

**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 13, 2023**

REX

v.

TREVOR RUSSELL HOLSWORTH

**PROCEEDINGS IN CHAMBERS
(Summary Conviction Appeal)**

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(Summary Conviction Appeal)**

Crown Counsel (Respondent):

M.A. Erina

Appearing on his own behalf (Appellant):

T. Holsworth

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1
2 Nelson, B.C.
3 January 13, 2023
4 THE SHERIFF: Order in court. All rise.
5 THE CLERK: In the Supreme Court of British Columbia,
6 this 13th day of January 2023, in the matter of
7 Trevor -- Trevor Russell Holsworth, file 26418-2,
8 Madam Justice.
9 THE COURT: Thank you.
10 CNSL M. ERINA: Mr. Holsworth, do you want to introduce
11 yourself first?
12 THE APPELLANT: Oh, sure, sir.
13 Trevor Holsworth appearing on my own behalf.
14 H -- t-r-e-v-o-r h-o-l-s-w-o-r-t-h.
15 THE COURT: Thank you.
16 CNSL M. ERINA: And Mark Erina appearing for the
17 Federal Crown, respondent.
18 THE COURT: Thank you.
19 CNSL M. ERINA: Surname e-r-i-n-a.
20 THE COURT: Thank you.
21 Good morning, gentlemen.
22 It is going to be important that we finish
23 this morning. I think perhaps Ms. Strain may have
24 already advised you of that. I have got two other
25 matters at 2:00. So I am going to be asking each
26 of you to conclude your submissions within the
27 maximum of an hour each. All right.
28 CNSL M. ERINA: Yes.
29 THE COURT: Don't need to take up the entire hour, but
30 a maximum of an hour each.
31 Well, I can see that Mr. Erina is still
32 working on his technological side of things.
33 CNSL M. ERINA: Sorry, I thought -- I was under the
34 impression we weren't allowed to come into the
35 court because of a pretrial conference so we just
36 came in at the last moment.
37 THE COURT: Oh. I think you can come in. I think
38 that's open court, isn't it, or is it not? I
39 don't know Madam Registrar may know better.
40 THE CLERK: The only thing is I wasn't sure who to
41 expect and I didn't want anybody coming in without
42 knowing that we were recording.
43 THE COURT: Oh, fair enough. Yes.
44 THE CLERK: My apologies.
45 THE COURT: No, not at all. We'll -- we'll --
46 CNSL M. ERINA: But I'll be discreet --
47 THE COURT: -- make it all work.

Proceedings

1 CNSL M. ERINA: -- if I can just duck underneath and --
2 THE COURT: Yes. We'll just give you a minute to do
3 that --
4 CNSL M. ERINA: Thank you.
5 THE COURT: -- and I can see Mr. Holsworth sorting
6 through his papers.
7 THE CLERK: I am not expecting anyone
8 [indiscernible/unknown sound].
9 THE COURT: No, I think we have everyone we expect. At
10 least everyone I expect.
11 THE APPELLANT: [Indiscernible/whispering].
12 CNSL M. ERINA: Whatever you want. Go ahead and start
13 I shall -- I don't want to hold things up here.
14 THE COURT: Oh, his appeal.
15 Are you ready to go, Mr. Holsworth?
16 THE APPELLANT: Sure, yeah. Thank you, Justice.
17 THE COURT: All right, just give me one to get to the
18 right spot in my notes. What do you need?
19 THE CLERK: I just want [indiscernible].
20 THE COURT: Oh. Thank you.
21 All right. Please go ahead, Mr. Holsworth.
22 I have your notice of appeal in front of me and
23 you can take me through that and to any other
24 documents as you deem necessary.

25

SUBMISSIONS ON HIS OWN BEHALF BY THE APPELLANT:

26

27

28 THE APPELLANT: Okay, thank you. I had just had one
29 procedural question, I guess. Yesterday or on
30 Wednesday you mentioned that you were taking
31 assize or taking control of -- of this case.
32 THE COURT: I was seized of the matter.
33 THE APPELLANT: Seized, okay.
34 I just wanted to -- what is -- what does that
35 mean?
36 THE COURT: Oh, it -- well, it can mean a variety of
37 things, but what it meant in this context was that
38 I would hear the appeal. Having heard the
39 preliminary applications I was going to hear the
40 appeal.
41 THE APPELLANT: Okay.
42 THE COURT: Because otherwise we would have lost the
43 value of me hearing the submissions --
44 THE APPELLANT: Sure.
45 THE COURT: -- on Wednesday.
46 THE APPELLANT: Now, what would happen if it happened
47 that another judge heard the appeal instead of

Submissions on his own behalf by the Appellant

1 you?
2 THE COURT: Well, they couldn't because I'm seized.
3 THE APPELLANT: Right. But what -- what would happen
4 if -- if another judge did hear it?
5 THE COURT: I have no idea because it -- it should
6 never happen if a judge is --
7 THE APPELLANT: Right.
8 THE COURT: -- seized.
9 THE APPELLANT: But what happens if it does happen?
10 THE COURT: I don't know the answer to that question --
11 THE APPELLANT: Uh-huh.
12 THE COURT: -- because I am not aware of it ever
13 occurring.
14 THE APPELLANT: Right. I -- I have experienced it
15 happening.
16 THE COURT: Okay. Well, then you may know better than
17 me.
18 THE APPELLANT: Mm-hmm.
19 Yeah, because I guess my question would be is
20 if you take an assize over and then another judge
21 takes the case would that verdict then be invalid?
22 THE COURT: I don't know the answer to that --
23 THE APPELLANT: Yeah.
24 THE COURT: -- question, Mr. Holsworth.
25 THE APPELLANT: Uh-huh.
26 THE COURT: I am going to ask you to proceed with --
27 THE APPELLANT: Okay. Right here.
28 THE COURT: -- your submissions on the appeal.
29 THE APPELLANT: Okay. First of all, I'd like to note
30 for the record that a motion of recusal was
31 presented to Justice --
32 THE COURT: That's on the record.
33 THE APPELLANT: Okay.
34 THE COURT: You made it.
35 THE APPELLANT: Okay, thank you.
36 THE COURT: I dismissed it. It's on the record.
37 THE APPELLANT: Just in relation to that I'm not sure
38 if you did see the -- the Court of Appeal document
39 --
40 THE COURT: I've seen the decision.
41 THE APPELLANT: Right. Okay. So what it did say in
42 the appeal -- my appeal to the British Columbia
43 Court of Appeal in section -- in number 4. It
44 said [as read in]:
45
46 The continuation of an abuse of process is
47 not a just resolution to the issue before the

Submissions on his own behalf by the Appellant

1 court. Justice Lyster --
2 Is that right?
3 THE COURT: You got it right that time.
4 THE APPELLANT:
5
6 -- is refusing to be bound by the precedent
7 in the *Jordan* ruling as it relates to trial
8 fairness. However, that is nothing compared
9 to the failure to even respond to the request
10 for a *writ of mandamus* on the Minister of
11 Justice, as requested in my notice of appeal.
12 That is a failure to act judicially to
13 provide a complete decision on the matter
14 before the court. I refer the court to
15 statements in this regard in *R. v. Vanderbilt*
16 [phonetic].
17
18 And then I went on -- this is in my appeal.
19 [As read in]:
20
21 Unfortunately, Justice Lyster's conduct
22 leaves men and self-represented litigants a
23 very clear display of bias.
24
25 THE COURT: I am just going to stop you, Mr. Holsworth.
26 THE APPELLANT: Yes.
27 THE COURT: Are you making another recusal application?
28 THE APPELLANT: No, I am just putting on the record why
29 I thought that it was important --
30 THE COURT: Yes, but I dealt with your recusal
31 application --
32 THE APPELLANT: Okay.
33 THE COURT: -- on -- on Wednesday.
34 THE APPELLANT: Okay.
35 THE COURT: Unless something arose on Wednesday which
36 you think is a basis for a new recusal motion, I
37 am not going to hear another one.
38 THE APPELLANT: Right. No, that's fair. I just wanted
39 to --
40 THE COURT: And I don't really need to know what you
41 said to the Court of Appeal about me.
42 THE APPELLANT: Okay. No, I -- okay. I appreciate
43 that. I just wanted to have that on the record I
44 guess because I felt it was important.
45 THE COURT: Okay. So --
46 THE APPELLANT: But I'll move on.
47 I guess I just -- yeah, hmm, okay, hmm, I

