

**26418-2  
Nelson Registry**

**Lower Court File No. 26418-1  
Nelson Registry**

**In the Supreme Court of British Columbia  
(BEFORE THE HONOURABLE MADAM JUSTICE LYSTER)**

**Nelson, B.C.  
January 11, 2023**

**REX**

**v.**

**TREVOR RUSSELL HOLSWORTH**

---

**PROCEEDINGS IN CHAMBERS  
(Appellant Applications)**

---

**COPY**

**26418-2  
Nelson Registry**

**Lower Court File No. 26418-1  
Nelson Registry**

**In the Supreme Court of British Columbia  
(BEFORE THE HONOURABLE MADAM JUSTICE LYSTER)**

**Nelson, B.C.  
January 11, 2023**

**REX**

**v.**

**TREVOR RUSSELL HOLSWORTH**

---

**PROCEEDINGS IN CHAMBERS  
(Appellant Applications)**

---

**Crown Counsel (Respondent):**

**M.A. Erina**

**Appearing on his own behalf (Appellant):**

**T. Holsworth**

**INDEX**

**SUBMISSIONS FOR APPELLANT BY TREVOR HOLSWORTH: ..... 4**  
**SUBMISSIONS FOR CROWN/RESPONDENT BY CNSL M. ERINA: ..... 7**  
**SUBMISSIONS RE APPLICATIONS BY APPELLANT: ..... 10**  
**SUBMISSIONS RE APPLICATIONS FOR CROWN/RESPONDENT BY CNSL  
M. ERINA: ..... 24**  
**REPLY SUBMISSIONS RE APPLICATIONS BY APPELLANT:..... 33**  
**SUBMISSIONS RE APPLICATIONS FOR CROWN/RESPONDENT BY CNSL  
M. ERINA, CONTINUING:..... 40**  
**SUBMISSIONS RE APPLICATIONS BY APPELLANT, CONTINUING:..... 41**  
**SUBMISSIONS RE APPLICATIONS FOR CROWN/RESPONDENT BY CNSL  
M. ERINA, CONTINUING:..... 51**  
**REPLY SUBMISSIONS RE APPLICATIONS BY APPELLANT:..... 53**

**EXHIBITS**

**NIL**

**RULINGS**

**[REASONS FOR JUDGMENT ON RECUSAL APPLICATION] ..... 8**  
**[REASONS FOR JUDGMENT (FIRST APPLICATION)] ..... 57**  
**[REASONS FOR JUDGMENT (SECOND APPLICATION)] ..... 57**

**Proceedings**

1  
2 Nelson, B.C.  
3 January 11, 2023  
4 THE CLERK: Order in court, all rise. In the Supreme  
5 Court of British Columbia in Nelson, this 11th day  
6 of January 2023, in the matter of His Majesty the  
7 King against Trevor Holsworth, number 26418-2.  
8 THE COURT: Thank you, Madam Registrar.  
9 Can I please have your appearances for the  
10 record.  
11 THE APPELLANT: My name is Trevor Holsworth, appearing  
12 for myself.  
13 THE COURT: Good morning, Mr. Holsworth.  
14 CNSL M. ERINA: Justice, it's Mark Erina, surname  
15 spelled E-r-i-n-a, initial M., and I appear for  
16 the Federal Crown respondent on the appeal proper  
17 and two applications that Mr. Holsworth has before  
18 the court today.  
19 THE COURT: Thank you, Mr. Erina.  
20 So I just wanted to confirm what we do have  
21 before the court today and the materials that I  
22 have and to make sure that I've got everything I  
23 ought to. So I have all of the proceedings before  
24 the Honourable Judge Brown and his various  
25 decisions. I have an application from Mr.  
26 Holsworth, filed December 28, 2022, that I don't  
27 believe I have a response from the Crown on.  
28 CNSL M. ERINA: That is correct. That is Mr. -- that's  
29 the latest installment, and that is Mr.  
30 Holworth's -- essentially, it's an *O'Connor*  
31 application.  
32 THE COURT: Right.  
33 CNSL M. ERINA: And I do have a response, and I have a  
34 case book which I can pass up.  
35 THE COURT: Then I'll have all the materials I need for  
36 that one.  
37 CNSL M. ERINA: Yes. Thank you. So --  
38 THE COURT: Hold on.  
39 CNSL M. ERINA: My apologies.  
40 THE COURT: I'm still going through what I've got.  
41 Then I've got an application filed by Mr.  
42 Holsworth on November 18, 2022, which is an  
43 application for the Crown to pay for transcript  
44 and other relief. I think I have all of the  
45 materials from that one.  
46 CNSL M. ERINA: Correct.  
47 THE COURT: And then I've got the appeal proper.

**Proceedings**

1 CNSL M. ERINA: Yes.

2 THE COURT: Are those the things -- and I've got all  
3 the materials I believe that I need for the appeal  
4 proper.

5 Is that everything that should be before me  
6 today, gentlemen?

7 CNSL M. ERINA: I believe that is correct, Justice.

8 THE APPELLANT: I think there's -- oh, the transcript.

9 There's also the request for the documents from  
10 the Canadian Judicial Council. Is that --

11 THE COURT: That's the December 28th, 2022 application  
12 that Mr. Erina just handed me his response  
13 materials.

14 THE APPELLANT: Thank you very much.

15 THE COURT: So when I had a brief review of these  
16 materials in preparation, what I thought we  
17 probably ought to do -- I'll just put this out  
18 there and you can tell me if either of you have  
19 concerns -- was that I ought to deal with the two  
20 applications, hopefully provide you with rulings  
21 on those, and then, depending upon the nature of  
22 the rulings I make, we either may or may not then  
23 be able to proceed with the appeal today. That's  
24 what seemed to make sense to me.

25 I see you both nodding. Is that agreeable?

26 CNSL M. ERINA: I think in the normal course, Justice,  
27 that is the procedure because the two  
28 applications, the one that Mr. Holsworth initially  
29 attended here on the first assize for disclosure,  
30 essentially, it's some type of first party  
31 disclosure, then the third party disclosure tasked  
32 some form of whether the records he seeks is going  
33 to be relevant or helpful to his prosecution of  
34 his summary appeal.

35 THE COURT: Right.

36 CNSL M. ERINA: If he was successful, of course, he  
37 won't incorporate those into his preparation for  
38 the appeal to be heard at a later date. The only  
39 thing I throw out there for consideration is that  
40 in the nature of what Mr. Holsworth is asking for,  
41 it could also be useful to hear the appeal proper,  
42 hear what Mr. Holsworth is trying to establish,  
43 and that may inform the court on that question of  
44 relevance.

45 THE COURT: Right.

46 CNSL M. ERINA: Before the Crown responds. But  
47 ordinarily, yes, these would be heard in advance.

**Proceedings**

1 THE COURT: Okay. Thank you, Mr. -- sorry, is it Erina  
2 or Erina?  
3 CNSL M. ERINA: Erina.  
4 THE COURT: Erina, thank you. Forgive me in advance,  
5 please, and I'm going to say it again, Mr. Erina,  
6 if I mispronounce that.  
7 CNSL M. ERINA: No problem.  
8 THE COURT: Mr. Holsworth, are you content to have the  
9 two applications heard in advance of the appeal?  
10 THE APPELLANT: Yeah, no, that seems like a reasonable  
11 solution. I just would -- some of the -- there's  
12 overlap obviously in some of the applications to  
13 the appeal. So I would just ask that instead of  
14 duplicating the evidence presented in the appeal,  
15 that we also include the discussions that we have  
16 on the applications into the appeal record as  
17 well. Does that seem -- or should we repeat the  
18 application kind of stuff?  
19 THE COURT: Well, that's a good question. I mean I'm  
20 hearing them all, and so I'm quite happy -- it's  
21 not a trial, so you won't be presenting fresh  
22 evidence, but I'm happy to say that I will  
23 continue to consider whatever both of you have  
24 said on the applications when I do come to hear  
25 the appeal proper. I do understand what Mr. Erina  
26 has said in terms of the context for assessing the  
27 relevance of the documents sought. So I expect  
28 that you'll tell me a little bit, a little bit,  
29 not argue the appeal fully, but I expect you'll  
30 tell me a little bit about the nature of the  
31 appeal in order to put in context why you're  
32 seeking the various documents and information.  
33 Now I've had a chance to review some of the  
34 materials, not all of them. So I have a general  
35 sense of the nature of the appeal, but I  
36 certainly -- you know, to the extent you think I  
37 need to understand a little bit about the merits  
38 of the appeal itself in order to assess the  
39 applications, that's quite fine. Okay?  
40 THE APPELLANT: Sure. Just if the appeal gets heard  
41 today, rather than repeating information --  
42 THE COURT: No, and that's what I've just said.  
43 THE APPELLANT: And if it gets heard later, then I  
44 would repeat the information at a later date kind  
45 of thing.  
46 THE COURT: I will take into account on the appeal  
47 proper the submissions of both of you on these

**Proceedings**

1 applications, so you're not going to have to  
2 repeat.

3 THE APPELLANT: Okay, thank you.

4 THE COURT: So I think that what I'll do is I'll hear  
5 from Mr. Holsworth. We'll just do the one that's  
6 first in time first, and that's going to make  
7 sense. So that's the application that Mr.  
8 Holsworth filed November 18 of 2022, in which he  
9 seeks an order for the Crown to pay for transcript  
10 expenses for appeal purposes, dismissal at this  
11 time for abuse of process, and information on the  
12 procedure within the Crown Prosecution Office for  
13 assignment of counsel and resolution of issues of  
14 discretion.

15 So I'll hear from you first, Mr. Holsworth,  
16 on that application, and then I'll hear from Mr.  
17 Erina on that application, you on reply, and  
18 hopefully I'll be in a position to provide you  
19 with a ruling on that, perhaps immediately after  
20 that, perhaps after I've heard from you both on  
21 both of the preliminary applications is what I'm  
22 thinking is probably how it's likely to be. Okay?

23

24 **SUBMISSIONS FOR APPELLANT BY TREVOR HOLSWORTH:**

25

26 THE APPELLANT: Sure. Just on a matter of procedure, I  
27 probably should bring up the idea of recusal  
28 again, Justice Lyster.

29 THE COURT: It's Lyster, and if you have a motion for  
30 recusal, then that ought to be the very first  
31 order of business.

32 THE APPELLANT: Yeah, okay, thank you. I just -- given  
33 that I did suggest that you should be removed from  
34 the Bench, I just wonder if that is --

35 THE COURT: I didn't know that you had suggested that,  
36 Mr. Holsworth.

37 THE APPELLANT: Oh, well, I did. That was in my appeal  
38 document that I suggested that your ruling should  
39 lead to a dismissal.

40 THE COURT: Okay. In your appeal to the Court of  
41 Appeal?

42 THE APPELLANT: Correct. Yes, that's correct.

43 THE COURT: Okay.

44 THE APPELLANT: So, and then I just -- so I just think  
45 that that might influence your decisions. So I  
46 just wanted to bring that up. And then it just --  
47 the fact that, you know, I'm alleging that your

**Submissions for Appellant by Trevor Holsworth**

1           employer and the person that promoted you is  
2           obstructing justice, the Minister of Justice --  
3 THE COURT: The Ministry of Justice is not my employer.  
4 THE APPELLANT: I appreciate that's your perspective.  
5 THE COURT: Well, it's also a matter of law. The  
6           Minister of Justice is not my employer. In any  
7           event, you're referring to the Minister of  
8           Justice?  
9 THE APPELLANT: Correct. So I just think that that  
10          might be a problem that I just wanted to bring to  
11          the court's attention.  
12 THE COURT: Wouldn't that mean that there could be no  
13          judge that could hear your matter?  
14 THE APPELLANT: Well, yeah, that is a problem, and  
15          that's the matter that I did bring up to you the  
16          prior time we talked on December 3rd. So...  
17 THE COURT: Right, but if I were to accept that that  
18          was a basis for me to recuse myself, you would be  
19          unable to bring this application in any court in  
20          Canada.  
21 THE APPELLANT: Mm-hmm, mm-hmm, I do appreciate that.  
22          I mean I have presented it to the Parliamentary  
23          Committee on Justice and Ethics. It is before the  
24          Senate as well. I've written to the Senate on the  
25          matter, just for your information, and it's also  
26          being presented to the Parliamentary Ethics on the  
27          *Emergencies Act* inquiry as well as the *Emergencies*  
28          *Act* inquiry, and I have received confirmation they  
29          have received that communication.  
30          So I have attempted to communicate with the  
31          court of competent jurisdiction in this matter.  
32          I'm still waiting for an actual response from  
33          anyone.  
34 THE COURT: So when you say the court of competent  
35          jurisdiction, do you mean Parliament?  
36 THE APPELLANT: Correct. I think that's kind of the --  
37          and then the reality is that you didn't rule on  
38          the *writ of mandamus* in my prior hearing. You  
39          didn't rule for or against it. You just declined  
40          to rule on it at all. That, to me, gives me a  
41          perception of bias that you won't rule against,  
42          well, yourself or your brethren I suppose would be  
43          the logical conclusion to that matter. So that  
44          brings up that element of partiality and bias. So  
45          that question hasn't been resolved. It wasn't  
46          resolved at the Court of Appeal. It wasn't even  
47          discussed. I brought it up, but it was ignored in



**Submissions for Appellant by Trevor Holsworth**

1 Justice Newbury's decision. So I'm left with this  
2 void that judges can just ignore anything that  
3 they want that they don't want to bring up, and  
4 obviously that affects my rights completely. If  
5 you can just arbitrarily decide to ignore  
6 something that I bring up, then I don't have  
7 rights here in this forum.

8 So that's pretty much my argument as far as  
9 that.

10 THE COURT: Well, before you go on to anything --

11 THE APPELLANT: Sure, yeah.

12 THE COURT: Because if I was to agree with you that I  
13 ought to recuse myself, I shouldn't hear anything  
14 else. So are those all your submissions on  
15 recusal?

16 THE APPELLANT: Well, I guess I'd like to hear  
17 something about why you didn't rule on the *writ of*  
18 *mandamus*. Did you think my evidence was  
19 insufficient or that my legal argument was  
20 incorrect, or were you trying to protect lawyers  
21 and judges breaking the *Canadian Criminal Code*, or  
22 what was the reason? I don't understand it. It  
23 just seems unlike you. I think the public has a  
24 right to know. I think it is in the public  
25 interest to have that discussion. It is  
26 appropriate in a free and democratic country.

27 If everything is okay, like Justice Newbury  
28 says that it is, then shouldn't it be okay to have  
29 a hearing, same as we're having a hearing here?  
30 Here the Crown is accusing me of a crime, and I  
31 have a right to have this conversation in this  
32 forum, same as judges would have the same rights  
33 in a forum. To deny that procedure is  
34 fundamentally wrong. It's against the rule of  
35 law, and that's that. And I think that's the end  
36 of my argument there.

37 THE COURT: All right. So what I understand you to be  
38 saying, Mr. Holsworth, is that really I would  
39 characterize your argument as in two parts.  
40 There's an institutional bias argument because you  
41 would say that no judge can hear your cases  
42 because they've been appointed by the government,  
43 and secondly, you say that I am biased, and you  
44 say that because you suggested that I should be  
45 removed from the bench and because in your view I  
46 refused to rule on your *mandamus* application.  
47 Have I got it fairly?

**Submissions for Appellant by Trevor Holsworth**

1 THE APPELLANT: That's pretty much, it, yep.  
2 THE COURT: Okay. All right. Thank you. I'll hear  
3 then from Mr. Erina. Are you prepared to respond?  
4 CNSL M. ERINA: Do you need response on this from the  
5 Crown?  
6 THE COURT: I would love to hear from you. Thank you.

