT: Um-hum.

MR. H.: For whatever reason. The insides of it broke. The chain --

THE COURT: The inside of the toilet broke?

MR. H.: The chain to the plunger ripped. I mean I don't know. I mean I've never -- I don't really know what they were doing.

THE COURT: Um-hum.

MR. H.: But that seemed to be a -- I was aware they were in there, right.

THE COURT: Um-hum.

MR. H.: I don't have as high a regard for Sergeant L. as others, or Mr. McKenna. You know I had an incident with them. Constable -- I, I didn't know who he was just the bald head mustache guy. Since news reports have come on I know who we're talking about, and yeah, I know who he is, he's basically kind of a bully with a (inaudible) and I don't have a lot of respect for any of the cops.

MR. MCKENNA: Well, you know, Your Honour, I, I --

MR. H.: Just let me -- I, I kept --

MR. MCKENNA: No let me, let me finish my objection.

THE COURT: There's an objection here --

MR. H.: Okay.

THE COURT: -- I'm going to hear Mr. McKenna's objection --

MR. MCKENNA: Thank you.

THE COURT: -- and then I'll rule on it.

MR. MCKENNA: Thank you. I've been very patient, Your Honour, and I would like a ruling from you about Mr. H.'s ability to speak about these officers in unrelated matters.

THE COURT: Yes, well, I, I have been -- because you're not legally trained sir I've been giving you a lot of latitude, but some of the comments that you've been making about the officers --

MR. H.: You can understand where I have my opinion of them that might be different than his.

THE COURT: Yes, but I, I also understand that --

MR. H.: And different than the Court's.

THE COURT: -- it's not substantiated before me by

any fact. I don't know -- you're making allegations against them --

MR. H.: See this is the problem with the LERA and its mandate, let's look at this one little thing on the day, right. Let's not look at anything else. Let's walk in here and all constable statements and sergeant statements are gold and one must prove them wrong.

THE COURT: Of course that's --

MR. H.: And when you're an individual all alone in a home with 10 officers in it and, you know, he says the point is when the room's under control. Well that house was under control when B. knocked. I was opening the door calmly and letting him in.

THE COURT: Okay sir --

MR. H.: It's when I asked for a warrant and it's -- really the issue is is when, how quickly should that warrant -- I should have a right for what I pay to live in that house, and if that warrant isn't like this at the door so I can open it to come in. I'm not threatening. If they did any checking at all I never caused the police grief. They come to my home I let them in.

THE COURT: Okay, I'm going to interrupt you there. You've interrupted me.

MR. H.: Okay, sorry.

THE COURT: I'm about to give my ruling on Mr. McKenna's --

MR. H.: Okay.

THE COURT: -- objection and I'm upholding his objection. You, you've been making comments that, about other matters with respect to these officers that are not appropriate and not proper and, and unsubstantiated and I am placing no weight on those comments. You need not worry, Mr. McKenna, that I'm going to let that influence what I'm assessing here today, which is what happened to you on the



night in question when those officers came in with a search warrant.

So is there anything more you want to argue or --

MR. H.: No, I want to talk about the ringing true of their statements. He's talking about L.'s, the, the state of the house.

THE COURT: Um-hum.

MR. H.: Given what he does for a living I don't agree with him. He's been in way worse places than my house, okay. He must have been in houses where a 22, 23-year-old moves out in a rush. It's, wasn't that bad.

THE COURT: Was Mr. K. a 22 or 23-year-old?

MR. H.: Yeah, yeah.

THE COURT: Is that Mr. K. here with you today?

MR. H.: No, no it's another friend.

THE COURT: Okay.

MR. H.: Okay.

THE COURT: Okay.

MR. H.: And as for Sergeant P. and his, you know -- Sergeant P. did not hand me a search warrant. The search warrant -- I called Mr. Martin Pollock, I've been wanting to call him from the point I put, the dog went outside. I wasn't allowed. I got patted down. I was allowed to call, Martin Pollock was allowed to speak to Sergeant P., he wanted to speak to the sergeant in charge, after the phone came back to me a search warrant came over my shoulder. The house had been under control for ages. That warrant did not arrive until 40 minutes after, you know, and it's, to me the issue is where should the warrant, the warrant should've been at the door. If they had shown me a warrant with my name on at the door the door would have been opened, there would have been no damage. I would have said, here let me put the dog away, you can come in and look all around. There was no need for it to turn into something that reminds

me of a gravel road.

THE COURT: Okay.

MR. H.: They caused that through bad choice.

THE COURT: Through what?

MR. H.: Bad choice. They didn't --

THE COURT: Oh.

MR. H.: -- Bellingham didn't, he could have said, here's the warrant, I would have said, okay, come on in, what are you looking for? We could have established at the door that K. is no longer living there and your people made him move from here, being the police service. I didn't need to have the house turned upside down.

THE COURT: Okay.

MR. H.: And I was surprised, frankly, to read in their statements that if they had known he wasn't there they wouldn't have attended, wouldn't have got the warrant. And the onus should be on them to make sure they know. And it's not that there were no police officers involved with Mr. K. or that address in the week prior. And whether it's administrative or purposeful I don't care, it should be looked into and I don't think that the commissioner's really bothered to investigate it fully enough.