Submissions on his own behalf by the Appellant

1 just wanted to -- I did do some reading on *R. v.*
2 *S.R.D.* about recusal and it seemed like it was
3 kind of important information to include.
4 THE COURT: Well, you made your submissions on
5 recusal --
6 THE APPELLANT: Yeah. Okay.
7 THE COURT: -- sir, and I decided it.
8 THE APPELLANT: Yeah.
9 THE COURT: Unless there is a new recusal motion that
10 you're making based upon something new that issue
11 is --
12 THE APPELLANT: Is --
13 THE COURT: -- heard and determined, right. So --
14 THE APPELLANT: Okay.
15 THE COURT: -- as I say, if there is something that
16 happened on Wednesday that you think provides a
17 basis for a new recusal --
18 THE APPELLANT: Yeah.
19 THE COURT: -- motion, you're certainly entitled to do
20 that --
21 THE APPELLANT: Sure.
22 THE COURT: -- but I am not going to rehear the recusal
23 motion that you made on Monday with additional
24 submissions that you forgot to make on -- or --
25 THE APPELLANT: No.
26 THE COURT: -- rather on Wednesday --
27 THE APPELLANT: That's --
28 THE COURT: -- with additional submissions --
29 THE APPELLANT: Sure.
30 THE COURT: -- that you forgot to make on -- or --
31 THE APPELLANT: No.
32 THE COURT: -- on -- on Wednesday.
33 THE APPELLANT: Okay. No, that's fine. I just wanted
34 to be -- to completely aboveboard on it.
35 THE COURT: Okay.
36 THE APPELLANT: Okay. In regards to the abuse of
37 process, I'll start with that one. Is that kind
38 of what we're -- because we --
39 THE COURT: I want -- this is your appeal from the
40 decision of the Honourable Judge Brown so I have
41 got your notice of appeal and you've got seven
42 grounds so I anticipate that's what you're
43 speaking to.
44 THE APPELLANT: Well, yeah, I -- I think on Wednesday
45 we talked about the abuse of process being delayed
46 until today.
47 THE COURT: Right. Because you're also addressing it

Submissions on his own behalf by the Appellant

1 with the --

2 THE APPELLANT: Pretty much in -- within the appeal
3 record --

4 THE COURT: -- so -- yes.

5 THE APPELLANT: -- as well. Yeah.

6 THE COURT: Anything you want to say as a basis for
7 appeal on the basis of abuse of process is fair
8 game --

9 THE APPELLANT: Sure.

10 THE COURT: -- for sure.

11 THE APPELLANT: Okay. I have made abuse of process
12 arguments at every single hearing and the issue
13 has never been addressed, never responded, always
14 delayed, which Canadians take as an admission of
15 guilt. What larger *Charter* breach can there be
16 than a failure to respond to the enforcement
17 procedure of the constitution by both the Attorney
18 General and the Crown prosecution, the Minister of
19 Justice and the judiciary; all tasked with
20 protecting the integrity of the rule of law, the
21 constitution, and the public interest. As they --
22 as we all know, justice delayed is justice denied,
23 but it is one of the oldest power tactics in the
24 book. Appearing before the BCCA I said [as read
25 in]:

26
27 If you can ignore everything I say, all the
28 evidence that I present, including your
29 official court record, I do not really have a
30 right of appeal because it is at your
31 discretion. My right to appeal was denied.

32
33 At the Supreme Court I stated [as read in]:

34
35 I was compelled to attend court several times
36 under threat of imprisonment and each time I
37 requested that the case be dismissed to an
38 abuse of process. However, every time the
39 judge refused to hear the matter in a further
40 abuse of process.

41 Maybe at trial, being the response.

42
43 At every single hearing of the court that I
44 have been compelled to attend, I have made abuse
45 of process arguments. The court claims that it
46 can provide a fair and impartial trial at the same
47 time as judges claim that they have a discretion

Submissions on his own behalf by the Appellant

1 to ignore the best evidence that any Canadian can
2 provide, the transcript, and can in their
3 discretion prefer to call upon the plaintiff and
4 request her recollection of what a judge said in
5 court six months prior and prefer that to the
6 transcript in order to protect a lawyer who I
7 allegedly -- alleged had improperly written a
8 court order when I was not provided the right to
9 approve as to form even when requested the right
10 to do so specifically. Every Canadian that I have
11 ever talked to, including lawyers off the record,
12 and my children even know that it's wrong and
13 unfair. What perspective are judges using? The
14 correct perspective is that of the public.

15 [As read in]:

16
17 Further, on August 10th, 2022, I attended the
18 Provincial Court in Nakusp for the purposes
19 of setting a date for trial and once again
20 presented arguments -- arguments regarding
21 abuse of process. My argument was in
22 response to my allegations of criminal
23 conduct within the justice system. Justice
24 Lyster responded with a threat.

25
26 That's on page 10, line 10, of the transcript from
27 the Provincial Court.

28 THE COURT: Let me just get the transcript in front of
29 me, sir.

30 THE APPELLANT: Sorry, that's the Provincial Court
31 August -- yeah, August 10th hearing.

32 THE COURT: Do I have those?

33 THE APPELLANT: Okay.

34 CNSL M. ERINA: It -- it's in the appeal book, Justice.

35 THE COURT: Oh, thank you.

36 CNSL M. ERINA: I put it there at Tab 3.

37 THE COURT: Tab 3. Thank you.

38 THE APPELLANT: Thank you.

39 CNSL M. ERINA: That's the August 10th proceedings.

40 THE COURT: Thank you.

41 All right, so I have that. Now, what was the
42 line reference?

43 THE APPELLANT: Li -- page 5, line 10.

44 THE COURT: Just give me one second. Okay, I see that.

45 THE APPELLANT: Okay. [As read in]:

46

47 Which it appeared Judge Brown accepted.

Submissions on his own behalf by the Appellant

1 Oh, I see.

2
3 Page 10, line 13.

4
5 However, he ignored that for the purposes of
6 setting a date for trial as he claimed he had
7 to follow orders and had no discretion.
8 Justice Lyster said I had to proceed with a
9 trial. I have to do it.

10
11 Page 4, line 26.

12 THE COURT: So is that the threat?

13 THE APPELLANT: Well, that's not the threat, but --

14 THE COURT: What's the threat?

15 THE APPELLANT: -- the threat was that I was faced with
16 the possibility of seven years of jail and up to
17 \$200,000 in fines for the -- moving it to a
18 mistrial is my -- my understanding of the
19 situation.

20 THE COURT: Okay, thank you.

21 THE APPELLANT: Okay.

22 At trial in the Provincial Court of Nakusp on
23 October 6th, 2022, I requested procedural advice,
24 including clarification on the case to meet and
25 clarification on the source of judicial power
26 which both of the requests were refused. I
27 requested clarification on the two elements
28 available to me under the precedent for strict
29 liability offences which includes the lack of
30 guilty mind and due diligence.

31 The *mens rea* element was stated by Crown and
32 judge to be only available to be judged at the
33 conclusion of the trial. When I attempted to
34 present evidence to establish my innocent mental
35 state, I was not permitted to even speak to the
36 matter. As Justice Dickson stated in *Sault Ste.*
37 *Marie* [as read in]:

38
39 There is a generally held revulsion against
40 punishment of the morally innocent and access
41 to justice requires the judiciary and Crown
42 comply with the constraints of the
43 constitution and provide answers to
44 procedural questions so that citizens may
45 know the case to meet.

46
47 And that's a quote from *R. v. P.M.B.*, 1994.

Submissions on his own behalf by the Appellant

1 Preventing me the ability to obtain the
2 transcript due to my financial state would be a
3 gross injustice. I walked away from the court
4 when they refused all my rights, including the
5 freedom of expression. I am guaranteed a fair
6 trial and what is judged -- and that is judged
7 from the public perception. It is my assertion
8 that nobody in that courtroom thought that what
9 was happening was in any sense the application of
10 justice. The reality is that I am not going to be
11 able to pay the fines as is clear from my
12 financial position so this delays just further
13 injustice and further abuse.