**SUBMISSIONS FOR CROWN/RESPONDENT BY CNSL M. ERINA:**

7  
8  
9  
10 CNSL M. ERINA: Well, there's no basis in law  
11 whatsoever for Justice to be recused. You're  
12 perfectly, in a matter of law facts, in a position  
13 to hear Mr. Holsworth's appeal. Justice says  
14 she's correctly noted much of Mr. Holsworth's  
15 complaints go beyond Your Ladyship - pardon me,  
16 old habits die hard - but go to every judge in the  
17 entire judicial system. Of course, he's  
18 foreshadowing what is to -- the flavour of his  
19 entire appeal and his applications. You know, Mr.  
20 Holsworth wants to put the entire system on trial  
21 and doesn't appreciate the difference between  
22 what's relevant to the narrow issues of his  
23 prosecution versus his broader complaints, whether  
24 they're valid or not, and of course Crown says  
25 they're not valid. He mixes those two together  
26 and sees the entire system as broken. So Mr.  
27 Holsworth's submissions, in my respectful  
28 submission, have no merit. There's no basis in  
29 law for Your Lady to be recused in this matter.  
30 THE COURT: Anything further?  
31 CNSL M. ERINA: No.  
32 THE COURT: Okay. Any reply, Mr. Holsworth?  
33 THE APPELLANT: I just wanted to bring it up because I  
34 think it's an important matter to bring to the  
35 court's attention.  
36 THE COURT: It's one of the most significant  
37 applications that a party can make.  
38 THE APPELLANT: Right, yeah, I appreciate that for  
39 sure. I'm happy to continue the conversation and  
40 the communication.  
41 THE COURT: Well, that's not how it works.  
42 THE APPELLANT: I'm just --  
43 THE COURT: You've made a motion for me to recuse  
44 myself.  
45 THE APPELLANT: Okay. I'm -- yep, which is your  
46 decision.  
47 THE COURT: Which I have to, as a matter of law,

**Proceedings**

1           consider.  
2   THE APPELLANT:  Yep.  
3   THE COURT:  And I'll rule on it, and then depending  
4           upon what my decision is, we will either continue  
5           with your applications before me or you won't.  
6   THE APPELLANT:  Sounds good.  
7   THE COURT:  Okay.  All right.  I will stand down, not  
8           for very long, I anticipate perhaps 15 minutes,  
9           and then I'll come back with my decision on the  
10          recusal application.  Thank you.  
11   THE CLERK:  Order in court.  
12  
13                   (PROCEEDINGS ADJOURNED FOR MORNING RECESS)  
14                   (PROCEEDINGS RECONVENED)  
15  
16   THE CLERK:  Order in court.  All rise.  Court is  
17          reconvened.  
18  
19                   [REASONS FOR JUDGMENT ON RECUSAL APPLICATION]  
20  
21   THE COURT:  All right.  So with that, can we turn to  
22          the first of Mr. Holsworth's applications, and I  
23          just need to get those materials in front of me.  
24          Bear with me for one moment.  
25   THE APPELLANT:  Thank you for your consideration.  
26   THE COURT:  Just give me one moment, sir.  I want to  
27          make sure I've got the right things in front of me  
28          for your first application.  
29   THE APPELLANT:  You know, I just --  
30   THE COURT:  So I'll hear from you now in respect of  
31          your first application.  
32   THE APPELLANT:  The first thing I actually want to do  
33          is not on that, but I wanted to bring up a matter  
34          of disclosure before we get into the Notice of  
35          Application.  I just feel like --  
36   THE COURT:  No, no, Mr. Holsworth, I'm going to hear  
37          from you now on your first Notice of Application,  
38          which is the November 18, 2022 application.  So is  
39          there some other disclosure issue that's not  
40          raised in one of your applications?  
41   THE APPELLANT:  Well, I just received this appeal book  
42          yesterday in the mail.  
43   THE COURT:  On this application?  
44   THE APPELLANT:  No, it's on the appeal book.  But it  
45          does bring up a matter of disclosure which I think  
46          is relevant to bring up early on rather than --  
47   THE COURT:  So can you briefly tell me what this issue

**Proceedings**

1 of disclosure is, sir?  
2 THE APPELLANT: Well, there's an envelope which is in  
3 tab 4.  
4 THE COURT: Okay. Bear with me for one moment because  
5 of course I've got the materials for your  
6 application because that's --  
7 THE APPELLANT: Yeah, so it's the appeal book.  
8 THE COURT: Hold on, hold on. On the appeal proper?  
9 THE APPELLANT: Correct.  
10 THE COURT: Okay. I've got the appeal book. Which  
11 tab?  
12 THE APPELLANT: Four.  
13 THE COURT: Okay. And what about that?  
14 THE APPELLANT: So there's -- that's the letter to the  
15 Deputy Attorney General's office, which I assume  
16 is the one that contained the notice of  
17 constitutional question, and it has the date  
18 stamped on it June 28, 2021, Deputy Attorney  
19 General's office. So somebody contacted the  
20 Deputy Attorney General's office to get this  
21 document. It just seems that there -- that  
22 there's no other documents that came along with  
23 this seems quite extraordinary that there is a  
24 notice of constitutional question and an envelope  
25 and absolutely nothing else. There's no answer to  
26 the constitutional question. There is no  
27 correspondence about the constitutional question.  
28 There is an absolute absence of anything.  
29 THE COURT: All right. I'm not going to hear from you  
30 on this right now, Mr. Holsworth. This -- you can  
31 raise this with me when I get to your appeal  
32 proper. I'm going to hear your application now,  
33 that being your November 18, 2022 application.  
34 THE APPELLANT: Okay.  
35 THE COURT: So let's focus on one thing at a time. I'm  
36 going to hear your November 18, 2022 application.  
37 THE APPELLANT: Well, I just -- I mean having a lack of  
38 Crown disclosure does influence my argument in all  
39 applications. I just think that that's a relevant  
40 thing. If I make an argument and the Crown hasn't  
41 disclosed documents, then my argument is not full  
42 and I don't have all the evidence that I'm  
43 entitled to. That's the reason why I brought it  
44 up early.  
45 THE COURT: Okay. Mr. Holsworth, you're the one who  
46 filed this application. You've set out what you  
47 want in it. I'll hear from you.

**Proceedings**

1 THE APPELLANT: Thank you.

2

3

**SUBMISSIONS RE APPLICATIONS BY APPELLANT:**

4

5 THE APPELLANT: So the first position is that Crown  
6 should pay for the transcripts required for this  
7 appeal and all subsequent appeals because they  
8 have done so based on identical arguments.

9 THE COURT: Can you tell me what transcripts you're  
10 seeking?

11 THE APPELLANT: Well, the payment for this appeal, and  
12 also the payment of the transcript for the appeal  
13 that you heard on December 3rd I think should be  
14 paid as well.

15 THE COURT: So I just want to be clear. You have the  
16 transcripts --

17 THE APPELLANT: We have the transcripts, yes.

18 THE COURT: -- from Judge Brown's decisions --

19 THE APPELLANT: They have been paid for.

20 THE COURT: -- which is what's under appeal here.

21 THE APPELLANT: Correct.

22 THE COURT: And you've paid for those?

23 THE APPELLANT: I paid for them.

24 THE COURT: And you're saying that you should be  
25 compensated for those, the Judge Brown  
26 transcripts?

27 THE APPELLANT: Correct. The Judge Brown transcripts  
28 and the Justice Sicotte transcripts from the  
29 previous trial that you heard the appeal on.

30 THE COURT: So you have them, you have all of those,  
31 but you're seeking compensation for them?

32 THE APPELLANT: Correct.

33 THE COURT: Okay. Go ahead.

34 THE APPELLANT: The Canadian Judicial Council claims in  
35 their letter of the 28th of August 2007 that  
36 judges have a discretion in their duty to weigh  
37 evidence which they claim extends to their own  
38 official records of the court proceedings, the  
39 transcripts.

40 I made arguments by email to Crown prosecutor  
41 Mark Erina on July 22nd, 2022, and I said it would  
42 be pretty arbitrary to require that I spend \$1,500  
43 for a transcript to prove a fact to a court that  
44 also claims a right to reject the transcript for  
45 any reason, or are you just trying to make me  
46 choose between feeding my family and buying  
47 justice. Crown accepted that argument on July

**Submissions re Applications by Appellant**

1           28th, 2022 by email and subsequently paid for the  
2 transcripts, which were then delivered to me by  
3 Crown.

4 THE COURT: Okay. If Crown paid for the transcripts,  
5 then what are you seeking?

6 THE APPELLANT: This was the transcripts for the Court  
7 of Appeal from your decision. That's what we're  
8 talking about in the emails.

9 THE COURT: So the transcript from the hearing before  
10 me?

11 THE APPELLANT: Yes, correct.

12 THE COURT: Okay.

13 THE APPELLANT: So my position is, is to refuse to pay  
14 for the transcript now is arbitrary, which is the  
15 conduct that Crown is not entitled to as it  
16 obviously affects trial fairness. I have a  
17 reasonable expectation of consistency, and in this  
18 specific case my legal strategy of splitting the  
19 cases 26418 and 26419 into separate trials, as I'm  
20 legally entitled to --

21 THE COURT: I don't know what you're referring to  
22 there.

23 THE APPELLANT: Well, when you sent it back to  
24 mistrial, we end up splitting the 26418 hearing,  
25 which is Trevor --

26 THE COURT: All of the ones against you personally as  
27 opposed to your company?

28 THE APPELLANT: That's correct.

29 THE COURT: Okay. Thank you.

30 THE APPELLANT: So instead of hearing them together, I  
31 heard them separately.

32 THE COURT: Well, or Judge Brown did at least. It  
33 doesn't matter. So you chose to separate the  
34 corporate from the personal, that's what you're  
35 referring to there?

36 THE APPELLANT: Correct, yep. Correct.

37 THE COURT: Okay. Thank you.

38 THE APPELLANT: And that was specifically made with the  
39 intention -- with the understanding that Crown  
40 would pay for the transcripts on appeal as they  
41 had set the precedent to that.

42           There is a failure in the equality under the  
43 law provisions of the *Charter* to restrict payment  
44 for transcripts only if represented by a lawyer.  
45 There are many reasons for not being represented  
46 by a lawyer. Having insufficient funds to afford  
47 their services is one. There are also cases where

**Submissions re Applications by Appellant**

1 lawyers have a conflict of interest in the  
2 representation of their clients because evidence  
3 disclosed the failure to comply with the statutory  
4 duty of their governing authority the Law  
5 Societies. Alternatively, the public might not  
6 trust that a lawyer would act on their  
7 instructions due to a perception of conflict and  
8 loyalty. Members of the public may perceive that  
9 lawyers improperly protect the courts as  
10 democratic institutions before the public, which  
11 is the incorrect approach to rebuilding trust.

12 So I think Crown's going to argue that if I  
13 want to get transcripts paid, then I have to go  
14 through a lawyer and I have to go through the  
15 whole process of the Legal Aid and all the rest.  
16 But I'm saying that in this circumstance, that  
17 would be unfair and wrong.

18 I have attempted to receive legal  
19 representation but have been denied at all times  
20 once the facts of my case have been presented.  
21 When I requested an *amicus curiae* before the  
22 Provincial Court in 2021, prior to the first  
23 trial, due to the conflicts and constitutional  
24 matters involved, I was denied. So all my efforts  
25 to obtain legal representation have been denied,  
26 but Crown is going to say that unless I have legal  
27 representation, you can't get the transcripts paid  
28 for. So it leaves me in this because I can't get  
29 a lawyer, I don't have rights, which is wrong. I  
30 don't get the right that I would otherwise be  
31 entitled to, and despite the fact that he's  
32 already made that decision prior.

33 Crown claims that I have to prove lack of  
34 funds and attempts and denial of Legal Aid prior  
35 to getting Crown to pay for transcripts and that  
36 their previous conduct paying for transcripts for  
37 appeal purposes does not alter this. Restricting  
38 access to Crown paying for transcripts only for  
39 lawyers would unfairly restrict a victim of fraud  
40 within the legal system having a method to access  
41 justice, particularly when they are poor and most  
42 vulnerable. Requiring that a citizen must have a  
43 lawyer to receive the assistance of court is an  
44 unequal application of the law based on the status  
45 of being a lawyer, which is in conflict with the  
46 *Charter* equality before the law provisions. It is  
47 improper to restrict my access to justice more

**Submissions re Applications by Appellant**

1 than it already is.

2 So then I'll move on to my lack of financial  
3 capacity to pay for transcripts. I do not admit  
4 that there exists a requirement to establish my  
5 lack of financial capacity. However, I will do so  
6 for the purposes of efficiency and its relevance  
7 to the issue regarding due diligence as well,  
8 which is applicable to the appeal as well.

9 In *Holsworth v. Holsworth* 2007, Judge Shaw  
10 decided that Kootenay Experience Limited had a  
11 share value of zero, but for the purposes of  
12 divorce a value of 295,000 based on the value owed  
13 to me from the shareholder's loan account. In  
14 *Holsworth v. Holsworth* 2007, Judge Shaw  
15 acknowledges a debt owed by Trevor Holsworth to  
16 William Holsworth in excess of \$890,000 plus  
17 interest and costs but declined to apply the debt  
18 for the purposes of the settlement of the divorce.  
19 Mr. Holsworth, Sr., collected all assets  
20 subsequent to the divorce except for the property  
21 in Nelson, on which he placed a mortgage for the  
22 remainder of the balance which exceeds the value  
23 of the property by several hundred thousand  
24 dollars with interest of five percent payable  
25 annually of approximately \$50,000 per year, which  
26 exceeds all revenue generated by the property.

27 The Canada Revenue Agency in 2014 seized my  
28 personal bank account and the bank account of  
29 Kootenay Experience Limited, and the latest  
30 statement from the CRA lists a debt owing of  
31 \$84,000 resulting from the collapse of my business  
32 operations. However, given the arbitrary nature  
33 of the process for appealing any decision made by  
34 CRA, it is difficult to determine what is the real  
35 situation. I am, as I stated on August 10th,  
36 2022, before Justice Brown in the Provincial  
37 Court, at the mercy of the court.

38 The CRA audits of 2009, 2010, 2011 and 2012  
39 that I was subjected to subsequent to my divorce  
40 found essentially no disclosure problems, just a  
41 complete lack of funds and a guy with a broken leg  
42 hobbling around with two little children that he  
43 was trying to take care of while providing access  
44 and documents for the auditor while the mother  
45 worked on-call 24 hours a day as a paramedic for  
46 \$2 an hour and binding me to the house with a  
47 pager for a year too many before I had to leave



**Submissions re Applications by Appellant**

1 because of my lack of future prospects.

2 The CRA audits included a failure to allow  
3 the GST paid on a property into a lawyer's trust  
4 account to be validated unless I could show a  
5 payment to the Minister of Finance, and all that I  
6 had was a lawyer's trust account statement showing  
7 complete settlement, which is all that anyone that  
8 buys a house in B.C. receives.

9 FMEP has been attempting for the last three  
10 years to collect due to the mother of my children  
11 taking me to court without notice due to her  
12 correct perception that I had no rights in that  
13 forum and that she sought to exploit a perception  
14 of weakness, increasing my child support  
15 obligations from the agreed-upon \$200 to \$2,500  
16 per month. Their current record indicates a debt  
17 of something in excess of \$150,000 as of November  
18 20th, 2022. FMEP exercised their discretion and  
19 removed my driver's license over two years ago. In  
20 order to bring the matter before the court, the  
21 judge ordered I pay \$2,500. I cannot access  
22 justice to resolve the situation. I have no  
23 vehicle. I do have a bicycle. The court is five  
24 hours away in Kelowna. The nearest court to the  
25 mother and I is in Nelson, 1.15 hours away.

26 Provincial Court has on numerous occasions  
27 admitted to my lack of funds and provided  
28 extensive time payments to facilitate that.

29 In the separation agreement, which I have  
30 here with me, of [indiscernible] and Trevor  
31 Holsworth, the debts are agreed upon by the  
32 parties. I have no current income, no job and no  
33 future prospects. Due to my dispute with the  
34 judiciary over their assumption of absolute power  
35 and the time commitments required to defend myself  
36 and assert my rights, I do not see future  
37 prospects.