THE COURT: Okay, and your position is there was a police car watching your house this morning also?

MR. H.: I had enough. I go out to get bus fair change to come here and there's a cop car just outside the house and it's just that, it's -- most people would like to have their house watched or without cops around their presence that much they wouldn't have the problem. He was there. They didn't bother me, they didn't do nothing. I just go, so what, you know, but they sure are there a lot.

THE COURT: Okay, I'm going to take 10 minutes and

I'll be back.

THE CLERK: Order all rise, this court will take a brief recess.

(BRIEF RECESS)

THE CLERK: Court is re-opened, you may be seated.

THE COURT: Okay anything further from anyone?

MR. MCKENNA: Nothing here, Your Honour.

MR. GUÉNETTE: No, Your Honour.

THE COURT: Okay dealing then with Mr. H.'s complaint. First of all, as I understand it, I, I think that your complaint about the night in question and the conduct of the officers on that night is really threefold or I'll roughly divide it into three categories.

The first category would be the delay in showing you the search warrant, because you've indicated had they sort of had it in their hand as they were coming to the door there wouldn't have been a problem. On that point I would have to say that, you know, I accept that there was some, I accept from you that there was a gap in time in between when they came in and when they showed you the search warrant and you would have been happier and more satisfied with their behaviour had you'd been shown it earlier. But I have to say that there's got to be a balance between sort of their officers' safety practices and, you know, at what point they can show the, the resident the search warrant and in this case you acknowledged there was a Rottweiler. A well behaved one but nonetheless a Rottweiler, and they don't know the personality of every dog and, and there was some discussion about whether to put him into the bedroom but the bedroom wasn't any good because it needed to be searched. And you pointed out to them that the bathroom door didn't close properly which was, you know, appropriate on your part

and ultimately it was decided to put the dog outside but that would have taken some time. And then the pat down that you've described they did is also, what I would feel to be standard procedure because they've got to make sure that you're not armed and they've got to also make sure that there's nobody else who's armed in the residence first, and all of that has to be done and is appropriate and standard procedure before they can get the scene settled down enough and secured enough for officer safety that then they can sit down with you and properly show you the search warrant.

I'm satisfied that that's what happened and that that wouldn't constitute officer misconduct. And I agree with the decision of the commissioner in that regard.

Mr. Pollock confirms actually that you did tell him there was a search warrant when he was talking to you on the phone, so he confirms that by that point, by the point you spoke to him you had already seen the search warrant.

MR. H.: No, I just want to clarify. They say there's a warrant --

THE COURT: Um-hum.

MR. H.: -- but I need to see a warrant, not just hear there is a warrant.

THE COURT: Okay, so maybe Mr. Pollock misunderstood and, from you and --

MR. H.: Yeah, the, the paper came over my shoulder after.

THE COURT: Simultaneously or after.

MR. H.: In my situation I've heard cops say different things and --

THE COURT: Fair enough.

MR. H.: -- you know, and I just, there is a difference between saying there's a warrant and I expect that if I let you in my house that's my, my area I want to see at least a piece of paper. Maybe we can read it later

but that piece of paper should be at the door.

THE COURT: Okay, well I'm satisfied that it was a lawful entry and that there was no officer misconduct. I, you do understand, sir, that the search warrant is actually granted by a magistrate, you know that don't, don't you?

MR. H.: I, I realize but they also rely heavily on a police officer saying, I have reason to believe (inaudible) --

THE COURT: Yeah that's true, um-hum.

MR. H.: -- and now if that information is incorrect -- you know the magistrate really relies on the officer.

THE COURT: Yes, that's very true but --

MR. H.: And I don't know if in the rush, like I don't know for, you know -- if the surveillance on my home and Mr. K. commenced at the beginning of February, the 27th of February, but at some point surveillance before a search warrant would have occurred. They should realize, you know, whoever is surveilling Mr. K. would see him moving his possessions out.

THE COURT: Um-hum, at any rate I don't disagree with the commissioner's finding and I find no error and I'm, I'm going to use the most generous standard from your point of view. I'm going to take the view that I can overturn the commissioner's finding, you know, based on just a standard of correctness that -- and, again, I'm not meaning this in any precedential kind of way but I just want to give Mr. H. the widest scope of appeal possible.

Then moving on to the issue of the damage done to him. I, I accept that there may have been some disarray, I accept that there was disarray not that there may have been but that there was disarray left in your home after the officers left it. But, again, I don't find that to be anything but standard procedure. Unfortunately when a place

gets searched, whether it's by yourself searching for someone or officers searching for something, we often leave disarray.

And with respect to the damage, you've described it as some dents in the wall from the bike and the chain plunger on your toilet --

MR. H.: (Inaudible).

THE COURT: -- you can certainly, if you have the necessary documentation and proof of that you can submit a claim. I'm sure Mr. McKenna would be happy to find, provide you with the address of where that claim can go for --

MR. MCKENNA: It's in the file likely.