14 At the Supreme Court of B.C. on December 3rd,
15 2021, before you, I presented argument regarding a
16 failure in the rule of law throughout the legal
17 system and a request for a *writ of mandamus* to be
18 issued for the Minister of Justice to protect the
19 public and ensure the administration of justice is
20 in compliance with the law. Justice at that time
21 refused to respond judicially to that request by
22 failing to respond at all. Requesting a check on
23 the discretion of a government official is our
24 right in a democracy and the refusal to even
25 respond is possibly obstruction of justice. It is
26 clearly a failure to act judicially to resolve the
27 matter before the court completely and a clear
28 display of bias toward the government and a direct
29 protection of the judge's interests and also
30 protecting lawyers is a conflict of interest as
31 judges are all drawn from the ranks of law
32 societies. Sending this case back on a mistrial
33 given the facts presented on December 3rd, 2021,
34 is the clearest example of the continuation on the
35 abuse of process which was presented to the court
36 in the *U.S.A. v. Cobb* [phonetic] case but with
37 significantly less evidence.

38 My understanding is that the right to appeal
39 to the B.C. Court of Appeal from the B.C.
40 Provincial Court is subject to the absolute and
41 unlimited discretion of the judge in that forum
42 with no right to appeal.

43 Given that the argument provided for abuse of
44 prosecutorial discretion was denied in the hearing
45 on January 10th, I feel it important to include
46 the same arguments in regard --

47 THE COURT: Sorry. Can you say that again?

Submissions on his own behalf by the Appellant

1 THE APPELLANT: Sorry, yeah.
2 I'm talking about the -- on Wednesday you
3 declined to -- to --
4 THE COURT: I deferred consideration of your abuse of
5 process --
6 THE APPELLANT: You did.
7 THE COURT: -- arguments to today. I didn't refuse to
8 hear them.
9 THE APPELLANT: Oh.
10 THE COURT: I deferred consideration to today of your
11 arguments in support of your --
12 THE APPELLANT: Right.
13 THE COURT: -- second order sought.
14 THE APPELLANT: But you ruled against my arguments.
15 THE COURT: No, I deferred consideration --
16 THE APPELLANT: Oh, you deferred. Oh, I'm sorry. I
17 completely misunderstood. I will cancel that.
18 THE COURT: You'll recall that on your application you
19 sought three orders. I dealt with two of them and
20 I denied those. The middle one which was the
21 abuse -- the request for dismissal for abuse of
22 process I deferred consideration --
23 THE APPELLANT: Yeah, yeah. No, I'm --
24 THE COURT: -- until today.
25 THE APPELLANT: Sure. I appreciate -- I'm talking
26 about the -- the argument about abuse of
27 prosecutorial discretion.
28 THE COURT: That was that argument, sir.
29 THE APPELLANT: Was it? Okay. I mis -- my mistake.
30 So my argument is is the Crown prosecutors
31 are refusing to respond to the enforcement
32 procedure of the *Charter*, s. 24(1). They've
33 received it. It's acknowledged in the -- the
34 records. The envelope is in the record. It's
35 stamped by the Attorney General's office, but
36 there's been no further disclosure, no further
37 response, no further communication. Nothing.
38 No comment was the argument presented to
39 court on July 16th, '21, to the constitutional
40 questions. Crown counsel, Isaac Ferbey did
41 present argument when he was asked, but that
42 argument was limited to the fact that Provincial
43 Court judges are not Federal Court judges subject
44 to the Canadian Judicial Council's rulings. Crown
45 counsel, Mark Erina, refused to respond. One
46 Crown counsel felt obliged to respond but the
47 other did not. It seems arbitrary to me. Isaac

Submissions on his own behalf by the Appellant

1 Ferbey I believe is an independent contractor.
2 The rest are employed by the public through the
3 Attorney General's office. The Crown possesses no
4 discretion to breach the Charter rights of an
5 accused as stated in *R. v. Anderson* [phonetic]
6 before the Supreme Court. Paragraph 45 and
7 paragraph 48 goes on [as read in]:
8

9 This court has repeatedly affirmed that
10 prosecutorial discretion is reviewable for
11 abuse of process.
12

13 And paragraph 42:
14

15 This discretion is consistent with
16 constitutional traditions.
17

18 And also in *Krieger* [phonetic], para --
19 paragraph 32. and *Nixon* [phonetic], paragraph 31,
20 specified, bad faith or improper motives which all
21 Canadians would agree is the case here, except for
22 apparently lawyers and judges who appear to have
23 their own perspective on this, but have not
24 articulated a defence or at all despite notice and
25 further requests.

26 On February 11th, 2021, Attorney General,
27 Mr. Justice David Lametti responded to my
28 correspondence claiming that the CJC, as I quote,
29 "CJC alone is tasked with investigating complaints
30 about the conduct of federal [indiscernible]
31 judges" and he followed with the misle -- false or
32 misleading statements, "It would not be
33 appropriate for me to intervene nor as a matter of
34 law would it be possible for me to do so."

35 THE COURT: You did actually make these submissions --

36 THE APPELLANT: I did.

37 THE COURT: -- on Wednesday.

38 THE APPELLANT: Okay, so I --

39 THE COURT: I -- I recall them word for word.

40 THE APPELLANT: You've got them. Okay. I will --

41 THE COURT: And I did say that I would take into
42 account what I had heard --

43 THE APPELLANT: Yeah.

44 THE COURT: -- on the applications in hearing the
45 appeal so you don't -- if you've already said it,
46 you don't need to repeat it.

47 THE APPELLANT: Okay, fair enough. I will move on.

Submissions on his own behalf by the Appellant

1 THE COURT: And that I know you did say.

2 THE APPELLANT: Yeah.

3 I note that in my questions to Judge Sicotte
4 on July 16, 2021, when I was cross-examining CRA
5 officer, Matthew Hobkins [phonetic], on his
6 perception of the fairness of the trial. Under
7 the conditions, he refused to allow the witness to
8 respond.

9 I made the same observation on appeal before
10 -- before you in the Supreme Court on December
11 3rd, 2021, that I could ask any member of the
12 public as to the fairness and the impartiality of
13 a trial where judges maintain a right to ignore
14 all the evidence that a Canadian could provide up
15 to and including the official record of trial, the
16 transcript, used for the purpose of correcting a
17 court order to properly reflect the order of the
18 court. But instead judges maintain that they can
19 legitimately call upon the plaintiff to refute the
20 contents of the transcript and then knowing that
21 her testimony is perjury prefer that lie to the
22 transcript, improperly protecting a lawyer
23 committing fraud, and that is the current
24 acceptable standard of conduct in the decidedly
25 partial opinion of Canadian judges. Ask any
26 Canadian and they would disagree. When I have
27 asked members of the public, they tell me that it
28 sounds like what they have heard about justice in
29 Russia or China or some third world country. But
30 I understand from the evidence before the court
31 the judges and lawyers have a entirely different
32 perspective to that of the Canadian people, one
33 that puts their opinion at a higher level than all
34 the evidence that any Canadian could provide.

35 I -- I bring attention to the hearing before
36 Judge Brown on August 10th, 2022, at Tab 3, page
37 1, line 39, I say [as read in]:

38
39 A constitutional question was also presented
40 before this court that has never been
41 responded to. It hasn't been responded to at
42 the Provincial Court and it hasn't been
43 responded to at the B.C. Supreme Court.

44
45 And it will be one of the questions that I'll be
46 asking at the B.C. Court of Appeal.
47

Submissions on his own behalf by the Appellant

1 Crown counsel at the Court of Appeal has
2 stated in writing that he will not be
3 responding to the constitutional question. A
4 constitutional question on the
5 constitutionality of the Crown refusing to
6 respond to a constitutional question was
7 served and presented before the court, but no
8 response was ever received.
9

10 Page 2, line 1.

11 THE COURT: Yes, I'm there.

12 THE APPELLANT: [As read in]:

13
14 The constitutional question is to do with the
15 Minister of Justice not responding to the
16 enforcement procedure of the *Charter*. Crown
17 is in breach of the *Charter*. We still want
18 to enforce the law against you, but refusing
19 to have the law enforced against themselves.
20 A failure in the rule of law and admitted in
21 writing by Crown prosecution.
22

23 On page line -- page 2, line 25 I continue.
24 I mention the fact that I -- that before Justice
25 Lyster, that you refused to rule on the *writ of*
26 *mandamus*. And I -- and then I go in the B.C.
27 Court of Appeal, I said [as read in]:
28

29 I submitted eight constitutional questions.
30 One of the constitutional questions was about
31 the constitutionality of Crown not responding
32 to a constitutional --
33

34 THE COURT: Sorry. Are you still in -- in the
35 submissions?

36 THE APPELLANT: Sorry. No, I'm not I'm in -- I'm in
37 the B.C. Court of Appeal now and I'm reading from
38 the transcript.