38 Under threat of imprisonment, I've been  
39 compelled to attend court for over 15 days in the  
40 last year, not counting dates on appeal or time  
41 required to research both procedure, rules,  
42 precedent, and the laws of Parliament, in order to  
43 properly defend myself without a lawyer.

44 So my request is that Crown should pay for  
45 the transcripts or the case should be summarily  
46 dismissed due to abuse of process. If Crown  
47 prosecution refuses to be consistent in their

**Submissions re Applications by Appellant**

1 decisions and the court refuses to order Crown to  
2 pay for the transcripts, then I cannot access  
3 justice and this case should be dismissed for  
4 abuse of process due to the arbitrary nature of  
5 the Crown prosecution and the judiciary's  
6 discretion.

7 That's my arguments in regard to having the  
8 Crown pay for the transcripts from this case.

9 Should I move on to the abuse of process  
10 argument or do we want to talk more about the --

11 CNSL M. ERINA: Do you wish to hear the Crown's  
12 submissions on this point before we go to the  
13 next, Justice?

14 THE COURT: Well, I'm still looking at Mr. Holsworth's  
15 Notice of Application, and so I take it you've  
16 dealt with point 1 of the order sought or in your  
17 submission that it should be dismissed due to an  
18 abuse of process if they won't pay?

19 THE APPELLANT: Yeah, I'm just moving on to the abuse  
20 of process part.

21 THE COURT: Have you already dealt with 2? You've  
22 already dealt with 2?

23 THE APPELLANT: Yeah.

24 THE COURT: You've dealt with 2?

25 THE APPELLANT: I'm sorry?

26 THE COURT: You've dealt with number 2 then?

27 THE APPELLANT: No, no.

28 THE COURT: All right. Well, I have to think that a  
29 question of the case being dismissed due to abuse  
30 of process would be better dealt with within the  
31 appeal proper as opposed to this Notice of  
32 Application.

33 THE APPELLANT: We can do that, sure.

34 THE COURT: I think that's what we'll do in terms of --

35 THE APPELLANT: Okay.

36 THE COURT: So you'll be able to argue abuse of process  
37 but I'm going to hear that within the context of  
38 the appeal itself; okay?

39 THE APPELLANT: Okay.

40 THE COURT: But I haven't heard from you yet then with  
41 respect to the 3rd of your order sought.

42 THE APPELLANT: I guess -- okay, so let's see. Sorry.  
43 I think it might be mixed up in my abuse of  
44 process arguments a little bit, I think. Okay.  
45 The standard for abuse of prosecutorial discretion  
46 is on the balance probabilities and it is not  
47 necessary to make findings of misconduct or

**Submissions re Applications by Appellant**

1 improper motives for a stay of proceedings to be  
2 entered. And the test is conducting a prosecution  
3 in a manner that contravenes the community's basic  
4 sense of decency and fair play and thereby calls  
5 into question the integrity of the system will be  
6 a basis for a stay, as outlined in *R. v. O'Connor*,  
7 and can be reviewed where the conduct of the Crown  
8 constitutes a marked and unacceptable departure  
9 from the reasonable standards expected of the  
10 prosecution in *R. v. 974649 Ontario Inc.*, 2001 SCC  
11 81, and in *R. v. Power*, where they state:

12  
13 ... overwhelming evidence that the  
14 proceedings under scrutiny are unfair...

15  
16 And in *R. v. Light*, 1993, the B.C. Court of Appeal  
17 settled that the Crown prosecution discretion can  
18 be examined by a court for abuse of process and  
19 for issue of stay of proceedings.

20 Crown prosecutors are refusing to respond to  
21 the enforcement procedure of the *Charter*, s. 24,  
22 which goes back to my request for disclosure that  
23 we haven't dealt with that has been served on the  
24 Deputy Attorney General's office. A  
25 constitutional question --

26 THE COURT: Sorry, what's been served on the Deputy  
27 Attorney General's office?

28 THE APPELLANT: Sorry, it goes back to that request for  
29 disclosure from the Crown that I brought up before  
30 this matter where I have served upon the Deputy  
31 Attorney General's office a notice of  
32 constitutional question. They've sent me --  
33 they've included in their submissions that they've  
34 received it, but there's been no answer to that  
35 notice of constitutional question ever produced.  
36 No correspondence whatsoever. It's just an  
37 envelope admitting that it's been received by the  
38 Attorney General's office, and then a big blank.

39 THE COURT: Okay. So I want to make sure I understand  
40 what it is that you're concerned about. You're  
41 saying that they are refusing to respond to your  
42 notice of constitutional question, is that your  
43 concern?

44 THE APPELLANT: That's correct, yes.

45 THE COURT: Okay. Go ahead.

46 THE APPELLANT: They've also not responded to the  
47 actual *Charter* enforcement procedure, but that's

**Submissions re Applications by Appellant**

1 another -- a similar matter.  
2 So Crown prosecutors are refusing to respond  
3 to the enforcement procedure of the *Charter*, s.  
4 24(1), although it has been served upon the Deputy  
5 Attorney General's office. A constitutional  
6 question on the matter was served to the  
7 Provincial and Federal Crowns, and no comment is  
8 the argument presented to court on July 16th,  
9 2021. Crown Counsel Isaac Ferbey did present  
10 argument when he was asked --  
11 THE COURT: Sorry, so no comment is the argument  
12 presented to what court on when?  
13 THE APPELLANT: To the constitutional question and to  
14 the enforcement procedure of the *Charter*.  
15 THE COURT: In what court?  
16 THE APPELLANT: In the July 16th, 2021, the original  
17 hearing.  
18 THE COURT: The original trial before Judge Sicotte?  
19 THE APPELLANT: That's correct, yeah.  
20 THE COURT: Okay. Go ahead.  
21 THE APPELLANT: Isaac Ferbey, Crown Counsel, did  
22 present argument when he was asked, but that  
23 argument was limited to the fact that Provincial  
24 Court judges are not Federal Court judges subject  
25 to the Canadian Judicial Council. So I did get an  
26 answer -- when I did press Crown Counsel Ferbey  
27 for an answer, he did provide an answer. He did  
28 provide an answer to the *Charter* enforcement  
29 procedure, and his answer was that this doesn't  
30 apply because this is a Provincial Court and CJC  
31 doesn't have any rulings on that. But subsequent  
32 to it going to the Supreme Court before you,  
33 there's been no further correspondence. There's  
34 been no further response to the *Charter*  
35 enforcement. There's been no response to the  
36 constitutional question.  
37 THE COURT: When you refer to the *Charter* enforcement,  
38 is there a particular document that you're  
39 referring to, Mr. Holsworth?  
40 THE APPELLANT: Yeah, it's, um -- well, it's the same  
41 kind of document that's in tab 4.  
42 THE COURT: So it's the same thing. The *Charter*  
43 enforcement is the same thing as the notice of  
44 constitutional question?  
45 THE APPELLANT: Well, they're two different -- I  
46 made -- I served on the Deputy Attorney General's  
47 office a -- I served them with the notice of the

**Submissions re Applications by Appellant**

1 enforcement procedure, and then prior to -- on  
2 March of 2021, and then prior to the trial in the  
3 Provincial Court on July 16th, 2021, with two  
4 weeks notice I served both the Federal and the  
5 Provincial Crowns with this notice of  
6 constitutional question, which also includes the  
7 communications that I had in regard to the s.  
8 24(1) of the *Charter*, which hadn't been responded  
9 to, and none of the documents have been responded  
10 to.

11 THE COURT: Okay. All right. Now the order that  
12 you're seeking here though in the application  
13 that's before me is an order for information on  
14 the procedure within the Crown prosecution office  
15 for assignment of counsel and resolution of issues  
16 of discretion. That's the order that you've  
17 sought.

18 THE APPELLANT: Right. Yeah, so you know, I don't  
19 know -- I have made -- and I think I'll talk about  
20 that a little bit later is that I have asked for  
21 conflict of interest statements, and I have asked  
22 for various procedures that are available to me,  
23 like deferred prosecution agreements. Maybe I  
24 should just keep on with my application here  
25 because I do cover it.

26 THE COURT: Okay. I'm just trying -- I'm trying to  
27 understand the basis for the order you're seeking.  
28 So you go ahead.

29 THE APPELLANT: Sure, yeah. I appreciate that it is a  
30 little bit confusing, but I'm just trying to  
31 outline the problems that I've experienced in the  
32 Attorney General's office, and then I'll get to  
33 the why I think it's important that we have some  
34 disclosure.

35 THE COURT: Go ahead.

36 THE APPELLANT: So Crown prosecutors are refusing to  
37 respond to the enforcement procedure of the  
38 *Charter*, s. 24(1), although it has been served  
39 upon the Deputy Attorney General's office. A  
40 constitutional question on the matter was served  
41 to Provincial and Federal Crowns, and no comment  
42 is the argument is presented to court on July 16,  
43 2021. Crown Counsel Isaac Ferbey did present  
44 argument --

45 THE COURT: You've already said this.

46 THE APPELLANT: I have, yep. Okay. So Crown Counsel  
47 Mark Erina refused to respond when I asked him for

**Submissions re Applications by Appellant**

1 his answer. So Isaac Ferbey responded saying  
2 that --

3 THE COURT: CJC doesn't apply to provincial judges.  
4 THE APPELLANT: Exactly. But when I asked for a  
5 similar document from Crown Counsel, he refused to  
6 provide one. One Crown Counsel felt obliged to  
7 respond but the other did not. Isaac Ferbey, I  
8 believe, is an independent contractor. The rest  
9 are employed by the public through the Attorney  
10 General's office.

11 In *R. v. Anderson*, the Supreme Court of  
12 Canada, in paragraphs 45 and 48, it says:

13  
14 [45] ... the Crown possesses no discretion to  
15 breach the *Charter* rights of an accused.

16  
17 And in paragraph 48:

18  
19 [48] ... This court has repeatedly affirmed  
20 that prosecutorial discretion is reviewable  
21 for abuse of process.

22  
23 And in paragraph 42 [sic]:

24  
25 [62] ... This discretion is consistent with  
26 our constitutional traditions.

27  
28 Also in *Krieger*, paragraph 32, and *Nixon*,  
29 paragraph 31, specified bad faith or improper  
30 motives, which all Canadians would agree is the  
31 case here, except for apparently lawyers and  
32 judges who appear to have their own perspective on  
33 this but have not articulated a defence for it at  
34 all despite notice and further requests.

35 On February 11th, 2021, the Attorney General,  
36 David Lametti, responded to my correspondence  
37 claiming that the Canadian Judicial Council alone  
38 is tasked with investigating complaints about the  
39 conduct of federally appointed judges, and  
40 followed with the false or misleading statement  
41 [as read in]:

42  
43 It would be not appropriate for me to  
44 intervene nor as a matter of law would it be  
45 possible for me to do so.

46  
47

**Submissions re Applications by Appellant**

1 In my response by email of February 14th, 2021, I  
2 responded, quoting from the Department of Justice  
3 website and *Cosgrove v. Canadian Judicial Council*:  
4

5 [64] ... the Council has no power to remove a  
6 judge from office... If the question of  
7 removal is to be put before Parliament, it is  
8 the Minister who does so ... Like all acts of  
9 an Attorney General, the Minister's  
10 discretion in that regard is constrained by  
11 the constitutional obligation to act in good  
12 faith, objectively, independently and with a  
13 view to safeguarding the public interest.  
14

15 I never received a response to my correspondence.

16 Prior to the appeal in the Supreme Court of  
17 British Columbia on December 3rd, 2021, I made a  
18 number of requests of Crown Counsel Mark Erina on  
19 October 4th, 2021, including: (a) A special  
20 prosecutor due to the involvement of the Attorney  
21 General, Minister of Justice and the Prime  
22 Minister. My request was denied; (b) Conflict of  
23 interest statement due to the disclosure of  
24 improper conduct of the B.C. Law Society refusing  
25 to provide written reasons, particularly how they  
26 are complying with their statutory duty to protect  
27 the public, which an objectively reasonable  
28 perception would require notifying a regional  
29 Crown Counsel, according to Crown prosecution  
30 policy STA-1, which was not done.

31 When I asked for a deferred prosecution  
32 agreement, it was ignored. I asked for a witness  
33 protection programme. On October 8th, 2021, I  
34 withdrew my request for witness protection due to  
35 the RCMP threatening to destroy evidence. And  
36 then I also asked for an immunity agreement for  
37 testifying against much more significant actors  
38 breaking the law, although they are the superiors  
39 of Crown Counsel Mark Erina, which does put him in  
40 a difficult position, but that is the rule of law,  
41 we must all do our part, which was ignored.

42 Crown prosecutor Mark Erina, upon learning  
43 that Justice Lyster -- sorry, I'm --

44 THE COURT: Lyster.

45 THE APPELLANT: Sorry, I apologize.

46 THE COURT: That's okay. You're not the first to get  
47 that wrong, Mr. Holsworth.

**Submissions re Applications by Appellant**

1 THE APPELLANT: Okay, -- was possibly the judge to hear  
2 this matter, expressed the opinion that there was  
3 no possible conflict with fairness and  
4 impartiality despite his specific knowledge of  
5 specific items demonstrating partiality and a  
6 failure of fairness, but those all mirror his own  
7 biases because of their common background as  
8 lawyers. A Crown lawyer should not seek unfair  
9 bias or take advantage of a weakness in the  
10 ability of an individual to protect themselves.

11 I mention about the -- that you refused to  
12 rule on the *writ of mandamus* before the court,  
13 which is a failure to act judicially and clearly  
14 partial, protecting the highest Crown prosecutor  
15 in Canada.

16 My appeal to the B.C. Court of Appeal  
17 specifically made argument that in my opinion --  
18 this is talking about that you should be removed  
19 for your conduct. It is impossible to say that  
20 the public would not perceive that a judge would  
21 have bias against me in this regard. It is a  
22 failing of fairness by the Crown prosecutor to  
23 claim that this is not a factor that should be  
24 acknowledged.

25 Provincial Crown prosecutor William Westcott  
26 was my family lawyer representing me at trial in  
27 2006. I alleged to the B.C. Law Society and in  
28 court before you that he was involved in trial  
29 fixing. Mr. Westcott was the Crown to present the  
30 evidence on the case against me in the Provincial  
31 Court in Nakusp. This matter was brought to the  
32 attention of the court on December 3rd, 2021, and  
33 you deemed it irrelevant at the time. I  
34 communicated the conflict issue to Mr. Ferbey by  
35 email on July 27th, 2022, and August 12th, 2022,  
36 as well as conflict more generally on October 3rd,  
37 2022, and he did not respond until I reminded him  
38 again, and that time he denied that there was any  
39 conflict.

40 No conflict of interest statement was ever  
41 made by anyone, and no report to a superior ever  
42 made.

43 I requested information regarding how Crown  
44 prosecutors are assigned which, in my perspective,  
45 seem particularly relevant due to the conflict of  
46 interest of some of the actors, but I was denied.

47 Of course, I am concerned, given the



**Submissions re Applications by Appellant**

1 relationship between Mr. Ferbey and Mr. Westcott  
2 and myself, as well as the conduct of the Attorney  
3 General of Canada failing to respond to the  
4 enforcement procedure of the *Charter*.

5 There should be transparency in the court  
6 process so that those accused have a sense of  
7 fairness about the procedures. There are vast  
8 gaping holes in the decision-making process of the  
9 prosecution and a general failure to attempt to  
10 communicate to resolve the matters presented.  
11 Denial of proper procedure in this case makes the  
12 acceptance in other cases extremely suspicious.

13 I still haven't received any further  
14 disclosure except for the fact that the Attorney  
15 General's office received the notice of  
16 constitutional question. There's been no further  
17 communication, and there's been false and  
18 misleading statements produced by the Attorney  
19 General, David Lametti.