THE COURT: -- financial reimbursement on that. And, again, I don't find that to be misconduct per se, sometimes things do happen in the course of a search and that's why they have the ability to reimburse you.

Lastly, on what you pointed out I, I won't use the word conspiracy because that I know that word offends you and I know you don't feel it's an accurate description of what you're describing but on your belief or suspicion, or belief, whatever, what word would you like me to use?

MR. H.: I, I would think it's no different than the blue flu and Eakin. They work together.

THE COURT: Okay.

MR. H.: I'm suing one of them. It's no different than --

THE COURT: All right, on, on -- on your, on your assertion that, that the timing of -- with respect to the timing of the warrant and that it was not a coincidence but rather a tactic used by police that relates to the, the pending lawsuit that's coming up and that it, that the warrant was timed on purpose to be the night before your visit to the neurologist, I, I can't draw that inference. I, I conclude, as the commissioner did, there's just nothing

there that would prove to me that they knew the date of your doctor's appointment. That they were aware that Mr. -- there's, there's nothing to suggest that the police would be privy to your confidential conversations with Mr. Pollock about what you were going to then do with that doctor's report --

MR. H.: I just --

THE COURT: -- or that you had a doctor's report on that date, or a doctor's appointment on that date, that was crucial to your case. And I'm not sure exactly how searching your house would affect your doctor's appointment the next morning anyway. I guess what you would argue is that it would be an intimidation tactic.

MR. H.: It's for, to be honest with you --

THE COURT: Um-hum.

MR. H.: -- I didn't sleep that night, it worked. I was late, they, they --

THE COURT: Did you still go to your doctor?

MR. H.: Yeah, I was late, they wanted to cancel it and I had a little tantrum because I didn't want to wait another eight months.

THE COURT: Um-hum, so did you --

MR. H.: And it almost succeeded.

THE COURT: Okay, all right, I, at any rate I'm not prepared to draw that inference and I, I conclude that the commissioner made no error in, in refusing to draw that inference.

I do note the contradiction, the contradictory nature in part with respect to the issue of the nature of the search itself. On the one point you point out to me that it was a very cursory kind of search, not thorough at all; but on the other hand part of what you're arguing seems to be that it was only a 45-minute search and that if they were really serious about finding drugs they would have

turned your house upside down for four hours.

MR. H.: But this is what I found at --

THE COURT: And of course there's an inherent contradiction in that point and I would point out that this inherent contradiction is, is indicative of a lack of sort of logical consistency to the rest of the submissions you've made, for example: that the, the timing of the search warrant was calculated to intimidate you with respect to a doctor's appointment the next morning when of course only you would know when your neurologist appointment was.

MR. H.: And if we were allowed to go on other things --

THE COURT: And only you would know what your conversation with Mr. Pollock had been and, and I do adopt the, what Judge Newcombe has said the other day about, on, on that aspect and I do point out that there is a logical inconsistency to --

MR. H.: And what --

THE COURT: -- much of what's been asserted here before me.

MR. H.: Do they not have surveillance and wiretaps for this unit prior to them getting a warrant? Like --

THE COURT: On you you mean or?

MR. H.: On a residence for this, this -- this patrol, my understanding is there's wiretaps, there's warrants. There's conversations with me and Mr. Pollock on that phone; there's with the doctors during February.

THE COURT: Okay, sir, I have --

MR. H.: So --

THE COURT: I'm going to interrupt you now.

MR. H.: -- that's where I, I can't --

THE COURT: I've been wanting to be polite to you and --



MR. H.: Okay.

THE COURT: -- and to make, to allow you to have your day in court, it's my turn now.

MR. H.: Okay.

THE COURT: I'm delivering my decision. This is not a debate we're having.

MR. H.: That's fine.

THE COURT: This is in fact my decision and, and having said that, just to argue your question, I have no idea if they had a wiretap on your phone.

MR. H.: See this is where, why I was appealing. I'd like to know.

THE COURT: Okay, so was there anything further from either counsel?

MR. MCKENNA: Nothing, Your Honour.

MR. GUÉNETTE: No, Your Honour.

THE COURT: I assume you're asking for a ban on publication?

MR. MCKENNA: That's correct, ban on publication.

THE COURT: So ordered.

MR. MCKENNA: Thank you.

THE COURT: All right then sir you can get that address for your damaged property.

MR. H.: That's not really what I was looking for, damaged property.

THE COURT: Pardon me?

MR. H.: I wasn't really looking for --

THE COURT: I realize that that was --

MR. H.: You know, that's not the point.

THE COURT: -- sort of the, the -- the least important part of, of what you were arguing to me but.

THE CLERK: Order all rise --

THE COURT: Thank you.

(PROCEEDINGS CONCLUDED)

**CERTIFICATE OF TRANSCRIPT**

I, **ALAIN ROCH**, hereby certify that the foregoing pages of printed matter, numbered 1 to 38 are a true and accurate transcript of the proceedings recorded by a sound recording device that has been approved by the Attorney-General and operated by court clerk/monitor, Candace Ransome, and has been transcribed by me to the best of my skill and ability.

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