39 THE COURT: These are your submissions to Madam Justice
40 Newbury.

41 THE APPELLANT: Correct, yes.

42 THE COURT: Okay.

43 THE APPELLANT: [As read in]:

44
45 It kind of makes the whole purpose of the act
46 irrelevant if Crown can just ignore
47 constitutional questions.

Submissions on his own behalf by the Appellant

1
2 And she -- Justice Newbury said:

3
4 So you had a separate -- separate notice on
5 that point?
6 I said: I did make a constitutional question
7 on that.
8 The court said: Well, maybe you could add
9 that to your list of things to --
10 And I said: Sure. I've got that right here.
11 The court said: Oh, you've got one for me?
12 I said: Yes.
13 The court said: Great.

14
15 Justice Newbury's decision at the B.C. Court of
16 Appeal is not a decision that the law or evidence
17 or any reasoning as could be justified in a free
18 and democratic country. It is an opinion and it
19 contradicts the law.

20 As far as how that works out -- as far as the
21 abuse of process as well goes, the fact that I had
22 communicated with the B.C. Law Society about
23 lawyers not complying with court orders and
24 altering court documents and the Law Society
25 decided to remove evidence from their file and not
26 provide written reasons and not justify how they
27 were protecting the public. I also have
28 correspondence that I brought with me from Wally
29 Oppal that I had at the time which detailed my
30 complaint to him about the conduct of the B.C. Law
31 Society.

32 THE COURT: Was he the Attorney General at the time?

33 THE APPELLANT: I'm sorry.

34 THE COURT: Was he Attorney General at the time?

35 THE APPELLANT: He was the Attorney General at the
36 time, yes.

37 However, when I wrote to the Canadian
38 Judicial Council and requested that the author of
39 the letter which -- that I have from --
40 complaining about Justice Shaw, claiming that
41 judges can prefer the voice of the plaintiff to
42 the transcript, be investigated by the Canadian
43 Judicial Council. Norman Siborn [phonetic]
44 declared that an abuse of pr -- that that was an
45 abuse of process, that me requesting review of the
46 Canadian Judicial's conduct was abusive. That was
47 his opinion and he refused to respond further so

Submissions on his own behalf by the Appellant

1 he can't -- he's saying that you can't complain
2 about the Canadian Judicial Council's conduct. If
3 that was an abuse of process then this is
4 certainly abuse of process because it is abusive
5 to the public when you put who -- whom you purport
6 to serve -- because this provi -- tribunal, as I
7 have proven, provides no rights to the public,
8 either in this forum or in the complaint system at
9 the Canadian Judicial Council. The public has a
10 right to complain and that is the entire rights
11 that Canadians have before the Canadian Judicial
12 Council. They can complain and the Canadian
13 Judicial Council may investigate entirely at their
14 discretion which is apparently unlimited once
15 again. That is -- okay.

16 Right. So the -- my point is the juji -- the
17 judiciary is claiming that they can provide a fair
18 and impartial trial complying with the
19 constitutional requirements of fundamental justice
20 at the same time as declaring that they may ignore
21 all the evidence that any Canadian can provide up
22 to and including the official court record.
23 Refusing judicial discretion to be checked
24 legitimately as appropriate in a free and
25 democratic country and the legitimate body to do
26 that, to check on the discretion, would be
27 Parliament. The question of the authority of the
28 jurisdiction of the court was asked at the
29 Provincial Court of justice -- before Justice
30 [sic] Brown but no response was ever provided.

31 THE COURT: Where is that?

32 THE APPELLANT: So I'm not sure. I don't have a line
33 number for --

34 THE COURT: Is it -- was it the August 10th proceedings
35 or the trial proceedings?

36 THE APPELLANT: This is the full proceedings on --

37 CNSL M. ERINA: I could probably help. In the
38 transcript of the judge -- of the trial before
39 Judge Brown at page 5 -- this is what
40 Mr. Holsworth was referring to, line 8 -- page 5,
41 line 8.

42 THE APPELLANT: I think that's --

43 THE COURT: Is that -- is that what you're referring
44 to?

45 THE APPELLANT: I think so. I am not sure what -- does
46 that say what time? Okay.

47 CNSL M. ERINA: I'm asking you where your --

Submissions on his own behalf by the Appellant

1 THE APPELLANT: Right. okay. Yeah, thank you.
2 THE COURT: Was that the right reference?
3 THE APPELLANT: It is part of it. I'm not exactly sure
4 where --
5 THE COURT: So he -- you were raising the Law Society
6 concerns and you asked, "I'm -- and I'm asking
7 where your authority to govern me comes from." To
8 which the court responds, "All right. These are
9 the same issues you raised at the first trial."
10 Is that what you're referring to?
11 THE APPELLANT: Yeah, that's -- I -- I'm not sure as I
12 didn't write down the line that I got this from.
13 I'm sorry. Where is my -- the line that I'm
14 looking for is -- what I'm saying is that there is
15 insufficient procedural safeguards to protect
16 fundamental justice in this courtroom.
17 CNSL M. ERINA: I can help with that one too.
18 THE APPELLANT: Thank you.
19 CNSL M. ERINA: Okay. Mr. Holsworth made comments
20 about, I think, twice. Once early on in the trial
21 where he states -- let me find that for you --
22 THE COURT: Searchable pdf would be good.
23 CNSL M. ERINA: Yeah. It's funny I had it -- when you
24 try and find something, you know it's there.
25 THE COURT: Okay. Well, perhaps we -- rather than take
26 time right now perhaps Mr. Erina when you come to
27 give your submissions if you're able to give me
28 where you think Mr. Holsworth might have --
29 CNSL M. ERINA: Absolute -- in fact, I just saw one.
30 It's right above the quote I just brought your --
31 THE COURT: Okay.
32 CNSL M. ERINA: -- Justice's attention to. It's
33 actually when Mr. Holsworth was talking about the
34 Law Society says --
35 THE COURT: Okay. Right.
36 CNSL M. ERINA: -- [indiscernible].
37 THE APPELLANT: Thank you.
38 THE COURT: So basically what I'm saying is that
39 there's insufficient procedural safeguards to
40 protect --
41 THE APPELLANT: Correct.
42 THE COURT: -- fundamental justice in this courtroom.
43 THE APPELLANT: That's what I --
44 THE COURT: That does appear to be what you were
45 referring to.
46 THE APPELLANT: Yeah. Yeah, that's what I'm looking
47 for. Thank you. That was page 5 --

Submissions on his own behalf by the Appellant

1 THE COURT: It was page 5 starting at about line 4.
2 THE APPELLANT: Okay, perfect.
3 CNSL M. ERINA: And also on page 18 at the beginning of
4 the submissions on the *Charter* voir dire, line 12
5 -- page 18, line 12 there's the second excerpt I
6 believe.
7 THE COURT: Okay, thank you.
8 So there you're saying Mr. Holsworth [as read
9 in]:
10
11 It shows that there are insufficient
12 procedural safeguards to justify the claim
13 that you're providing a fair and impartial
14 trial and providing fundamental justice.
15
16 So those would both be -- appear to be what you're
17 referring to.
18 THE APPELLANT: The cor -- correct. Yeah.
19 [As read in]:
20
21 So the court responded: All right. These
22 are the same issues you received -- you
23 raised at the first trial.
24 And I go on -- hopefully this is the same
25 following line: I served the Attorney
26 General with the enforcement procedure of the
27 *Charter* requesting that this matter be heard
28 by Parliament because it relates to matters
29 that judges simply are unable to administer
30 properly.
31 And the court responds: You're saying judges
32 are unable to administer the *Charter*
33 properly?
34 And I continue: Because it involves a
35 conflict of interest. No one can be a judge
36 in their own cause and Parliament is the only
37 body that can provide the *Charter* remedy
38 necessary so this is really not the correct
39 tribunal to hear the matter and that's really
40 the problem that we're having here
41 And the court responded: Didn't you raise
42 this at trial level before?
43 And I responded: It has never been answered.
44 And the court said: Yeah, but you've raised
45 it before.
46
47 Crown counsel has refused -- has also refused

Submissions on his own behalf by the Appellant

1 for their discretion to be checked for conflict of
2 interest and failed to follow the procedures
3 outlined in the public PP -- PPSC.