20 So, in summary, in the House of Lords case,  
21 judging *Pinochet*, the Chilean dictator, they made  
22 it very clear that the words of Justice Hewart  
23 were critical. Justice must be done and must be  
24 seen to be done, which arose because he was of the  
25 view that the executive was undermining the rule  
26 of law without any checks or restraint, and this  
27 was being done without due sanction from the  
28 legislature. England did not have a written  
29 constitution, and at that time it was very  
30 difficult to obtain a *mandamus* against any  
31 government authority.

32 The case also stands for the statement there  
33 is no better-known rule of natural justice than  
34 the one that a man shall not be a judge in his own  
35 cause. In its simplest form, this means that a  
36 man shall not judge an issue in which he has a  
37 direct pecuniary interest, but the rule has been  
38 extended far beyond such crude examples and now  
39 covers cases in which the judge has such an  
40 interest in the parties or the matters in dispute  
41 as to make it difficult for him or her to approach  
42 the trial with impartiality and detachment which  
43 the judicial function requires. The *Pinochet* case  
44 was dismissed because the wife of the judge was a  
45 lawyer for the Amnesty International, not even the  
46 prosecution. Pinochet was a dictator and I'm just  
47 trying to stop him. But Pinochet was rich and he

**Submissions re Applications by Appellant**

1 did have lawyers, and I am poor with no political  
2 power and no lawyers. I think those are the  
3 distinguishing elements in the precedent in the  
4 application of the rule of law. Lord Hewart's  
5 principle requires that tribunals to be not only  
6 actually independent from the executive  
7 interference but to be seen as being independent  
8 entities and not as departments of the government.  
9 We cause harm to our own legal systems and its  
10 credibility by ignoring this principle.

11 Just prior to you providing your decision on  
12 the appeal, my website spiked from under 20 hits a  
13 day to over 300 in the days preceding your  
14 decision, and 90 percent of them came from Ottawa  
15 and Toronto. This case is clearly one that meets  
16 the balance --

17 THE COURT: What is it that you'd like me to draw from  
18 that?

19 THE APPELLANT: Oh, I'm just mentioning that as far as  
20 maybe undue influence or perception of bias or all  
21 sorts of things. I'm just making a loose comment.

22 THE COURT: Well, I'll ask you not to make loose  
23 comments in court. It's not the place for loose  
24 comments, Mr. Holsworth.

25 THE APPELLANT: Oh, okay.

26 THE COURT: It's a place for serious comments.

27 THE APPELLANT: Well, it was a serious comment, but it  
28 is loose.

29 At trial in Provincial Court in Nakusp on  
30 October 6th, 2022, I requested that Judge Brown  
31 explain where -- I think this is kind of getting  
32 into stuff that's outside of the --

33 THE COURT: Right. So currently I'm wanting to hear  
34 from you in support of your application for  
35 information on the procedure within the Crown  
36 prosecution office for assignment of counsel and  
37 resolution of issues of discretion.

38 THE APPELLANT: Right. So what I have is I just got an  
39 absence of all procedures. There is written  
40 procedures in the Crown Counsel office about  
41 the -- it's called the STA-1, and I've requested  
42 information from Crown, and there's just been no  
43 compliance whatsoever with any procedure, just  
44 complete denial of that there could be a conflict  
45 of interest and no reporting of the potential  
46 conflict of interest to a superior. So if you can  
47 just deny everything, then why even have the

**Submissions re Applications by Appellant**

1 procedure? It just makes a mockery of the  
2 procedure. Even if Crown has received  
3 constitutional questions and not responded to  
4 them, had they received *Charter* enforcement  
5 procedure notification and not responded, how that  
6 cannot be a conflict of interest is beyond me.  
7 But I've asked for the procedures to be followed  
8 and there's been absolutely zero response.

9 So I just -- you know, I'm left in the dark  
10 as for how is the Crown Prosecution Service  
11 fulfilling its mandate to do anything, to enforce  
12 the *Charter*, to uphold the rule of law, to follow  
13 their own policies and procedures. It's just a  
14 complete void because I've just received nothing,  
15 and I think that is very different from the  
16 regular course of events. I don't think this is  
17 normal. But maybe it is. I don't know. I don't  
18 have much experience in this matter, but maybe  
19 there is just general denial of all procedure.  
20 But this has been my experience is that there's  
21 been a denial of all procedures and no  
22 communication, and then when pressed, there's been  
23 false and misleading statements made or just no  
24 statements made.

25 So I'm just looking for some enforcement of  
26 procedure or explanation of how these procedures  
27 might be resolved.

28 THE COURT: Does that conclude your submissions on this  
29 application?

30 THE APPELLANT: That's it, yep.

31 THE COURT: All right. Are you ready to respond, Mr.  
32 Erina?

33 CNSL M. ERINA: I am, Justice.

34 THE COURT: All right.

35

36 **SUBMISSIONS RE APPLICATIONS FOR CROWN/RESPONDENT BY**

37 **CNSL M. ERINA:**

38

39 CNSL M. ERINA: A lot to unpack. Much of Mr.  
40 Holsworth's submissions probably go more to the  
41 appeal and are probably addressed then there as  
42 well. But let me start -- I'll address some of  
43 the assertions that Mr. Holsworth made regarding  
44 the facts momentarily, but let me start with the  
45 transcript issue. And let me preface this.  
46 Crown -- I just want to put on the record that  
47 I'll try to deal with this in a principled fashion

**Submissions re Applications for Crown/Respondent by Cnsl M. Erina**

1 is that there's a lot of, you know, cross-  
2 contamination, if you will, things that happened  
3 at the first trial. Of course, we're working on  
4 appeal in the second trial, and a lot of what Mr.  
5 Holsworth says is not evidence. They're  
6 submissions. When he talks about his financial  
7 state. That's submissions. That's not evidence.  
8 At least it's important to -- I want to state that  
9 up front. But in these circumstances, it probably  
10 is of no moment, but just strictly on a procedural  
11 matter, Mr. Holsworth refers to a lot of facts  
12 that those are just submissions. Those aren't  
13 evidence.

14 Let me go start with the transcript issue.  
15 Does Justice have the Crown's argument?

16 THE COURT: I do.

17 CNSL M. ERINA: It's nine pages.

18 THE COURT: I have it.

19 CNSL M. ERINA: And it's too bad that everything's got  
20 the same green cover. It starts to make things a  
21 bit confusing.

22 THE COURT: I have it.

23 CNSL M. ERINA: So the complete answer in law to Mr.  
24 Holsworth's request is this court does not have  
25 the jurisdiction to order the state to pay for a  
26 transcript in the absence of an order under 684 of  
27 the *Criminal Code* appointing in counsel, and the  
28 authority for that is in the Crown's book of  
29 authorities, which you should also have before  
30 you.

31 THE COURT: I have it.

32 CNSL M. ERINA: And perhaps -- another green cover.

33 THE COURT: Yes. But I do have it. Crown book of  
34 authorities in the appellant's November 2022  
35 application?

36 CNSL M. ERINA: That's correct.

37 THE COURT: Okay. And what tab, please?

38 CNSL M. ERINA: So if we can begin turning to tab  
39 number 1 first, and at tab number 1 is a 2017  
40 decision of this court by Mr. Justice Smith. At  
41 paragraph 20, if I can draw Justice's attention to  
42 that paragraph where the court refers to a  
43 decision that was made from our Court of Appeal of  
44 Madam Justice Bennett, and that's the *McDiarmid*  
45 decision. That's actually in this book of  
46 authorities as well. I'm just going to read it  
47 because it's very brief because what was being

**Submissions re Applications for Crown/Respondent by Cnsl M. Erina**

1 sought here is similar to what Mr. Holsworth is  
2 looking for. The court, Mr. Justice Smith said  
3 [as read in]:

4  
5 On the basis of *R. v. McDiarmid*,...

6  
7 And I won't read the citation.

8  
9 ... a decision of Madam Justice Bennett, I  
10 have no jurisdiction to order that the state  
11 pay for the production of transcripts in the  
12 absence of an order to appoint counsel.

13  
14 And in my respectful submission, that is the law  
15 in this province, and the portion of *McDiarmid*  
16 that Judge Smith was referring to, if I can get  
17 Justice to turn to tab 4, and this is the  
18 *McDiarmid* decision, and in particular page 5 and  
19 paragraph 17, where Justice Bennett -- and I'll  
20 just read the first paragraph into the record:

21  
22 [17] A reading of the decisions, however,  
23 points to no ability to fund disbursements  
24 including transcripts...

25  
26 I emphasize that.

27  
28 ... without the appointment of counsel.

29  
30 So what Mr. Holsworth has to do is make an  
31 application under 684 of the *Criminal Code*, which  
32 is applicable in summary appeals, for appointment  
33 of counsel, and if counsel is appointed, then the  
34 transcripts may be part of the expenses that are  
35 paid. Mr. Holsworth has not made a 684  
36 application. In fact, he has informed me by email  
37 that he has no intention to make an application  
38 under 684.

39 Now I appreciate that Mr. Holsworth has and I  
40 accept that he's had difficulties retaining  
41 counsel, but that doesn't alter the law that he  
42 must follow this procedure. In the Crown's  
43 argument, I set out what the test is under 684. I  
44 can take Justice through that, although we're not  
45 here in a 684 application.

46 THE COURT: Sorry, am I back in your argument?

47 CNSL M. ERINA: Yes.

**Submissions re Applications for Crown/Respondent by Cnsl M. Erina**

1 THE COURT: Whereabouts? Paragraph 3?  
2 CNSL M. ERINA: We are at page 6, paragraph 23 sets out  
3 the -- it's an excerpt setting out the  
4 legislation, and then beginning at paragraph 24 is  
5 where I describe what the test is, and it's a two-  
6 part test. Again, I'm looking at paragraph 24.  
7 It states the accused must have insufficient means  
8 to obtain legal assistance, and two, appointment  
9 of counsel must be in the best interests of  
10 justice, and I've cited a number of cases which  
11 set out that test, I don't think there's any  
12 controversy what the test is, and that's the  
13 *Lawson* case and the *Silcoff* case, and the case of  
14 *United States of America v. Fraser*. Those are all  
15 within the Crown's book of authorities.  
16 The Court of Appeal for 684 applications -  
17 I'm looking at paragraph 26 - also has a practice  
18 directive which in my submission applies equally  
19 to an application for a stay when counsel in this  
20 court that it requires -- and that directive I  
21 should say also should be in the book of materials  
22 on that application at tab 11, the last tab of the  
23 booklet, and it requires, among other things --  
24 I'm just looking briefly here at the practice  
25 directive -- that Mr. Holsworth had applied for  
26 Legal Aid and he had been denied.  
27 THE COURT: So this court does not have a practice  
28 directive on this?  
29 CNSL M. ERINA: I do not think so.  
30 THE COURT: Okay.  
31 CNSL M. ERINA: If I can refer Your Ladyship -- I have  
32 to stop that, Justice.  
33 THE COURT: You're not alone in having old habits dying  
34 hard being difficult.  
35 CNSL M. ERINA: I'm looking back to the argument at  
36 page 6. I'm looking at the footnote at paragraph  
37 15 where I referred to, for example, the *Nichols*  
38 case, which I believe should be in the book of  
39 authorities. These are just examples of where  
40 that practice directive has been applied or has  
41 been referred to in this court. So the *Nichols*  
42 case is at paragraph 8. Tab 8, I'm sorry.  
43 THE COURT: I'm sorry, I'm having difficulties with  
44 juggling books here.  
45 CNSL M. ERINA: I think the next one I'll put these all  
46 in different -- usually the tradition is with  
47 Crown is the Crown's always green, but when

**Submissions re Applications for Crown/Respondent by Cnsl M. Erina**

1           there's so many things, maybe different colours  
2           would have been a handy thing.

3 THE COURT: Okay. So I'm at tab 8, *Nichols*.

4 CNSL M. ERINA: Yes. This is the *R. v. Nichols*, a  
5 decision of -- well, last year, of this court, and  
6 I'm looking at paragraph 47, and this here the  
7 court states:  
8

9           [47] I also accept that the Applicants have  
10          applied to Legal Aid for assistance, but has  
11          been denied funding assistance on the basis  
12          that the Applicants did not receive a  
13          sentence of imprisonment or a conditional  
14          sentence of imprisonment and because Legal  
15          Aid was of the opinion that there was not a  
16          reasonable prospect of success on the  
17          proposed appeal. The Applicants appeal of  
18          the Legal Aid's decision was refused for the  
19          same reasons.  
20

21          So I cite this because in the context of a 684  
22          application, the court is referring to application  
23          for Legal Aid. It's relevant.

24          I'm also going back into the *Verma* case, and  
25          I think there's actually more than one *Verma* case,  
26          but looking at the 2013 decision in *Verma*, which I  
27          believe is at tab 3 of the book of authorities, at  
28          paragraph 15, and this is similar comment where  
29          the judge here, referring to a decision of Justice  
30          Silverman - and I think there was multiple  
31          applications over time in this case - he said at  
32          paragraph 15:  
33

34          [15] Mr. Justice Silverman also considered  
35          the fact that the Legal Services Society  
36          rejected Mr. Verma's application for counsel  
37          because they determined the appeal had no  
38          chance of success...  
39

40          The point I'm trying to make is that that  
41          directive has application to this court, and if  
42          Mr. Holsworth wanted to get the transcript paid  
43          for, he would have to make an application under  
44          684, and that would necessarily entail that he  
45          make an application to Legal Aid and be denied.

46          But that's not the end of what Mr. Holsworth  
47          would have to establish to succeed on a s. 684

**Submissions re Applications for Crown/Respondent by Cnsl M. Erina**

1 application. Back at the Crown's argument at page  
2 7, paragraph 27, I've set out the points that a  
3 court has to consider when determining whether  
4 appointment of counsel is in the best interests of  
5 justice, and that of course is the second branch  
6 of the test. Those points, which are enumerated A  
7 through G, include such things as the points to be  
8 argued on appeal, and in my submission, much of  
9 what Mr. Holsworth has to argue here on appeal is  
10 irrelevant. It has to do with his grievances.  
11 Point B, the complexity of the case. This is a  
12 summary appeal for not complying with a  
13 requirement. It is very straightforward. And then  
14 I've just skipped to F, the nature and extent of  
15 the penalty imposed. Mr. Holsworth received a  
16 \$4,000 fine. There's no imprisonment here. And  
17 G, the narrative of the appeal, which I've really  
18 just commented on when I was looking at point A as  
19 I will propose to argue Mr. Holsworth's seven  
20 grounds of appeal have no merit because, with the  
21 exception of one, they all go back to the issue  
22 about Mr. Holsworth's again grievances with the  
23 justice system.

24 So when considering whether appointment of  
25 counsel is in the best interest, with the greatest  
26 respect, this is hardly the case where the tax  
27 funder, tax payers' pocket should be opened to pay  
28 for Mr. Holsworth's appeal.

29 Now I'm going through the 684 test, but this  
30 is not a 684 application. It's to demonstrate to  
31 the court that had Mr. Holsworth went down that  
32 road, I don't think, in my respectful submission,  
33 he would succeed, but his application can be  
34 dismissed before even going there because again,  
35 as I began my submissions, without that  
36 application being made, this court doesn't have  
37 jurisdiction to order the appointment of counsel  
38 in the absence of a 684 order. And again, as I've  
39 stated, I acknowledge that Mr. Holsworth had  
40 trouble finding a lawyer, but it may also have  
41 something to do with the merits of his case. I  
42 don't know. I think it's a reasonable inference  
43 perhaps that can be drawn from that, and it  
44 certainly does not displace what the law is, that  
45 he still has to follow this.

46 So in my respectful submission, the Crown  
47 should not have to pay for Mr. Holsworth's



**Submissions re Applications for Crown/Respondent by Cnsl M. Erina**

1 transcripts for this appeal or his previous  
2 appeal.