4 I kind of go on in my argument here. This
5 issue has mostly been dealt with under my
6 application for abuse of process. Ultimately, the
7 Attorney General and the Crown Prosecution Service
8 know that they are in breach of the *Charter*
9 enforcement procedure. They have been served.
10 They have never responded except at the Provincial
11 Court level. Provincial judges -- I think I'll
12 leave it there.

13 Questions were asked of the trial judge
14 regarding judicial independence as there are
15 ongoing concerns in that regard. There seems to
16 be confusion on the part of many as to whom
17 judicial independence serves, the public or the
18 judiciary. However, the answer is very clear.
19 Judicial independence exists for the benefit of
20 the public whom the judiciary serve. And I quote
21 from the Canadian Judicial Council. [As read in]:
22

23 They determine for the judging of judicial
24 conduct are fairly straightforward --
25

26 Or, sorry, this is from the Ministry of Justice
27 report on the Canadian Judicial Council from 2016.
28

29 They determine that the judging of judicial
30 conduct is the judic -- is the conduct
31 allegedly so manifestly and profoundly
32 destructive of the concept of impartiality,
33 integrity, and the independence of the
34 judicial role that public confidence would be
35 sufficiently undermined to render the judge
36 incapable of executing the judicial office
37 and judicial independence exists for the
38 benefit of the judge not the judges. It is
39 therefore to be assessed from the perspective
40 of the reasonable observer and in light of
41 the public interest it is meant to serve.
42 Canadians know that a judge that cannot see
43 the correct decision in the situation of
44 transcript versus calling upon the plaintiff
45 is not a judge. If a judge cannot judge
46 which evidence is preferred when presented
47 with a transcript then how can we possibly

Submissions on his own behalf by the Appellant

1 trust judges with our rights, our finances,
2 our lives, and our children. The entire
3 *Charter* becomes meaningless. The guarantee
4 of a fair and impartial trial, our right to
5 appeal become arbitrary decisions and the
6 foundation of justice --

7
8 And I've lost the rest of the paragraph. It must
9 have got deleted.

10 A basic -- I quote from -- I read this great
11 book on the English judiciary in regards to
12 judicial discipline and one of the quotes that
13 came up to me was [as read in]:

14
15 A basic requirement for maintaining public
16 confidence in the legal system is the court's
17 duty to provide a reasoned judgment for its
18 decisions.

19
20 And that was in *English v. Henry Remhold*
21 [phonetic].

22 My point is is that Justice Newbury has
23 decided these on her opinion and I don't have any
24 right to appeal her decision so every -- every
25 decision in the Provincial Court is subject to the
26 arbitrary decision of the appeal court in the B.C.
27 Court of Appeal and they -- in the right of appeal
28 and they can do whatever they want and there's
29 nothing you can do about it.

30 [As read in]:

31
32 Impartiality is central to the independence
33 of the individual judge. Justice must be
34 rooted in confidence and confidence is
35 destroyed when right-minded people go away
36 from [indiscernible] the judge was biased.

37
38 And that's a quote from *Metropolitan Properties*
39 *Limited v. Lenan* [phonetic] in -- on the Queen's
40 Bench in 1969.

41 Trail -- trial fairness -- I go on to talk
42 about trial fairness in relation to the arbitrary
43 nature of the --

44 THE COURT: Are we moving on to a different ground?

45 THE APPELLANT: I think we are, yeah.

46 THE COURT: Let's have a look at your notice of appeal
47 and --

Submissions on his own behalf by the Appellant

1 THE APPELLANT: I've got -- it all is kind of loosely
2 connected in some ways unfortunately.

3 CNSL M. ERINA: The notice of appeal is in the -- I put
4 that in the appeal book --

5 THE COURT: I've got it --

6 CNSL M. ERINA: -- as well.

7 THE COURT: -- at Tab 17.

8 CNSL M. ERINA: Correct.

9 THE COURT: So it -- it looks to me like you've
10 probably addressed --

11 THE APPELLANT: One and two.

12 THE COURT: -- one, two, perhaps three --

13 THE APPELLANT: Yeah.

14 THE COURT: -- four.

15 THE APPELLANT: Yeah, I'm moving on to four now
16 actually.

17 THE COURT: Moving on to four?

18 THE APPELLANT: Yeah.

19 THE COURT: Okay.

20 THE APPELLANT: So my position is that Justice
21 Newbury's BCCA ruling dispensed an opinion which
22 was not backed by evidence or argument and just
23 simply plain this does not reflect reality in
24 paragraph 29 of her reasons despite having been
25 informed of the problems facing the administration
26 of justice because the transcript that was from
27 you was before her because Crown counsel paid for
28 it to be there. As well as the presentation made
29 by her, as well as the contents of the appeal
30 document which include the fact that Justice
31 Lyster refused to rule on the *writ of mandamus*
32 improperly protecting lawyers and judges
33 obstructing justice in a continuation of the
34 obstruction of justice which is obviously an abuse
35 of process. Claiming that the opinion of a judge
36 presented without evidence -- without any evidence
37 to support Justice Newbury's position that the
38 existence of a vast failure of the justice system
39 and that judges and lawyers to comply with their
40 oaths of office and codes of ethics seem to
41 indicate a disturbing worldview rife with
42 conspiracies and corruption this does not reflect
43 reality. But she didn't address any of the
44 matters presented in the court, including a
45 constitutional question on the authority of the
46 court and her opinion beats my opinion, my
47 evidence, and my arguments. I say that's

Submissions on his own behalf by the Appellant

1 completely arbitrary and it provides -- she's got
2 -- I get no right to appeal her decision. It
3 makes the court system completely irrelevant to
4 Canadians as far as a method of communication. If
5 the court can simply say I do not find that there
6 is any realistic prospect of success to your
7 *Charter* argument with respect to what has been
8 filed before this court in terms of the charges
9 that are before you today no matter what the facts
10 are then the application of the *Charter* is purely
11 an arbitrary, subjective, almost imaginary device
12 only useful to a judge determining whether they
13 like someone or not or perhaps if they paid
14 enough. Or I don't know what the rational
15 decision is made upon because they're not provided
16 to me.

17 Justice Newbury in paragraph 11 ignored all
18 my arguments regarding a *Jordan* ruling, that the
19 none of the delays were my fault and that COVID
20 had no part to play in the delays. She says
21 Justice Lyster did not deal -- or I say [as read
22 in]:

23
24 Justice Lyster did not deal with this issue
25 in her reasons which led me to having to
26 appeal her decision and the costs involved at
27 the BCCA, although at this time Crown paid.
28

29 And sh -- and in paragraph 16 of her -- of
30 her decision she says:

31
32 No evidence was offered of anyone planting
33 evidence or avoiding legitimate review.
34

35 But in the B.C. Court of Appeal transcript it says
36 at trial -- this is back in 2007 [as read in]:
37

38 A judge that abused his power of discretion
39 to protect lawyers committing fraud upon the
40 court by calling on the plaintiff, a woman,
41 to perjure herself to protect her lawyer and
42 preferred her testimony to mine which was
43 supported by the official court record, the
44 transcript, of a hearing that happened six
45 months ago and the judge preferred the
46 woman's voice.
47

Submissions on his own behalf by the Appellant

1 So there was evidence of evidence being
2 planted before the court and as far as avoiding
3 legitimate review you refused to rule on the *writ*
4 *of mandamus*, Justice Newbury refused to rule or
5 make any rational decision made on that
6 whatsoever. I point -- and in the transcript I
7 say [as read in]:
8

9 I pointed this out in the Nelson Supreme
10 Court along with arguments for a *writ of*
11 *mandamus* for the Minister of Justice to
12 properly resolve the issues before the court.
13 I pointed out the public service that I was
14 performing, the complete absence of a guilty
15 mind, and that none of the purposes of
16 sentences could be legitimately exercised by
17 the court. Crown has not disputed any of the
18 facts except to claim that my life
19 experiences are irrelevant. Crown has not
20 responded to any request for evidence,
21 provided zero argument to defend the failure
22 to respond to the enforcement procedure of
23 the *Charter*. As a matter of law, complain-
24 plaining that my perspective is irrelevant
25 and the only perspective is the judicial one
26 is using the incorrect perspective.
27

28 And that's why I -- I make the quote, "A basic
29 requirement for maintaining public confidence in
30 the legal system is the court's duty to provide a
31 reasoned judgment for its decisions." Justice
32 Newbury did not do that.