3 Now I just want to turn to some factual  
4 things that Mr. Holsworth has raised. He's  
5 included in his application materials, which I've  
6 put into the green booklet, and this is at tab 6,  
7 Mr. Holsworth says the Crown exercised its  
8 discretion arbitrarily because the Crown agreed to  
9 pay for transcripts in one instance, then turned  
10 around and said no. In my submission, that is  
11 incorrect. What occurred is the Crown agreed to  
12 pay for the transcript of what took place at the  
13 summary appeal before Justice because the Crown  
14 wanted it to make its own submissions on the leave  
15 application. That was for the Crown's benefit.  
16 Mr. Holsworth got the collateral benefit because  
17 we ordered it for ourselves. Then we of course  
18 are providing a copy to Mr. Holsworth.

19 If you, Justice, could turn to that tab, tab  
20 6.

21 THE COURT: I'm there.

22 CNSL M. ERINA: And in there is the letter that I  
23 believe should be in there.

24 THE COURT: There's a lot of things here.

25 Unfortunately, the pages aren't paginated.

26 CNSL M. ERINA: I know.

27 THE COURT: So where am I going to look?

28 CNSL M. ERINA: There's a letter -- and I apologize for  
29 the pagination. I should have paginated Mr.  
30 Holsworth's application form. But if you go to the  
31 documents, there's a letter dated July 28th.

32 THE COURT: Right, I see that, from yourself to Mr.  
33 Holsworth.

34 CNSL M. ERINA: Correct.

35 THE COURT: I write in regards to your July 22 email?

36 CNSL M. ERINA: That's correct. It's the third  
37 paragraph where I've written to Mr. Holsworth and  
38 I've said the Crown is ordering a transcript of  
39 the submissions made at the summary conviction  
40 appeal so that the judge presiding over the leave  
41 application can see when and how you mentioned  
42 anything about delay before Judge Lyster, because  
43 that was an issue that Mr. Holsworth was going to  
44 raise before the Court of Appeal, and without the  
45 benefit of the transcript, I was unable to put  
46 together my submissions. So the Crown needed the  
47 transcript. We ordered it, and Mr. Holsworth got

**Submissions re Applications for Crown/Respondent by Cnsl M. Erina**

1 the benefit. The Crown wasn't agreeing to order  
2 it for the reasons Mr. Holsworth suggests, which  
3 is he sent me an email asking that they be paid  
4 for, I think something about his kids or things.  
5 No. We gave it to him because we had to get it  
6 for ourselves.

7 Then we came to this appeal, and Mr.  
8 Holsworth made the same request. I wrote Mr.  
9 Holsworth, and I said no, the Crown is not going  
10 to pay for the transcript, that's your  
11 responsibility as the appellant because that is  
12 what the law is. Otherwise, Mr. Holsworth can  
13 make the 684 application; that's not an exercise  
14 in arbitrary discretion. What happened again here  
15 is the Crown had to act in order to properly  
16 litigate and present its case, we needed the  
17 transcript, and we paid for it, and Mr. Holsworth  
18 got the benefit, which I think is a good thing,  
19 but on the new appeal, the Crown is not going to  
20 pay for it, nor is the Crown bound by law to. In  
21 my submission, again, that is not an arbitrary  
22 exercise of discretion. So I just wanted to make  
23 that correction.

24 Mr. Holsworth also refers to conflicts of  
25 interest. Well, in my respectful submission, the  
26 Crown, and myself in particular, I have no  
27 conflict of interest with Mr. Holsworth. Mr.  
28 Holsworth has not adduced any evidence or any  
29 submissions that would substantiate that I have a  
30 conflict of interest. His basis appears to be  
31 that because I'm a lawyer, I have a conflict of  
32 interest. That has no merit as a matter of law.  
33 In correspondence with Mr. Holsworth, I did  
34 respond to him I think at least on two occasions  
35 stating that I do not have a conflict. When he  
36 made further inquiry, I simply said I am not going  
37 to discuss this any further with you.

38 THE COURT: Is that correspondence --

39 CNSL M. ERINA: I don't believe Mr. Holsworth put that  
40 in his materials, no. I can find those emails  
41 probably.

42 THE APPELLANT: I have them right here.

43 THE COURT: Do you agree that that's what they say?

44 THE APPELLANT: Yes, he did deny --

45 THE COURT: Please stand if you're addressing the  
46 court.

47 THE APPELLANT: Oh, sorry. He did deny providing

**Submissions re Applications for Crown/Respondent by Cnsl M. Erina**

1 conflict of interest, yes, on several occasions.  
2 THE COURT: Well, actually, I think maybe I do need to  
3 see this because you're characterizing it slightly  
4 differently each of you. So I think it would be  
5 helpful if I saw it.  
6 THE APPELLANT: Sure. So October 6th, July 22nd and  
7 July 28th I believe are the --  
8 THE COURT: Right. If you can just show Mr. Erina what  
9 you're handing up.  
10 CNSL M. ERINA: Are these materials that were part of  
11 your notice of application? I think those  
12 materials are already in here. This isn't your --  
13 THE APPELLANT: They are.  
14 THE COURT: So this was part of your notice of  
15 application?  
16 THE APPELLANT: Mm-hmm.  
17 THE COURT: So then it will be at tab 6.  
18 CNSL M. ERINA: I think what Mr. Holsworth doesn't have  
19 is my letters in response. He has my emails, but  
20 I can tell you again what -- I can find those  
21 letters if you like, but essentially is my  
22 statement I don't have a conflict and I'm not  
23 going to discuss this with him.  
24 THE COURT: All right. Mr. Holsworth, do you agree Mr.  
25 Erina said that to you in the correspondence?  
26 THE APPELLANT: Yes, yes.  
27 THE COURT: Okay. That's good enough for me.  
28 CNSL M. ERINA: Sure, yep.  
29 THE COURT: If you both agree that that's what --  
30 CNSL M. ERINA: Yes, thank you. And as far as the  
31 assignment of counsel goes - and this actually  
32 touches on Mr. Holsworth's I think the third  
33 branch of his application - it's irrelevant. At  
34 best, that's an administrative matter, and there  
35 is no evidence before this court to suggest or  
36 substantiate an allegation that the assignment of  
37 counsel, i.e., myself or Mr. Ferbey, who is a  
38 Crown agent, that assignment is abusive or somehow  
39 is an exercise -- an improper exercise of Crown  
40 discretion. It's an administrative matter and, in  
41 my respectful submission, it's irrelevant, and I  
42 have advised Mr. Holsworth of that in  
43 correspondence.  
44 I'll address very briefly matters such as the  
45 appointment of a special prosecutor makes, with  
46 due respect, no sense. There's no requirement for  
47 a special prosecutor. This is a straightforward

**Submissions re Applications for Crown/Respondent by Cnsl M. Erina**

1 summary appeal -- or pardon me, summary conviction  
2 offence that was tried by the Federal Crown and  
3 now is on appeal as being responded to by the  
4 Federal Crown. There is no basis for a special  
5 prosecutor.

6 All of this, again, is driven by Mr.  
7 Holsworth's distrust in the justice system, and he  
8 seeks, in my submission, documents and using these  
9 to further push forward the platform that he wants  
10 to address, what he calls his political protest.  
11 And that's his term. It's in the transcript at  
12 the second trial. That's not my term. And it's  
13 not relevant, and no order for disclosure should  
14 be made.

15 In correspondence to Mr. Holsworth, I  
16 directed him to, on matters of how the Crown, the  
17 Federal Crown exercises discretion, he could refer  
18 to the Crown Deskbook or the Federal prosecute --  
19 pardon me, the Public Prosecution Service of  
20 Canada Deskbook that's publicly available online.  
21 And I note as well in his Notice of Application  
22 it's just a general request, how the Crown  
23 exercises its discretion. It's not even  
24 particularized. So, in my response which, in my  
25 submission, was appropriate, I simply pointed him  
26 to that document which is online.

27 Subject to any questions Justice may have,  
28 those are my submissions in response to Mr.  
29 Holsworth's first application.

30 THE COURT: Thank you, Mr. Erina.

31 Mr. Holsworth, any reply on this application?

32 THE APPELLANT: Sure.

33

34 **REPLY SUBMISSIONS RE APPLICATIONS BY APPELLANT:**

35

36 THE APPELLANT: Just on the first matter, Mark  
37 mentioned --

38 THE COURT: It's Mr. Erina.

39 THE APPELLANT: Oh, sorry.

40 THE COURT: Not first names in court.

41 THE APPELLANT: Oh, you bet. Okay, Mr. Erina. On the  
42 difference between evidence and submissions, now  
43 it becomes very -- it's a very nebulous concept  
44 obviously when the Canadian Judicial Council  
45 asserts that judges have a discretion to weigh  
46 every document and every piece of evidence up to  
47 and including their own transcript. The

**Reply Submissions re Applications by Appellant**

1 difference between evidence and opinion and  
2 submissions is very nebulous.  
3 Like is a letter an evidence or is it a  
4 submission? Is my communication evidence or is it  
5 a submission? Is anything that I provide evidence  
6 because you have the discretion to ignore  
7 everything that I say, and you have the discretion  
8 to ignore all the evidence that I have. So  
9 everything that I have is a submission. If you  
10 would like to see any evidence, I have the  
11 letters, I have the documents, but you have the  
12 discretion to ignore them, including the  
13 transcript.

14 THE COURT: Right now I'm just dealing with your  
15 application, sir.

16 THE APPELLANT: Yes, but I'm just addressing Mr.  
17 Erina's concept that I am not presenting evidence,  
18 that I'm just presenting submissions. It's  
19 basically saying only lawyers can present  
20 evidence.

21 THE COURT: It doesn't actually mean that at all, Mr.  
22 Holsworth.

23 THE APPELLANT: Well, then what evidence do I have or  
24 can I have --

25 THE COURT: The evidence is the evidence that was  
26 before the Honourable Judge Brown.

27 THE APPELLANT: Including the transcript?

28 THE COURT: I don't know what evidence was before him.  
29 It's the evidence that was before Judge Brown.

30 THE APPELLANT: Okay. So as far as the requirement  
31 that I file this 684 application, saying that in  
32 order to get that, that law is unconstitutional  
33 because it creates an unequal application of the  
34 law based on the status of being a lawyer or a  
35 self-represented litigant, and that is wrong. It's  
36 unconstitutional, it's against the *Charter*, and  
37 it's also against the public interest. It's also  
38 against the basics of the three evidence laws of  
39 Canada, the search for the truth, the protection  
40 of constitutional rights and the proper  
41 administration of justice. To say that I can only  
42 get Crown to pay for transcripts if I have a  
43 lawyer is unconstitutional.

44 Failure to rule, failure for the court to  
45 rule on this matter would be to establish that  
46 Crown can act arbitrarily and that we can't trust  
47 anything that they say. Because I did write to

**Reply Submissions re Applications by Appellant**

1           Mark, and I did ask him for a notice of  
2           constitutional -- a notice of interest conflict  
3           statement. I asked him for a notice of conflict  
4           of --  
5   THE COURT: Is this in your Notice of Application?  
6   THE APPELLANT: The -- which?  
7   THE COURT: The thing you're referring to?  
8   THE APPELLANT: The letter?  
9   THE COURT: Right. So if you can refer me to it, that  
10          would be helpful. Is it here in tab 6 of the  
11          Crown's application materials?  
12   THE APPELLANT: I don't think there is -- I've got it  
13          right here in front of me.  
14   THE COURT: I beg your pardon?  
15   THE APPELLANT: You can have a copy of it if you want.  
16   THE COURT: Well, so you didn't include this letter  
17          that you're talking about now?  
18   CNSL M. ERINA: I just included in there what Mr.  
19          Holsworth was going to rely on, his Notice of  
20          Application materials.  
21   THE COURT: No, no, I'm asking Mr. Holsworth now.  
22          Do you have this book in front of you, Mr.  
23          Holsworth, Crown application materials on the  
24          appellant's November 2022 application?  
25   THE APPELLANT: I'm not sure. I've got a whole bunch of  
26          green books.  
27   THE COURT: There's a lot of green books. That's a  
28          problem, I agree.  
29   THE APPELLANT: For third party records?  
30   THE COURT: Nope, November 2022 application.  
31   THE APPELLANT: I don't think so.  
32   CNSL M. ERINA: Maybe I can help Mr. Holsworth. It's  
33          this book, Mr. Holsworth.  
34   THE APPELLANT: That's Crown's book. That's okay.  
35   CNSL M. ERINA: No, no, no, I can help you out here.  
36          Why don't you use my book here. Tab 6 here is  
37          your Notice of Application, and behind it is --  
38   THE APPELLANT: Okay, so -- okay, right here.  
39   THE COURT: So at tab 6, what Mr. Erina is telling me  
40          is that those are the materials that you submitted  
41          in support of your Notice of Application.  
42   THE APPELLANT: That's correct, yeah.  
43   THE COURT: And so what I'm trying to find out is the  
44          letter that you're referring to, is that included  
45          here?  
46   THE APPELLANT: It should be.  
47   THE COURT: Okay. So what was the date?

**Reply Submissions re Applications by Appellant**

1 THE APPELLANT: Well, I've got an October 15 letter. I  
2 don't see it in here.

3 THE COURT: I've got October 4, October 8.

4 THE APPELLANT: But I think there's another one that I  
5 can move to.

6 CNSL M. ERINA: Justice, I can probably find an  
7 electronic copy.

8 THE COURT: I've got October 15th. I think perhaps  
9 it's the one you're referring to, Mr. Holsworth.

10 THE APPELLANT: Yeah, I'm referring to October 15th.

11 THE COURT: [As read in]:

12

13 I add the following to the emails regarding  
14 my request for the Crown Prosecution Service  
15 to provide me with a notice of conflict of  
16 interest statement.

17

18 So that's the one you were referring to, sir?

19 THE APPELLANT: That's what I'm looking at right now.

20 THE COURT: Okay. So this is from October 15th of  
21 2021. So this is subsequent to the trial before  
22 Judge Sicotte and before the appeal before me?  
23 Must be because I heard your appeal December of  
24 2021.

25 THE APPELLANT: Correct.

26 THE COURT: Okay.

27 THE APPELLANT: Yeah, so it's subsequent to Sicotte.

28 THE COURT: Okay.

29 THE APPELLANT: So, you know, Mark did -- or Mr. Erina  
30 did mention about bias about that, whatever,  
31 lawyers, that this would apply to all lawyers, and  
32 I did attach a letter addressed to Stuart Cameron  
33 of the B.C. Law Society, and I've got that noted  
34 here. The lack of a reply to allegations of  
35 improper procedure, which would amount to  
36 obstruction of justice, is an obstruction of  
37 justice. I wrote to Stuart Cameron of the B.C.  
38 Law Society and disclosed -- well, it's not in  
39 here, but I asserted that the B.C. Law Society was  
40 protecting lawyers because I had made a complaint  
41 about a lawyer's not complying with court orders  
42 and altering court documents, and I had asked  
43 Stuart Cameron how they were protecting the public  
44 interest, and he had refused to respond.

45 That produces a problem for, yes, all lawyers  
46 because if they're not obliged to comply with  
47 their regulations and the B.C. Law Society does

**Reply Submissions re Applications by Appellant**

1 not punish them or discipline them or do anything  
2 and doesn't inform the public on their procedures,  
3 then it can hardly be said that they are  
4 protecting the public interests.

5 THE COURT: So do I understand your position correctly  
6 that you would say any lawyer, all lawyers would  
7 be in a conflict of interest in prosecuting this  
8 case, is that your position?

9 THE APPELLANT: It could quite well be because the B.C.  
10 Law Society has not complied with their statutory  
11 duty, and that is a problem for the administration  
12 of justice. If you have the B.C. Law Society not  
13 complying with their statutory duty, it does  
14 create a conflict rippling down through all their  
15 members. And yes, all their members would be in a  
16 conflict of interest because they would not want  
17 that to be made public. They would not want that  
18 bias of their governing organization or their  
19 illegal conduct of their governing organization to  
20 be made public. So yes, I would assert that it is  
21 a problem for all lawyers.