33 She goes on in paragraph 22 of her reasons:
34

35 I am not aware of any authority that would
36 support Mr. Holsworth's argument to the
37 contrary.
38

39 Despite the fact that I provided these authorities
40 in -- and they're included in the transcript.
41 Using the *Income Tax Act* as a method of exposing
42 abuses of the rule of law is a time honoured
43 method of protest used by Robin Hood, Henry David
44 Thoreau, Ghandi, the Women's Tax Resistance, Jesus
45 Christ, Magna Carta, and also resulted in the
46 unfortunate situation of the French and American
47 revolutions.

Submissions on his own behalf by the Appellant

1 In paragraph 26 Justice Newbury confirmed in
2 her ruling -- in -- by quoting from *Sharpe v.*
3 *Wakefield* stating that Lord Bramwell said:

4
5 . . . when it is said that something is to be
6 done . . . according to the rule of [reason]
7 and justice . . ., not according to private
8 opinion . . .; according to the law and not
9 humor. It is to be, not arbitrary, vague,
10 and fanciful, but legal and regular. . . .
11 must be exercised within the limit to which
12 an honest man competent to the discharge of
13 his office ought to confine himself.

14
15 In paragraph 179 of that decision.
16 And she goes on:

17
18 Consistent with this principle, a judge's
19 exercise of discretion is reviewable on
20 appeal where it is shown the judge gave no
21 weight or gave "no sufficient" weight to a
22 relevant consideration or acted on a wrong
23 principle.

24
25 She didn't review the *writ of mandamus* at all.
26 Chapter -- paragraph 28 she goes on:

27
28 . . . it may be assumed that the CJC obtained
29 what evidence it needed to be satisfied that
30 [a] complaint was not a matter of judicial
31 conduct, but rather one of the exercise of
32 judicial discretion -

33
34 We do not know anything about the process. And so
35 I -- my argument is we do not know anything about
36 the process the CJC followed in an investigation
37 as all evidence has been denied to me despite
38 Freedom of Information requests, transcript
39 requests, audio requests, and applications to
40 court requesting this. I will follow up on the
41 issue of obtaining third party records. But the
42 fact is that the Canadian Judicial Council, we
43 know that they did not order the transcript
44 because the transcript is not in the file so they
45 did not do that at least part of -- in their
46 investigation.

47 THE COURT: I thought you didn't know it was in the CJC

Submissions on his own behalf by the Appellant

1 file.

2 THE APPELLANT: Well, we know that they didn't order
3 the transcript because the -- there would be a
4 record if they had ordered the transcript because
5 the transcript service would know that they had
6 transcribed it.

7 THE COURT: Oh, I see what you're saying.

8 THE APPELLANT: Yeah.

9 In paragraph 29 of her decisions she
10 continues:

11
12 . . . his leap from the fact that his
13 evidence --

14
15 And I put in [indiscernible] to seize the
16 transcript because she decided to ignore the fact
17 that I was talking about the transcript.

18
19 -- was not accepted in 2006 to the existence
20 of a vast failure of the justice system and
21 . . . the judges and lawyers to comply with
22 their oaths of office and codes of ethics
23 [seem] to indicate a disturbing world-view
24 rife with conspiracies and corruption. This
25 does not reflect reality.

26
27 But that's despite the evidence provided in the
28 transcript and the further evidence provided to
29 Newbury. Justice Newbury's decision does not get
30 the reasonable -- reasonable standards set out in
31 *Valvalov* [phonetic] and the *Canada Post*
32 *Corporation v. Union of Postal Workers*:

33
34 A reasonable decision is one that is based on
35 internally coherent and rational chain of
36 analysis . . . that is justified in relation
37 to the facts and law that constrain the
38 decision maker.

39
40 The standard of review remains correctness, the
41 facts are clear and not in dispute in this case.

42 THE COURT: I'm just going to remind you what --
43 something I -- I alluded to on Wednesday. I am
44 not sitting in appeal of Madam Justice --

45 THE APPELLANT: Yeah.

46 THE COURT: -- Newbury. I can't review --

47 THE APPELLANT: I --

Submissions on his own behalf by the Appellant

1 THE COURT: -- her decision.
2 THE APPELLANT: Mm-hmm. I -- I --
3 THE COURT: That's -- it's not my job.
4 THE APPELLANT: I do understand that. I'm just
5 presenting that as far as pointing out that --
6 THE COURT: Does it -- would I be correct -- and if I
7 suggested to you that what you're trying to say is
8 that Madam Ju -- Madam Justice Newbury's decision
9 is just further evidence of what you see as
10 illegitimacy of the judicial system? Would that
11 be fair?
12 THE APPELLANT: That's basically --
13 THE COURT: Okay.
14 THE APPELLANT: -- a good summary of it, yeah. And --
15 and that there -- the discretion is unreviewable
16 and -- and it's subject to that arbitrary system.
17 And I agree that that's the way the system is set
18 up and I know it's set up on purpose that way, but
19 I am just bringing the court's attention to it
20 because I'm not sure if -- if it it has been
21 presented before. But it doesn't comply with the
22 *Charter* would be my contention. It doesn't
23 provide fundamental justice because it does result
24 in -- in the problem that was addressed by
25 *Vanguard Coatings v. M.* -- *M.N.R.*, 1986.
26
27 If this formulation be so decent and
28 reasonable as the Minister's counsel say it
29 is, why Parliament could provide that all
30 Canadians should subject their lives and
31 livelihood to some chosen official who finds
32 [themselves] in [a] paramount as a -- a
33 conflict of official interest as does the
34 [Ministry] of National Revenue when
35 determining that tax-payers should really
36 contribute more revenue to the Crown . . .
37
38 And I also understand that all decisions from the
39 Supreme Court are arbitrary as they end up with
40 the arbitrary decision of the Supreme Court of
41 Canada to either accept it or -- or not.
42 THE COURT: Well, there has to be a final sort of
43 appeal somewhere.
44 THE APPELLANT: I do agree, but --
45 THE COURT: And you would say it's Parliament.
46 THE APPELLANT: Exactly.
47 THE COURT: I understand.

Submissions on his own behalf by the Appellant

1 THE APPELLANT: That's my position.
2 THE COURT: I think I do understand your position --
3 THE APPELLANT: Yeah.
4 THE COURT: -- Mr. Holsworth.
5 THE APPELLANT: Okay, thank you.
6 I know that in -- I don't have the line --
7 it's not in the -- in the appeal record, but the
8 court did say, "Sometimes judges are wrong."
9 THE COURT: The court --
10 THE APPELLANT: "You know --"
11 THE COURT: -- Judge Brown?
12 THE APPELLANT: Sorry. This is Justice Newbury. [As
13 read in]:
14
15 Sometimes judges are wrong. You know that,
16 that's why we have appeal,
17
18 THE COURT: Indeed.
19 THE APPELLANT: And I said:
20
21 Oh, I appreciate that.
22
23 And then I -- I'll leave that -- this -- this
24 argument with the -- the quote from R. v. Askov in
25 1990.
26
27 [It] leads to community['s] frustration with
28 the judicial system and eventually to a
29 feeling of contempt for court [proceedings].
30
31 And I think I'll move on to the next --
32 THE COURT: Ground five?
33 THE APPELLANT: Ground five.
34 And my priority -- I know the justices all
35 wanted me to argue tha -- the due diligence, but I
36 -- wha -- I have the due diligence argument, but
37 I'm going to make the argument a part -- about my
38 guilty -- the lack of guilty mind because from my
39 perspective that is my argument. The due
40 diligence argument is one that is being foisted on
41 me. I don't really want to make it, but I have --
42 I fulfill that one as well.
43 So I did present -- I did ask questions about
44 -- the lack of a guilty mind is firmly established
45 by the full page ad that was taken on July 1st,
46 Canada Day, 2021, proceeding the trial date before
47 Judge Sicotte on July 16, 2021, as well as the

Submissions on his own behalf by the Appellant

1 extensive reporting of this matter online and
2 subsequent newspaper reports. The communications
3 consistently demonstrates the process nature of
4 the matter of the very serious failures of the
5 Crown to comply with the very serious *Charter*
6 breaches and extremely serious refusals to comply
7 with the rule of law. I suggested this in my
8 communications with Justice Lyster in Nelson on
9 December 3rd, 2021, regarding purposes of
10 sentencing not being applicable with these facts
11 before the court. The communications with the
12 RCMP, the Attorney General's office, the Prime
13 Minister's office and Parliament, all demonstrate
14 that my purpose has always been in the public
15 interest in an open and accountable government
16 with a problem of judiciary claiming absolute
17 power and refusing to allow the legitimate check
18 on that power. It would be --

19 THE COURT: I just want to ask a question --

20 THE APPELLANT: Yeah.

21 THE COURT: -- because I want to understand your
22 position on that point. Are -- when you refer to
23 your purpose, are you referring to your purpose in
24 terms of your dealings with the CRA or are you
25 referring to your purpose in terms of your various
26 appearances in various courts?