22 THE COURT: Okay. Thank you.

23 THE APPELLANT: But going back to the transcript,  
24 sorry, I've lost -- October 15. So I requested,  
25 and then -- where did I request -- in the -- so I  
26 made a request October 15. July 22nd --

27 THE COURT: Of 2002 now -- or 2022 rather?

28 THE APPELLANT: Sorry, I'm just -- my eyes are getting  
29 worse and worse as I get older.

30 THE COURT: You know, I have that problem, too.

31 THE APPELLANT: Yeah.

32 THE COURT: I see your July 22, 2022 email in which you  
33 are referring to the transcript. Is that what  
34 you're referring to?

35 THE APPELLANT: Mm-hmm. Yeah, and you know, to go back  
36 to the lawyers business, you know, the Attorney  
37 General's office received a notice of  
38 constitutional question, they received the *Charter*  
39 enforcement procedure, and no lawyer has responded  
40 in the entire Attorney General's office, up to --  
41 it took a letter to the Prime Minister's office to  
42 get the Minister of Justice to respond to his  
43 failure to respond to the enforcement procedure,  
44 and then in that he makes false and misleading  
45 statements.

46 THE COURT: So this is reply, Mr. Holsworth. So you  
47 need to be focusing your submissions to replying



**Reply Submissions re Applications by Appellant**

1           to things that Mr. Erina -- I'm sorry, I keep  
2           stumbling over your name.  
3    CNSL M. ERINA: No, that's fine.  
4    THE COURT: Mr. Erina or Erina?  
5    CNSL M. ERINA: Erina.  
6    THE COURT: I'm so sorry.  
7    CNSL M. ERINA: That's okay.  
8    THE APPELLANT: So Mr. Erina says -- so I'm looking at  
9           the July 22nd, '22 letter.  
10   THE COURT: Right.  
11   THE APPELLANT: And it's in response to Mr. Erina's  
12           July 28th, 2022, and he says, where he -- oh, we  
13           must be missing a letter from Mark because I say  
14           [as read in]:  
15  
16                    Thank you for your email.  
17  
18           This is the July 22nd, 2022.  
19   THE COURT: Right. I have it.  
20   THE APPELLANT: [As read in]:  
21  
22                    Yes, I'm raising the matter of delay as a  
23                    failure of the court to provide me with a  
24                    fair trial within the time limit established  
25                    by the *Jordan* principle. My understanding is  
26                    that you were requesting that I provide the  
27                    transcript of the summary conviction appeal  
28                    that was heard on December 3rd, 2022.  
29                    Although it appears that you are admitting  
30                    that the matter was presented before Justice  
31                    in your argument so it could be said to be  
32                    admitted, it would be pretty arbitrary to  
33                    require that I spend \$1,500 for a transcript  
34                    to prove a fact to a court that also claims a  
35                    right to reject the transcript for any  
36                    reason.  
37  
38                    So he's asking me to pay for it. I respond back  
39                    and say why are you making me, why are you asking  
40                    me to prove this and how is this document going to  
41                    prove it? He's asking me to pay for it, and I  
42                    said no, I think you should pay for it, and he  
43                    responds back to me on July 28th the Crown is  
44                    ordering a transcript so that the judge can see  
45                    when you mentioned anything about a delay. So  
46                    he's asked me to pay for the transcript. I've made  
47                    argument that I think he should or that Crown

**Reply Submissions re Applications by Appellant**

1           should, and he has responded by ordering the  
2           transcript and paying for it. It can't get much  
3           clearer than that.

4           I think that's about what I wanted to talk  
5           about as far as in response to Mr. Erina.

6 THE COURT: All right. So why don't we then -- we'll  
7           get a start on, we won't finish, but let's get a  
8           start on your second application, Mr. Holsworth.  
9           So let me just get the right materials in front of  
10          me for that one.

11          Okay. So we'll move on then to Mr.  
12          Holsworth's second application. That's the one --

13 THE APPELLANT: I'm sorry, Justice, can I interrupt? I  
14          just remembered one detail.

15 THE COURT: Sure. Just give me a second to go back in  
16          my notes. Hold on. Okay. Yes, there is  
17          something else you needed to add on the first  
18          application?

19 THE APPELLANT: Yes, so the other matter was the  
20          transcript for -- the paying for the transcript  
21          from Justice Sicotte -- Judge Sicotte in the  
22          Provincial Court.

23 THE COURT: Right.

24 THE APPELLANT: You heard that application, and you  
25          decided that the judge made an error in law. I  
26          paid for the transcript to come to the Supreme  
27          Court, and you established that -- through the  
28          transcript, that the judge had made a mistake. I  
29          paid for the transcript. The judge made an error.  
30          It's manifestly unfair that I bear the costs of  
31          that error when the judge made the error, I proved  
32          it, you agreed that it was proven that there was  
33          an error, but I'm the one bearing the thousand  
34          dollars plus all the other expenses that I had  
35          involved in this, the loss of days and work and  
36          research, and I was out a thousand dollars from  
37          having to provide that transcript which  
38          established that a judge had made an error. It's  
39          wrong to make me pay for that. That's what I  
40          wanted to add.

41 THE COURT: Okay. Thank you for that, Mr. Holsworth.

42          Actually, I would like to hear from you, Mr.  
43          Erina, about just that specific issue with respect  
44          to the Sicotte transcript. Mr. Holsworth says I  
45          needed that transcript to prove my case, I proved  
46          my case, it's unjust that I should have had to pay  
47          for the transcript. I'd just like to hear from

**Proceedings**

1           you on that.

2  
3           **SUBMISSIONS RE APPLICATIONS FOR CROWN/RESPONDENT BY**  
4           **CNSL M. ERINA, CONTINUING:**  
5

6           CNSL M. ERINA: That's the way the system works. I  
7           mean that may sound like a crass reply, but the  
8           criminal justice system is such that if a person  
9           wishes to appeal, they bear the costs of paying  
10          for the transcript or appeal materials subject to  
11          the statutory regime, s. 684, whether it be an  
12          indictable or summary appeal, and of course there  
13          are going to be occasions where, as a result of  
14          the appeal, there may be an error which merits a  
15          new trial. I mean I think that's -- I don't think  
16          you can contemplate a system where all appeals are  
17          going to be dismissed. There will be times  
18          when --

19          THE COURT: No, one would hope that you wouldn't have a  
20          system where all appeals are dismissed.

21          CNSL M. ERINA: And there's going to be some appeals  
22          that are allowed, and that -- you know, it's  
23          difficult to articulate a more precise answer, but  
24          that's the law as it stands. Now if that  
25          acquittal -- or pardon me, if some reason the  
26          convictions are set aside because of some form of  
27          misconduct, for lack of a better word, on the part  
28          of the Crown, perhaps that can be addressed in the  
29          appropriate forum with costs. I'm just saying  
30          that generally because I'm not thinking through  
31          the appropriate forum, but there are other ways  
32          the criminal justice system can look at systems --  
33          at situations like that. That's not the case  
34          here. This is a case where Justice Sicotte  
35          overlooked informing Mr. Holsworth about the due  
36          diligence defence, but Mr. Holsworth, of course,  
37          was convicted the second time around when he was.

38                 So do I understand and have empathy for Mr.  
39          Holsworth's situation? Yes. In fact, it would be  
40          wrong for me to say that any litigant, whether it  
41          be criminal or civil, it's a tremendously  
42          expensive venture. But the law, at least at the  
43          moment, the vehicle that the law provides for that  
44          is the Legal Aid system and the 684 system. That  
45          is the law, and it's the law, of course, that  
46          binds this court in responding to it. But does  
47          Crown have empathy for Mr. Holsworth's financial

**Submissions re Applications for Crown/Respondent by Cnsl M. Erina**

1 situation? Of course, of course.  
2 THE COURT: All right. Thank you. I'm noting the  
3 time. I think what we'll do is actually we will  
4 adjourn just a few minutes early for lunch, and  
5 then we'll come back at 2:00 and we'll hear the  
6 second application. I have to say that as things  
7 are progressing, I think it's unlikely we're going  
8 to get to the appeal today, assuming that the  
9 second application takes anything close to the  
10 time the first application took. But we'll see  
11 how that goes.  
12 We'll return at 2:00 with your second  
13 application, Mr. Holsworth.  
14 THE APPELLANT: Okay, thank you.  
15 CNSL M. ERINA: Thank you, Justice.  
16 THE CLERK: Order in court.

17  
18 (PROCEEDINGS ADJOURNED FOR NOON RECESS)  
19 (PROCEEDINGS RECONVENED)

20  
21 THE CLERK: Court is reconvened.  
22 THE COURT: Thank you. Are we ready to move to the  
23 second application? Mr. Holsworth, are you ready  
24 to move to your second application?  
25 THE APPELLANT: Sure.

26  
27 **SUBMISSIONS RE APPLICATIONS BY APPELLANT, CONTINUING:**

28  
29 THE APPELLANT: So the second application is for -- an  
30 *O'Connor* application for third party records. On  
31 March 22nd, 2020, well, I mean, yeah, I requested  
32 by email from the Canadian Judicial Council my  
33 personal files held by that institution. No  
34 response was ever received. I followed up with  
35 communication with the statutory body mandated  
36 with enforcing the *Freedom of Information Act*. So  
37 I also submitted a *Freedom of Information Act*  
38 request to the Minister of Justice, and then they  
39 sent it back to me saying that they don't have  
40 control over those records and I'd have to send a  
41 *Freedom of Information Act* request to the Canadian  
42 Judicial Council, which I subsequently did. But  
43 the statutory body, they informed me that the CJC  
44 is not subject to the *Freedom of Information*  
45 statutory regime.

46 So I also, on November 25th, 2020, I  
47 communicated and requested from Crown Counsel, Mr.

**Submissions re Applications by Appellant**

1 Ferbey, the contents of my file with the Canadian  
2 Judicial Council, and he denied my request stating  
3 that it was not in the possession of the Crown and  
4 refused to make any requests for it. He said the  
5 Canadian Judicial Council, indeed, the judiciary  
6 generally is entirely separate and independent  
7 from the Prosecution Service of Canada, as it  
8 should be, I have no standing or authority to see  
9 to it that they do anything, any records in the  
10 possession of the CJC are not in my possession or  
11 as a prosecuting Crown, I am unable to carry out  
12 this request.

13 On October 4th, 2021, I continued my request  
14 for complete disclosure with Mark Erina, Crown  
15 Counsel [as read in]:  
16

17 I'm still seeking my personal records that  
18 are held at the Canadian Judicial Council. I  
19 have made a Freedom of Information request  
20 that has been ignored. When I investigated,  
21 I was informed that the appropriate Ministry  
22 is not on the list of bodies. I've done  
23 everything that I can to obtain these records  
24 which are essential for a full answer and  
25 defence in this case. It is also completely  
26 contrary to the open court principle. I made  
27 similar requests from Isaac Ferbey, but he  
28 declined. Please make the correct inquiries  
29 at this time.  
30

31 I attempted to get transcripts from the Attorney  
32 General's official transcription service regarding  
33 some of the information I was looking for.

34 However, it has not been possible at this time.

35 THE COURT: I'm sorry, transcripts of what? How does  
36 this relate to the CJC?

37 THE APPELLANT: Well, of various court hearings from  
38 the past. Some of them that are subject to  
39 complaints that are before -- or that were  
40 presented to the Canadian Judicial Council.

41 THE COURT: I see. Okay. Go ahead.

42 THE APPELLANT: I attempted to get transcripts from the  
43 Attorney General's official transcription service.  
44 However, it has not been possible at this time.

45 I wrote and confirmed with the registry that  
46 there was -- the court registry confirmed that  
47 there was a trial on March 13th and 14th.

**Submissions re Applications by Appellant**

1           However, when I requested the transcripts for that  
2           date, we have received -- the transcription  
3           service came back to me and said [as read in]:  
4

5                       We have received your order. Unfortunately,  
6                       we've been advised by the Nelson Registry  
7                       that nothing was heard on March 13th, 2006  
8                       requested for your matter. Please confirm  
9                       the dates and contact the Nelson Registry for  
10                      assistance.  
11

12           I did -- you know, that's what the Nelson Registry  
13           said and that's what the Holsworth transcript, the  
14           reasons for decision say that the date of the  
15           trial was on, but it doesn't appear that I can get  
16           anything for the dates it says that it is there.

17                      I made the appropriate applications to court  
18                      for the digital audio files of the court, and I  
19                      guess you've recently declined that request.

20   THE COURT: I believe -- I don't have the application in  
21           front of me, Mr. Holsworth. Perhaps you do.

22   THE APPELLANT: I do, yeah.

23   THE COURT: I think you were looking for something from  
24           2006, and I think I said that you could listen to  
25           the DARS is my recollection of what I said.

26   THE APPELLANT: Yeah, yeah. Um, but you want me to  
27           resubmit it, is that correct?

28   THE COURT: Well, my recollection is that it wasn't --  
29           the order that had been provided to me wasn't  
30           correct, and so I needed to have a new order to  
31           sign.

32   THE APPELLANT: Okay.

33   THE COURT: That's my recollection. I don't have it in  
34           front of me, sir.

35   THE APPELLANT: Yeah, that seems about right.

36                      Right. Yeah, Dennis sent me an email saying  
37                      I've received your requisition for an order  
38                      without notice. I was trying to track down the  
39                      justices, so I put the request in front of  
40                      Justice -- okay, this is -- I produced this before  
41                      I got your response back. And I do have --  
42                      somewhere here I do have an updated request for  
43                      you.

44   THE COURT: Okay.

45   THE APPELLANT: I attended the B.C. Court of Appeal on  
46           August 30th for right of appeal, and Justice  
47           Newbury indicated that the transcripts were

**Submissions re Applications by Appellant**

1 relevant and appeared to indicate that my lack of  
2 them affected her judgment in the case. From the  
3 transcript, it says, the court says [as read in]:  
4

5 And do you have the transcript?  
6

7 And I say:  
8

9 I have not been able to get a hold of the  
10 transcript. I've made appeals through the  
11 *Freedom of Information Act*.  
12

13 And the court says:  
14

15 Well, you have to.  
16

17 And I said:  
18

19 The Canadian Judicial Council.  
20

21 The court said:  
22

23 You have to order a copy.  
24

25 And the appellant says:  
26

27 I've tried to do that.  
28

29 And the court says:  
30

31 Yeah.  
32

33 And then later on it says [as read in]:  
34

35 Well, it seems to be relevant. You're  
36 referring to it.  
37

38 In Justice Newbury's decision of the 29th of  
39 September before the BCCA, she wrote in paragraph  
40 24:  
41

42 [24] As already mentioned, it appears that  
43 Mr. Holsworth's experience in 2006-7 with the  
44 courts and the CJC has left him with the  
45 impression that it is open to Canadian judges  
46 to act arbitrarily, and disregard "all  
47 evidence, including the transcript"; for

**Submissions re Applications by Appellant**

1 litigants to "plant evidence" at trial; and  
2 for the Crown to destroy evidence. He says  
3 all judges and lawyers are "failing to  
4 comply" with their oaths of office and codes  
5 of ethics. I asked Mr. Holsworth to provide  
6 me with a transcript of his family law trial,  
7 or part thereof, that might explain why his  
8 credibility was doubted. He did not do so;  
9 nor did he provide a copy of his complaint to  
10 the CJC at the time. He gave no explanation  
11 as to why these were not provided, although  
12 he had assured me at the hearing that he was  
13 in possession of them.