27 THE APPELLANT: No, my -- there's -- there's two
28 reasons why I took the actions I did. I tried --
29 I attempted --

30 THE COURT: With the CRA.

31 THE APPELLANT: With the CRA, correct.

32 THE COURT: Okay.

33 THE APPELLANT: One is I had no financial capacity to -
34 - to deal with it. The other one was that I was
35 protesting what I view as an abuse of power and I
36 was ta -- taking the only steps that were left
37 available to me to take.

38 THE COURT: So essentially an act of civil
39 disobedience?

40 THE APPELLANT: Correct.

41 THE COURT: Okay.

42 THE APPELLANT: So before court -- before Justice
43 Newbury, we were talking about the -- the idea
44 that s. 238 was unconstitutional and she was
45 asking me why I felt that way and I went on --
46 it's because it's an absolute liability offence
47 with a prison term attached. And she went on,

Submissions on his own behalf by the Appellant

1 okay, so -- but the judge said no, it's a strict
2 liability. I can never remember which is which,
3 but it's -- and the court goes on [as read in]:
4
5 If you show due diligence then you can't be
6 found guilty, right?
7 I said: Due diligence or that he reasonably
8 believed in a mistaken set of facts which if
9 true would render the act or omission or
10 commission innocent.
11 She goes on: Okay.
12 So she said -- I said: No. So it's not just
13 due diligence.
14 The court agreed with me and said: Okay.
15 The appellant said: It's also --
16 She said: Yes, those are the two.
17 The appellant said: This other issue.
18 The court said: Two different possibilities,
19 that's correct.
20
21 THE COURT: I'm just going to say there's been an awful
22 lot of reference by Mr. Holsworth to the
23 proceedings before Madam Justice Newbury. I don't
24 have that transcript. Do you -- is there an -- an
25 extra copy of that? Because I think when I --
26 when I -- when I -- and I'm confident I will be
27 reserving. I'm not going to be in a position to
28 provide you with a judgment today. In order for
29 me to be able to follow the submissions that
30 Mr. Holsworth is making, I am going to need a copy
31 of that transcript.
32 CNSL M. ERINA: I don't have a copy with me, Justice,
33 and I apologize.
34 THE COURT: I don't necessarily have to have --
35 CNSL M. ERINA: I didn't think to bring one because as
36 all the argument [indiscernible] --
37 THE APPELLANT: I have a copy here.
38 THE COURT: You have an extra copy?
39 THE APPELLANT: You can have this copy. I have a
40 digital copy of it.
41 THE COURT: You do have it. So are you sure you don't
42 mind doing that?
43 THE APPELLANT: That's fine.
44 THE COURT: Okay.
45 CNSL M. ERINA: Oh, actually in one of the case books
46 from the applications from the other day, I
47 think --

Submissions on his own behalf by the Appellant

1 THE COURT: Has the transcript.
2 CNSL M. ERINA: -- I think --
3 THE COURT: Is it --
4 CNSL M. ERINA: -- it may.
5 THE COURT: -- let me just have a quick look.
6 THE APPELLANT: It was --
7 CNSL M. ERINA: Would it?
8 THE APPELLANT: I don't think so.
9 CNSL M. ERINA: [Indiscernible/rapid speech] August.
10 No, maybe --
11 THE APPELLANT: I don't think so because the transcript
12 service just --
13 CNSL M. ERINA: No, that's right.
14 THE APPELLANT: It's placed in the Court of Appeal I
15 know that.
16 CNSL M. ERINA: Right. No, Mr. Holsworth is correct
17 it's not there.
18 THE COURT: Okay.
19 CNSL M. ERINA: No.
20 THE COURT: If -- if you don't need that Mr. Holsworth
21 -- now, I don't necessarily need you to give it to
22 me now. It's just that when I go --
23 THE APPELLANT: Yeah.
24 THE COURT: -- away to consider your submissions if I'm
25 going to -- because I can't every word down that
26 you're saying.
27 THE APPELLANT: Yeah. No, I appreciate that.
28 THE COURT: And you're, you know, quoting from it a
29 fair bit. If -- if you're all right with doing
30 that, I would be grateful for it.
31 THE APPELLANT: Sure.
32 THE COURT: So just when we finish today.
33 THE APPELLANT: Sure. Absolutely.
34 THE COURT: Thank you.
35 [As read in]:
36
37 And so I go on: No. I came here with a
38 protest. And then I'm saying that you
39 ignored the protest argument.
40 And the court goes: Okay.
41 And I say: It has been from time immemorial
42 been part of our system of laws that the
43 innocent not be punished.
44 And the court goes on: So she ignored your
45 arguments about *mandamus*?
46 And the reply I say: Yeah. And the *Jordan*
47 principle and anything else she didn't really

Submissions on his own behalf by the Appellant

1 care to hear.

2
3 And in regard to the *Jordan* rule, my understanding
4 is in *R. v. Woolsey* in 2021 before the B.C. Court
5 of Appeal, 439, paragraph 86, re the *Jordan* delay
6 they state, "It was incumbent on both the judge
7 and the Crown counsel to raise the issue of
8 delay." It's not entirely my responsibility to
9 issue that.

10 And then -- and then in *R. v. Jordan* of
11 course it says:

12
13 . . . only circumstances that are genuinely
14 outside the Crown's control and ability to
15 remedy may furnish sufficient excuse for the
16 prolonged delay.

17
18 And I want to go on to demonstrate the
19 legitimate steps I have taken to bring this
20 attention to the proper authorities also
21 demonstrates a lack of guilty mind in my conduct
22 and instead demonstrates respect for proper
23 procedures, democratic responsibilities --

24 THE COURT: I won't be making a finding --

25 THE APPELLANT: I'm --

26 THE COURT: -- on your appeal.

27 THE APPELLANT: -- I'm sorry.

28 THE COURT: I won't -- I won't be making a finding on
29 your appeal as to whether you had a guilty mind or
30 not, will I?

31 THE APPELLANT: Well, it's an element --

32 THE COURT: Are you asking --

33 THE COURT: -- it's an element of the crime that you're
34 alleging that --

35 THE COURT: Okay. And so you're going to -- is your
36 argument that the Honourable Judge Brown erred in
37 failing to consider it?

38 THE APPELLANT: Really didn't even give me an
39 opportunity to present argument on the matter of --
40 -- of me not having a guilty mind.

41 THE COURT: Okay.

42 THE APPELLANT: That's my argument. I was refused the
43 right to -- to speak to present my case. I asked
44 for the freedom of expression and it was denied.