14  
15 Justice Newbury continued in paragraph 28 --  
16 sorry, this is the transcript from the BCCA.  
17 Paragraph 28:

18  
19 [28] I do not know whether Mr. Holsworth  
20 provided a transcript of the family law trial  
21 proceedings to the CJC in his complaint in  
22 2007, but it may be assumed that the CJC  
23 obtained what evidence it needed to be  
24 satisfied that the complaint was not a matter  
25 of judicial conduct, but rather one of the  
26 exercise of judicial discretion...

27  
28 This goes to the heart of the issue and a proper  
29 completion of the truth-seeking function of the  
30 court as well as a proper resolution for their  
31 service and the protection of the public to check  
32 the assumption that the Canadian Judicial Council  
33 obtained what evidence it needed.

34 Although the Canadian Judicial Council is not  
35 required by statute to be accountable and  
36 transparent, their website does indicate that it  
37 is a core value and an essential element in the  
38 application of the open court principle. They  
39 say:

40  
41 Fostering public confidence through increased  
42 transparency.

43  
44 Transparency is an essential ingredient to  
45 ensure public confidence in our legal system.  
46 By creating links between the justice system,  
47 judges and Canadians, we are proud of the



**Submissions re Applications by Appellant**

1 transparency of the communications, processes  
2 and operations that are implemented. We also  
3 provide all judges with the guidelines, tools  
4 and best practices to help guide their work.  
5

6 So this application is based upon the precedents  
7 in *R. v. O'Connor*. The standard for the  
8 production of third-party records is likely  
9 relevant. The right to receive disclosure is an  
10 aspect of the right to make a full answer and  
11 defence from *Stinchcombe* and *O'Connor*. This right  
12 imposes a duty on the Crown to make reasonable  
13 inquiries of other government entities that could  
14 reasonably be considered to be in possession of  
15 relevant information. I believe the transcript is  
16 relevant.

17 THE COURT: No, but you're seeking not your transcript,  
18 you're seeking the materials from the CJC, aren't  
19 you?

20 THE APPELLANT: Well, I am seeking the transcript as  
21 well as the information that they --

22 THE COURT: Your Notice of Application reads [as read  
23 in]:

24  
25 ... the Canadian Judicial Council to provide  
26 the entire contents of my personal files  
27 regarding the complaints of Trevor Holsworth,  
28 including all transcripts, notes, letters,  
29 internal memos and audio files, specifically,  
30 but not limited to, the complaints regarding  
31 Judge Shaw and Justice Humphries.  
32

33 So you're seeking documents from the Canadian  
34 Judicial Council.

35 THE APPELLANT: I am, as well as the transcript.

36 THE COURT: Which may or may not include the transcript  
37 of your proceedings before Justice Shaw and  
38 Justice Humphries. We don't know what the CJC  
39 has.

40 THE APPELLANT: We don't know that, yeah, no, that's  
41 true. But I am seeking those -- you know, I guess  
42 it comes down to I have a right to know what is in  
43 that file. If there is something in that file  
44 saying, you know, you should -- this person is --  
45 you should just whatever, you know. I don't know  
46 what it says. It could be like okay, just get rid  
47 of this guy, I don't know.

**Submissions re Applications by Appellant**

1 THE COURT: Right. You don't know what's in it, I  
2 appreciate that.

3 THE APPELLANT: But I think I have a right to it.

4 THE COURT: How would the Canadian Judicial Council  
5 file from the complaints that I take it you filed  
6 against Justices Shaw and Humphries be relevant to  
7 the appeal I'm hearing or will be hearing, which  
8 is an appeal from the Honourable Judge Brown's  
9 decision?

10 THE APPELLANT: Right.

11 THE COURT: Explain to me the relevance.

12 THE APPELLANT: Sure. Okay, so as I've been very clear  
13 and as I'll make clear in my appeal, the entire  
14 purpose behind me being here, as Mr. Erina has  
15 indicated, is a political protest against abuse of  
16 power. I do not believe that it is correct for  
17 the Canadian Judicial Council to claim that judges  
18 can disregard the transcript and can proffer to  
19 plant evidence at the trial in the form of calling  
20 the plaintiff --

21 THE COURT: I doubt very much the CJC ever said that  
22 judges can defer to planted evidence.

23 THE APPELLANT: Well, that is the evidence before them  
24 is that is what happened. And so I don't think  
25 that it's right, and I want that changed.

26 THE COURT: Okay, I know you don't think it's right. I  
27 know that you say that that's what the Canadian  
28 Judicial Council did and I know that you say  
29 that's not right, but how is it relevant to this  
30 appeal?

31 THE APPELLANT: Because that's why I'm here to protest  
32 that decision.

33 THE COURT: Well, you're here to appeal a decision of  
34 Judge Brown.

35 THE APPELLANT: No, no, I'm here --

36 THE COURT: If that's not why you're here, then that is  
37 very confusing to me.

38 THE APPELLANT: No, it is why I'm here. Okay. So I  
39 tried every possible communication and means to  
40 communicate the problem that I experienced in the  
41 Canadian judicial system, and I got a closed door  
42 at every single turn that I made. The only method  
43 left to me to communicate with the court was this  
44 method of making a protest, bringing myself before  
45 the court and asking the court to account for  
46 itself. That is why I am here. I've made that  
47 very clear.

**Submissions re Applications by Appellant**

1           In fact, before I appeared before Judge  
2           Sicotte, there was a full-page advertisement or an  
3           editorial taken out in the local newspaper  
4           indicating the entire problem for the public to  
5           witness. There's been numerous articles and  
6           letters to the editor in the newspapers, both  
7           before and after that case, indicating that that  
8           is the case. So the reason I'm here --

9   THE COURT: So, Mr. Holsworth -- okay, I'll let you  
10           finish and then I'm going to say something. So  
11           I'll let you finish. Go ahead.

12   THE APPELLANT: The reason I am here is because of this  
13           situation.

14   THE COURT: So, Mr. Holsworth, I appreciate that may be  
15           your subjective purpose in being here, but I am  
16           governed by what's relevant to the appeal that's  
17           before me, and you've not told me anything that  
18           would indicate that the files from the CJC are  
19           relevant to the appeal before me, and that's why  
20           I'm asking you the question.

21   THE APPELLANT: Well, because I am asserting that  
22           lawyers are not complying with their statutory  
23           duties and judges are not complying with their  
24           constitutional duties, and part of that is the  
25           ruling of the Canadian Judicial Council and the  
26           conduct of the Canadian Judicial Council and the  
27           Minister of Justice's conduct. Those are all  
28           factors that are relevant in this appeal and in  
29           the reason why I'm here. That's the relevancy.  
30           And it's a matter of perspective. I can  
31           appreciate that from your perspective everything  
32           that I say is irrelevant because it's annoying,  
33           but from my perspective --

34   THE COURT: Well, it's not a question of whether it's  
35           annoying or not, Mr. Holsworth. It's a question  
36           of whether it has some legal relevance to an issue  
37           before me.

38   THE APPELLANT: Right, and I've just explained the  
39           legal relevance behind it, right. If judges are  
40           not in compliance with the *Charter* and are not  
41           enforcing the *Charter*, that is a problem that  
42           affects the -- well, I mean the reality is when I  
43           wrote to the Prime Minister's office and explained  
44           to them that the Minister of Justice wasn't  
45           complying -- wasn't responding to the enforcement  
46           procedure of the *Charter*, they forwarded the email  
47           on to the Minister of Public Safety, which is an

**Submissions re Applications by Appellant**

1           acknowledgement that there's a public safety  
2           concern. That's the relevancy here.  
3           I don't know how much more relevant it can  
4           be. That's the entire reason I am here. That's  
5           the relevancy of it. Then it comes down to a  
6           matter of perspective. If you want to look at it  
7           from your perspective, it's irrelevant perhaps.  
8           If you want to look at it from my perspective,  
9           which is the public, then it's entirely relevant.  
10          The public has a right to know how the conduct and  
11          how the administration of justice is conducted and  
12          whether it's in compliance with the law. And that  
13          is in the public interest, and it's certainly  
14          important in a free and democratic country.

15   THE COURT: Anything further?

16   THE APPELLANT: No, that's pretty much it.

17   THE COURT: All right. Want a moment just to review  
18          your notes before you sit down?

19   THE APPELLANT: Sorry, I'm just going to -- all right.  
20          So I have got the amended requisition, and I did  
21          amend it and I tried to make it more clear in the  
22          actual reason why I wanted it. So what I said was  
23          that I be permitted to have the CD copy of the  
24          audio files for the file 11886 for the dates of  
25          December 15 and February 27 and blah, blah, blah,  
26          for the purposes of obtaining the best evidence  
27          possible given the position that the judiciary has  
28          taken that they have a discretion in the  
29          acceptance of the transcript and that they may  
30          legitimately prefer to incite the plaintiff to  
31          commit perjury to protect her lawyer committing  
32          fraud. The transcript is therefore not the best  
33          evidence possible, but the DARS CD audio file is.

34          I need that evidence to establish anything in  
35          this case. Withholding it would be incredibly  
36          problematic. It would be -- in this case, there  
37          has been allegations that the transcript has been  
38          altered as well.

39   THE COURT: "In this case," you're referring to your  
40          case before Justice Shaw?

41   THE APPELLANT: Oh, sorry, in the case that -- well,  
42          actually, the case before Justice Humphries of  
43          December 15th, 2004.

44   THE COURT: I don't even know what Justice Humphries  
45          did with your files. I only know about Justice  
46          Shaw.

47   THE APPELLANT: That's okay. Okay, that's fine, but

**Submissions re Applications by Appellant**

1           there is a problem with the transcript, and the  
2           audio file is the only way to verify that  
3           situation.  
4   THE COURT: All right. So you've created this in  
5           response to the communication I gave to the  
6           registry that I needed some changes to what you  
7           filed before?  
8   THE APPELLANT: That's correct, yep.  
9   THE COURT: Have you actually filed that with the  
10           registry?  
11   THE APPELLANT: I haven't filed this.  
12   THE COURT: Okay. Do you want to hand it up to me just  
13           so I can see it?  
14   THE APPELLANT: Sure.  
15   THE COURT: Thank you. So you filed this in the file  
16           between yourself and your former spouse?  
17   THE APPELLANT: Well, I think that's the procedure that  
18           I was told to follow.  
19   THE COURT: Okay. Given that this is filed in a  
20           different action, I'm going to give this back to  
21           you and you can file it with the court and I'll --  
22           with the registry. I'll consider it in due  
23           course, but it's filed in a different action.  
24   THE APPELLANT: Sure. Thank you.  
25   THE COURT: Okay. So in respect then of this  
26           application, Mr. Holsworth, the application for  
27           the Canadian Judicial Council to produce  
28           documents, anything further?  
29   THE APPELLANT: Well, I'm just going to reemphasize the  
30           fact that Justice Newbury in the B.C. Court of  
31           Appeal indicated that it seemed relevant and it  
32           was relevant, and I've taken every step that I can  
33           possibly take to get those records, and just  
34           falling back on the open court principle and  
35           transparency and accountability, I think it's the  
36           right thing to do.  
37   THE COURT: Okay. Thank you very much.  
38   THE APPELLANT: You're welcome.  
39   THE COURT: All right. Mr. Erina, ready to respond?  
40   CNSL M. ERINA: Thank you, Justice. Justice, do you  
41           the Crown's small argument?  
42   THE COURT: I think I do.  
43   CNSL M. ERINA: Another green booklet here.  
44   THE COURT: Conveniently green, yes, I do.  
45   CNSL M. ERINA: I apologize. It shall not happen  
46           again, different colours.  
47

**Submissions re Applications for Crown/Respondent by Cnsl M. Erina****SUBMISSIONS RE APPLICATIONS FOR CROWN/RESPONDENT BY  
CNSL M. ERINA, CONTINUING:**

1  
2  
3  
4 CNSL M. ERINA: Well, the Crown's response is that an  
5 [indiscernible] issue to -- for disclosure of  
6 these third party records, and clearly they are  
7 third party records, and in the argument the Crown  
8 applied the test in a case called *Gubbins*  
9 indicates why they're third party records. I  
10 don't think Mr. Holsworth is contesting that.  
11 Clearly, the Crown doesn't have possession.  
12 THE COURT: No, I think they clearly would be third  
13 party records.  
14 CNSL M. ERINA: Yes, yes, but in short, and this is in  
15 the Crown's overview at paragraph 2, this all  
16 comes down to relevance, the word we're going to  
17 hear a lot about here today. There is no  
18 conceivable way, in my respectful submission, that  
19 records pertaining to complaints about different  
20 judges on matters -- at least with respect to  
21 Justice Shaw that occurred I think in 2006 -- I  
22 also have no idea how Justice Humphries,  
23 presumably retired Madam Justice Humphries of this  
24 court, how that factors --  
25 THE COURT: I'm assuming that's who it is, but I don't  
26 know.  
27 CNSL M. ERINA: Yes, how logically that can have any  
28 bearing on the issues that are before this court  
29 on this case. Relevance on appellant proceedings  
30 is viewed through the lens of is there a  
31 reasonable likelihood that the documents will  
32 assist the appellant in the prosecution of his or  
33 her appeal, and in my submission, there is not.  
34 It's self-evident. It cannot go from a leap of  
35 matters that have nothing to do with this case to  
36 somehow the entire system is at fault, lawyers and  
37 judges, we're all not doing our jobs, not  
38 complying with our oaths. And while Mr. Holsworth  
39 draws -- tries to draw support from Justice  
40 Newbury, with respect, Justice Newbury was  
41 accommodating Mr. Holsworth trying to understand  
42 more or less where he was coming from. In my  
43 respectful submission, she was not stating that  
44 the judicial records or these matters are relevant  
45 to the appeal, and he overlooks the fact that  
46 she -- and this is in -- I've quoted from Justice  
47 Newbury's reasons in the argument, that she

**Submissions re Applications for Crown/Respondent by Cnsl M. Erina**

1           impugns the very reasoning he relies upon. I'm  
2           looking at paragraph 13 in the argument, and I am  
3           going to read that into the record.

4 THE COURT: Sorry, paragraph 13 of?

5 CNSL M. ERINA: The Crown's arguments. This is page 3,  
6           paragraph 13, and this is a quote from Madam  
7           Justice Newbury on the leave application. She  
8           wrote:

9  
10                   [29] ... In any event, his leap from the fact  
11                   that his evidence was not accepted in 2006 to  
12                   the existence of a vast failure of the  
13                   justice system and of judges and lawyers to  
14                   comply with their oaths of office and codes  
15                   of ethics...

16  
17           And I pause. That is the reasoning Mr. Holsworth  
18           is employing. Justice Newbury goes on:

19  
20                   ... seems to indicate a disturbing world-view  
21                   rife with conspiracies and corruption. This  
22                   does not reflect reality.

23  
24           Those are strong words from a justice of the Court  
25           of Appeal. But with respect, Mr. Holsworth's  
26           logic on how these events somehow can relate to  
27           the much narrower case here is not logic that  
28           holds up to scrutiny.

29           The Crown appreciates -- I understand that  
30           these are important issues to Mr. Holsworth, I  
31           understand that, but they can't be pursued in this  
32           forum. The only things that can be pursued in  
33           this forum is what's relevant to the issues before  
34           now this court sitting as a summary conviction  
35           appeal court.

36           I end by simply saying I think there's also  
37           in an *O'Connor* application there's a procedural  
38           step that Mr. Holsworth would have to take.

39 THE COURT: To provide notice to the CJC.

40 CNSL M. ERINA: Correct. I don't know if he's done  
41           that. I suspect the answer is no but, in my  
42           submission, if not, that shouldn't be a  
43           submission -- or I ask for you not to dismiss the  
44           application, if that's what happens, all because  
45           of a procedural defect but on the substantive  
46           merits of the application. It simply has no  
47           relevance. I think it wouldn't be a good idea to

**Submissions re Applications for Crown/Respondent by Cnsl M. Erina**

1 drag the CJC to court to answer to this. Those  
2 are the Crown's submissions.

3 THE COURT: Thank you. I'm going to call on you in  
4 reply, but I just want a moment, Mr. Holsworth.

5 THE APPELLANT: Sure.

6 THE COURT: Thank you. Any reply, Mr. Holsworth?

7 THE APPELLANT: Sure.

8

9 **REPLY SUBMISSIONS RE APPLICATIONS BY APPELLANT:**

10

11 THE APPELLANT: Crown Counsel quotes Justice Newbury  
12 from her decision, which states that this does not  
13 reflect reality. I want to emphasize that that is  
14 an opinion. It is not backed by any evidence  
15 provided by Crown. It is contrary to all the  
16 evidence before the court. Despite being informed  
17 -- because she had the transcript of the hearing  
18 before you which disclosed a failure in the rule  
19 of law throughout the legal system from lawyers  
20 not complying with court orders, altering court  
21 documents, judges protecting lawyers, Law  
22 Societies protecting lawyers not complying with  
23 court orders and then subsequently funnelling  
24 evidence away, and the Canadian Judicial Council  
25 protecting judges obstructing justice, and the  
26 Ministry of Justice not complying with his duty to  
27 act in good faith and even respond to a *Charter*  
28 complaint, which can't be said to be in good faith  
29 when you fail to even respond.

30 So she had that information, and she said  
31 that it's not based in reality. Claiming that the  
32 opinion of a judge presented without any evidence  
33 to support Justice Newbury's position that the  
34 existence of a vast failure of the justice system  
35 of judges and lawyers to comply with their oaths  
36 of office does not reflect reality, without  
37 addressing matters presented to the court,  
38 including a constitutional question on the  
39 authority of the court, and that defeats my  
40 opinion, my evidence and my argument, and that I  
41 have no right to appeal her decision at all, it's  
42 not a decision backed by law. It's not a decision  
43 backed by evidence. It is an opinion.

44 In my communications with Justice Newbury,  
45 tab -- oh, paragraph 2 of the transcript, she made  
46 reference to --

47 THE COURT: Of her judgment?



**Reply Submissions re Applications by Appellant**

1 THE APPELLANT: Oh, no, sorry, of the transcript before  
2 the Court of Appeal. I'm not sure if you have  
3 that.

4 THE COURT: I don't, but is it what you referred to in  
5 your Notice of Application? You referred to  
6 something here. Hold on. At paragraph 8 of your  
7 Notice of Application, you have what I assume is a  
8 quotation from the transcript.

9 THE APPELLANT: Yes, yes.

10 THE COURT: That's what you're talking about?

11 THE APPELLANT: Yes. She says, tab 16, she refers to  
12 Judge Shaw is a well-respected judge. That's her  
13 opinion, but it's inconsistent with the opinion of  
14 the entire House of Commons that debated Judge  
15 Shaw's removal back in --

16 THE COURT: On a completely different matter  
17 whatsoever.

18 THE APPELLANT: On a completely different matter.

19 THE COURT: It really is not relevant to what we're  
20 dealing with here today, sir.

21 THE APPELLANT: Okay. That's her opinion.

22 And then at paragraph 5, she says at the  
23 start of the trial and without notice to the  
24 Crown, I presented a notice of constitutional  
25 question. That is factually incorrect. The  
26 notice was provided two weeks prior to both the  
27 Federal and the Provincial Crowns. In paragraph  
28 6, she misquotes Judge Sicotte. She says there's  
29 no prospect of success in the Provincial Court,  
30 and that's entirely because he saw himself has  
31 having too minor a role in the judiciary and that  
32 it would have to go to a different court in order  
33 to resolve the issues.

34 Justice Newbury ignored all my arguments  
35 regarding the *Jordan* ruling, that none of the  
36 delays were my fault and that Covid had no part to  
37 play in the delays.

38 She mentioned that you did not deal with this  
39 issue in her reasons, which led me having to  
40 appeal your decision and the costs involved at the  
41 BCCA, although this time Crown paid.

42 She says that no evidence was offered of  
43 anyone planting evidence or avoiding legitimate  
44 review, but the transcript says at trial -- this  
45 is back in 2007, a judge then abused his power of  
46 discretion to protect lawyers committing fraud  
47 upon the court by calling on the plaintiff, a

**Reply Submissions re Applications by Appellant**

1 woman, to perjure herself to protect her lawyer  
2 and preferred her testimony to mine, which was  
3 supported by the judicial court record.  
4 THE COURT: I'm sorry, you're saying that Madam Justice  
5 Newbury said this?  
6 THE APPELLANT: No, that was my response back to her.  
7 THE COURT: Okay.  
8 THE APPELLANT: She said that no evidence was offered  
9 of anyone planting evidence.  
10 THE COURT: Okay. So you need to understand there is a  
11 judicial hierarchy, and Madam Justice Newbury is  
12 above me in it. I'm not sitting in appeal or  
13 judgment of anything that Madam Justice Newbury  
14 said.  
15 THE APPELLANT: I'm just referring to what she said.  
16 THE COURT: Okay, but --  
17 THE APPELLANT: Because --  
18 THE COURT: But I can't really do anything with it, Mr.  
19 Holsworth.  
20 THE APPELLANT: Well, we're talking about -- sorry, I'm  
21 not sure what we're talking about. What are we  
22 talking about?  
23 THE COURT: Well, you're supposed to be replying to Mr.  
24 Erina's submissions with respect to your *O'Connor*  
25 application.  
26 THE APPELLANT: Right, we're talking about relevancy.  
27 THE COURT: Right.  
28 THE APPELLANT: And he brought up the idea that well,  
29 Justice Newbury said that the trial system or the  
30 system of justice is working fine and there's no  
31 conspiracy. I'm just pointing out that her  
32 decision is an opinion and it's not based on  
33 facts. It's just an opinion. So how much  
34 relevancy do you place on that? I don't think  
35 there's a lot that we can place on her opinion.  
36 It's just an opinion. It's not backed by facts.  
37 It's not based on anything but her opinion.  
38 And she does say:  
39  
40 [28] ... it may be assumed that the CJC  
41 obtained what evidence it needed to be  
42 satisfied that the complaint was not a matter  
43 of judicial conduct...  
44  
45 So we want to know that. We can't assume it. The  
46 public has a right to know how the decisions of  
47 the Canadian Judicial Council are resolved in the

**Reply Submissions re Applications by Appellant**

1 public interest, and if they have Norman Sabourin  
2 just signing off letters going dismissed,  
3 dismissed, dismissed, well the public has a right  
4 to know that if that's the procedure. If there is  
5 another procedure that's being followed, well,  
6 that would be great to know. It would help in the  
7 public's perception of the fairness of the  
8 tribunal as well as trust in our judicial system.

9 I think that's my answer to that. To deny me  
10 evidence is wrong.

11 THE COURT: All right. Thank you. I'm going to stand  
12 down for 10 or 15 minutes. I'll come back and I'll  
13 provide you rulings on both the application I  
14 heard this morning and the one we just heard.

15 Just before I do that, do you have a time  
16 estimate for the appeal proper? How long do you  
17 think you're going to take, Mr. Holsworth?

18 THE APPELLANT: Yeah, I don't think there's a lot. I  
19 mean I think we've covered a lot of it. So I  
20 think I could probably be done between 30 minutes  
21 and an hour I'm guessing.

22 THE COURT: How long do you think you'll be in reply?

23 CNSL M. ERINA: I'm a bit pessimistic based on the pace  
24 at which these two applications went. I think --  
25 and I wouldn't want to deny Mr. Holsworth the  
26 opportunity to --

27 THE COURT: To say what he needs to say, for sure.

28 CNSL M. ERINA: And I think he probably has a lot to  
29 say. So the Crown's estimate really turns on what  
30 Mr. Holsworth says. I can be brief or I may have  
31 to take Justice through the transcript to show  
32 various things. So I'm going to suggest it could  
33 take another half day at minimum.

34 THE COURT: I tend to think the appeal itself will take  
35 a half day, that's my best guess, but let's deal  
36 with what we can deal with and that's the two  
37 applications that I've heard.

38 CNSL M. ERINA: Yes, thank you.

39 THE COURT: Thank you.

40 THE CLERK: Order in court.

41

42 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

43 (PROCEEDINGS RECONVENED)

44

45 THE COURT: Just give me one moment to organize myself  
46 for the first decision.

47

**Proceedings**

1 [REASONS FOR JUDGMENT (FIRST APPLICATION)]

2

3 THE COURT: Madam Registrar, are you ready for me to go  
4 on the second one? Thank you.

5

6 [REASONS FOR JUDGMENT (SECOND APPLICATION)]

7

8 THE COURT: That concludes my ruling on Mr. Holsworth's  
9 second application. Now -- sorry, go ahead.

10 CNSL M. ERINA: Oh, thank you, Justice. I didn't mean  
11 to interrupt.

12 THE COURT: That's okay.

13 CNSL M. ERINA: It's 3:10, and I don't know, Justice,  
14 if you're wanting to start the appeal. It's  
15 certainly not going to finish now but there may be  
16 wisdom in starting afresh on another day. I can  
17 just advise for the sake of the court, I am here  
18 tomorrow and Friday. I'm available for the  
19 balance of this week if there's court time. I  
20 just wanted to advise the court of that.

21 THE COURT: Thank you. I am scheduled to be hearing a  
22 two-day judicial review Thursday and Friday. Now  
23 I don't know, of course, that it will take the  
24 full two days. I have no way of knowing that. I  
25 haven't seen the materials to have an estimate  
26 about that. So I don't know if you've been in  
27 touch with scheduling at all?

28 CNSL M. ERINA: Not yet.

29 THE COURT: Okay. Well, I have to say I'm very much to  
30 two minds. I hate to waste court time. On the  
31 other hand, it's obvious we're not going to finish  
32 this afternoon on the appeal, and I don't know if  
33 there will be any court time the remainder of this  
34 week, and I don't think anyone can know that at  
35 this stage. If we were to begin now and not have  
36 further time this week, I have no way of knowing  
37 when you'll get back on before me to complete it,  
38 and there's always some inefficiency inherent in  
39 starting and stopping.

40 So I'm very much of two minds. I'd be very  
41 interested to hear from each of you what your  
42 preference would be. I'll take that into account  
43 in deciding what I do.

44 CNSL M. ERINA: I think we should start fresh on  
45 another day rather than start and there's a big  
46 gap and have to retrace the ground, the ideas have  
47 died so to speak, I think -- and I think in

## Proceedings

1 fairness to Mr. Holsworth, submissions are usually  
2 more effective if they're heard all in one period.

3 I can certainly remain in Nelson until Friday  
4 morning on the off chance that court time becomes  
5 available. That's no issue. And certainly on the  
6 next assize of the Crown, I'll be here.

7 THE COURT: Okay. Thank you. I appreciate that.

8 Mr. Holsworth, what are your views?

9 THE APPELLANT: Yeah, I think it's getting pretty late.  
10 I'm pretty open to postponing it. I am available  
11 on Friday as well or at any time.

12 THE COURT: Okay. Thank you, Mr. Holsworth. Well, I  
13 think that with regret then I'm going to say we're  
14 not going to begin now. I don't think it's really  
15 in anyone's interests. I'll be in touch with  
16 scheduling about this. So if it's possible for  
17 you to kind of hold Friday open in case that  
18 judicial review is not really two days. I think  
19 we need half a day is what we're going to need. I  
20 mean obviously the issues are all pretty fresh in  
21 all of our minds right now. We're not going to  
22 have to rehash everything.

23 So I'll be in touch with scheduling. If it's  
24 possible for you to both kind of hold yourself  
25 available for Friday and then scheduling will get  
26 in touch with you with respect to whether that's  
27 going to work or not. If we can't do it then, then  
28 I will -- in any event, I will put the matter over  
29 to the next assize, which I believe is not for  
30 quite a while. It is February 27th at 2:00 p.m.

31 I will put the matter over to February 27th  
32 at 2:00 p.m. to fix a date for the hearing of the  
33 appeal proper, but relatively informally I'm  
34 asking you to keep yourself open for Friday to see  
35 if we get sufficient court time on Friday.

36 CNSL M. ERINA: And that's agreeable to the Crown.

37 Thank you.

38 THE APPELLANT: The only problem that I see is that  
39 part of my appeal is I'm trying to get  
40 clarification on the elements that I'm supposed to  
41 prove, and I've got another court hearing on the  
42 *Income Tax Act* before Justice Brown on January  
43 25th or 26th or something like that.

44 THE COURT: Is that for the other four counts that were  
45 severed?

46 THE APPELLANT: Exactly, yeah. So not having those  
47 issues resolved puts that trial at kind of a waste

## Proceedings

1 of time because that was the entire problem is I  
2 was trying to clarify what are the elements that I  
3 need to establish, and I wasn't getting that  
4 information. So I can sort of see it happening  
5 again because the element has not been  
6 established.

7 THE COURT: Are you speaking of the elements of the due  
8 diligence defence?

9 THE APPELLANT: Well, there's two elements. There is  
10 due diligence and a lack of guilty mind. Justice  
11 Newbury agreed that the element of lack of a  
12 guilty mind is an element that is applicable, and  
13 I was trying to bring that to Justice Brown's  
14 attention, and he wouldn't hear of it. So I tried  
15 to present material establishing my lack of guilty  
16 mind, and I wasn't allowed to present that. So  
17 the fact that we're not going to deal with that, I  
18 would ask that the January -- the next hearing be  
19 postponed.

20 THE COURT: I'm not sure that I have jurisdiction to do  
21 that. I think you could ask Judge Brown to stay  
22 the proceedings pending this appeal, and that  
23 would be his decision to make. I'm not sure that  
24 I've got the ability to do that.

25 CNSL M. ERINA: I don't believe you do, Justice.  
26 That's a matter fully for the Provincial Court to  
27 decide. And should that happen -- and I'm not  
28 giving the Crown's position -- certainly there's  
29 an issue of delay to be considered.

30 THE COURT: Right.

31 CNSL M. ERINA: But I think we've got lots of time with  
32 that. I will leave that the trial -- I'm not the  
33 trial Crown. I believe it will be Mr. -- I think  
34 Mr. Ferbey again. I'll leave that discretion to  
35 him.

36 THE COURT: Okay. Well, I think that in any event  
37 there's still not much point to us beginning now  
38 because we're not going to get through it.

39 THE APPELLANT: Yeah, oh, I agree, yeah, yeah.

40 THE COURT: If we can deal with it this Friday, I'm  
41 more than happy to do so. If not, if it's not --  
42 you know, if you haven't had your hearing on the  
43 appeal by the time you're back before Judge Brown,  
44 you'll just have to raise that with him, and he'll  
45 make whatever decision he makes.

46 THE APPELLANT: Sure, I agree.

47 THE COURT: I don't think there's anything I can do

**Proceedings**

1 about that.

2 THE APPELLANT: Thank for your application.

3 CNSL M. ERINA: And, of course, just for Mr.

4 Holsworth's benefit, there's also an assumption

5 there that even if we had the appeal on Friday --

6 THE COURT: That I'll have made a decision.

7 CNSL M. ERINA: Exactly.

8 THE COURT: And we can't be sure of that. It's

9 possible. Can't be sure of it.

10 All right. I think I should also say that I

11 am seized of the appeal. It would make absolutely

12 no sense for any other judge to hear it at this

13 point --

14 CNSL M. ERINA: Correct.

15 THE COURT: -- having heard as much as I've done. All

16 right. Thank you very much, gentlemen.

17 THE APPELLANT: Thank you.

18 CNSL M. ERINA: Thank you.

19 THE CLERK: Order in court.

20

21 (PROCEEDINGS ADJOURNED TO FEBRUARY 27, 2023,

22 AT 2:00 P.M. TO FIX DATE FOR HEARING OF

23 APPEAL PROPER)

24

25

26

27

28 Transcriber: C. Dufort

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47

I hereby certify the foregoing to be a true and accurate transcript of the evidence recorded on a sound recording apparatus, transcribed to the best of my skill and ability.



C. Dufort  
Court Transcriber