45 When a lawyer committed fraud in a court
46 order, I attempted to communicate with the lawyer.
47 I provided the clerk's notes for him to correct

Submissions on his own behalf by the Appellant

1 it. He refused to correct it. I prevented --
2 presented the transcript to correct the fraud to
3 the court. The judge's conduct sought to cover up
4 the fraud. The complaint was denied by the
5 Canadian Judicial Council. The follow-ups were
6 denied. Reports to the Law Societies were made,
7 but they refused to comply with their statutory
8 duties to even provide written decisions. The
9 Ombudsman, I attempted to get written reasons from
10 the Law Society, but they gave up after a year.
11 Questions as to how the Law Society is protecting
12 the public was refused by the Law Society and the
13 Attorney General of B.C., Wally Oppal. I served
14 the enforcement procedure of the *Charter* on the
15 Minister of Justice as laid out for serving notice
16 to the Crown. No response was received. I made a
17 complaint to the Human -- UN Human Rights
18 Tribunal. I communicated with the Prime
19 Minister's office trying to get the Minister of
20 Justice to respond to the enforcement procedure.
21 It did lead to the Minister of Justice responding,
22 but he made false and misleading statements. I
23 communicated back to the Prime Minister's office
24 this problem and they forwarded the problem on to
25 Marco Mendicino acknowledging that there's a
26 public safety concern. I communicated with the --
27 the RCMP National Division Intake Headquarters
28 which tasked with investigating corruption amongst
29 federal MPs and they refused to investigate and
30 threatened to destroy evidence. I communicated
31 the problem to the Parliamentary Ethics
32 Commissioner and they have accepted the complaint,
33 but when I further try -- attempt to communicate
34 with them I do not get a further response. I have
35 come to the court here utilizing the most
36 legitimate method of protest possible in this
37 case, the *Income Tax Act*.

38 I was involved with a parliamentary petition
39 on the *Judge's Act* and which was sponsored by the
40 Green Party at the time, MP Jenica Atwin.
41 However, she crossed the floor to the Liberal
42 party a month after the petition was -- was
43 finished and the petition was never presented. I
44 presented her with my full argument. She was
45 fully informed about the -- the problem. I
46 subsequently attempted to run as a Green Party
47 candidate and attempted to run against David

Submissions on his own behalf by the Appellant

1 Lametti in Laval, but unfortunately I didn't get
2 accepted by the Green Party. But I also kind of
3 backed away. There was a lot of problems going on
4 with that party at the time.

5 I -- I want to -- the conduct that I had at
6 the Provincial Court before Justice Sicotte and
7 all of the communications beforehand were all
8 about respect for procedure and constitutionality.
9 I came to the Supreme Court and requested the *writ*
10 *of mandamus* which is the appropriate next level
11 and I appealed your failure to respond to that to
12 the Court of Appeal which is the correct procedure
13 to follow, but I was denied at that forum.

14 In 2021, I submitted a complaint to the
15 Parliamentary Committee on Justice and Human
16 Rights in Parliament, but I -- one of the clerks
17 at that entity deleted the submission. I
18 subsequently submitted a complaint to the
19 Parliamentary committee on the status of women
20 explaining the problems that men not having right
21 to the -- to the trial transcript, how that could
22 possibly lead to frustrations with the justice
23 system and a feeling of unfairness. They did
24 accept that submission which I pretty much was
25 trying to figure out why the Parliamentary
26 Committee on Justice and Human Rights didn't do
27 the same.

28 And then subsequently in 2022 when I
29 submitted -- resubmitted the complaint to the
30 Justice Committee they did accept because I was
31 pretty forceful in the way that I put it. And
32 they -- it was before all the members of the
33 Parliamentary Committee on Justice and Human
34 Rights as they were debating the *Judge's Act* and I
35 had presented them with the entire problems that I
36 understood are within the *Judge's Act*. However,
37 it was not brought up to the attention of the
38 committee and it was ignored completely and the
39 *Judge's Act* was passed in the Parliament
40 unanimously with that brief before them.

41 I did write a letter to the Governor General
42 regarding her duties for the minority government a
43 month prior to the NDP/Liberal confidence
44 agreement. I never received a response back from
45 my letter to the Governor General. I have
46 communicated in the past before and I have
47 received responses. The absence of that response

Submissions on his own behalf by the Appellant

1 is troubling. Follow-up communications were
2 ignored.

3 I did com -- communicate with the Minister of
4 Justice. I did communicate with the Prime
5 Minister's office on constitutional matters.

6 I did submit the complaint to the *Emergencies*
7 *Act* and interestingly enough they did finally
8 respond acknowledging receipt of that on December
9 26th, 2022. I submitted also the evidence to the
10 various committees, the parliamentary committees
11 on the *Emergency Act* and Public Safety. And I
12 have emailed the official opposition and the
13 shadow Minister of Justice and my Member of
14 Parliament, my nearest local Member of Parliament
15 who is not a Liberal party. And also all the
16 other NDPs sitting on the committee of Justice and
17 Human Rights. And I also notified CSIS. I wrote
18 registered letters to the premieres of the
19 provinces and they received them early in
20 December, a week prior to their request for the
21 Prime Minister Trudeau to meet with them regarding
22 healthcare funding. And then I have also
23 submitted the evidence to the Senate Committee on
24 justice and constitutional affairs. And I can --
25 I've got a copy here for you if you would like to
26 have a copy of that.

27 THE COURT: I -- I don't think I -- I -- I need copies
28 of these various pieces --

29 THE APPELLANT: Okay.

30 THE COURT: -- of correspondence. I am understanding
31 you to be saying you have taken every possible
32 route that you could to raise your concerns that's
33 what I --

34 THE APPELLANT: That's correct.

35 THE COURT: Okay. I need you to be conscious of the
36 time, Mr. Holsworth.

37 THE APPELLANT: Okay. How much time do I have?

38 THE COURT: Seven minutes.

39 THE APPELLANT: Seven minutes. Okay.

40 I have not heard a single defence to the
41 eagle -- legal conduct of either lawyers, judges
42 or cabinet ministers involved. I have heard,
43 however, from the people of Canada.

44 So, in regards to my argument regarding due
45 diligence and financial capacity to pay, I have
46 presented some of this argument before on
47 Wednesday. So I talked about in *Holsworth v.*

Submissions on his own behalf by the Appellant

1 *Holsworth*, 2007, Judge Shaw decided that Kootenay
2 Experience Limited had a share value of zero but
3 for the purposes of divorce a value of \$295,000
4 and also the fact that I was saddled with a debt
5 and had no funds. I just wanted to make sure that
6 you were aware of that --

7 THE COURT: I recall those submissions.

8 THE APPELLANT: -- communication. The fact the
9 Provincial Court has on numerous occasions
10 admitted to my lack of funds. The separation
11 agreement which I have here. I acknowledge the
12 debts that I -- I have and agreed upon.

13 And I -- I do have support in my local
14 community. One of the members of the community
15 has -- has offered to pay for transcripts and
16 other financial support that I would need to help
17 expose the lack of accountability in the
18 judiciary. I am very thankful for the support of
19 the people. It makes this possible for me. I do
20 have that support because my conduct is in the
21 public interest.

22 A regard to create solution -- I guess -- and
23 I have been thinking a great deal about reform
24 possibilities and I have been trying to
25 communicate those. Are we going to exper --
26 create solutions or attempt to punish me because
27 you don't like to hear of my experiences that I've
28 had in the justice system? I am a victim of -- of
29 abuse. I have a right to face my abuser in a fair
30 and impartial tribunal, but as I have made very
31 clear this is not it. I have noted that there has
32 been other people, not just myself, that have
33 similar concerns.

34 In the *S. Law WCA* [phonetic] there's an
35 article called "*The Proposal of a Legal Council of*
36 *Elrond*" and that's by Jordan Furlong talking about
37 the problems in the justice system and ideas on
38 solutions. [As read in]:

39
40 I am tempted to communicate the problems
41 facing the legal system from the perspective
42 of the public. It would be an interesting
43 explanatory -- explanation to hear how this
44 is any different from the story of a big
45 strong man beating up or raping a weak
46 vulnerable woman or a drunk woman, something
47 that the legal system takes very seriously.

Submissions on his own behalf by the Appellant

1
2 This is a huge problem and it's not going to
3 go away, but I am standing here offering to help
4 given my extensive experience as a member of
5 public, the most important element of the legal
6 system and my perspective continually is deemed
7 irrelevant. That conduct by the judiciary is
8 decidedly undemocratic and has not been justified
9 at all. You all swear an oath to work to improve
10 the justice system and that action could only be
11 seen as a sincere effort to restore the public
12 trust in the administration of justice.

13 THE COURT: Have you addressed all of your grounds of
14 appeal?

15 THE APPELLANT: I guess so, yeah.

16 THE COURT: You're satisfied that you've had a
17 sufficient opportunity?

18 THE APPELLANT: Yeah, I'm satisfied. Thank you.

19 THE COURT: All right, thank you.

20 We'll take the morning break. Now, Mr. Erina
21 you're not going to have a full hour --

22 CNSL M. ERINA: No.

23 THE COURT: -- or you -- close. Are you going to be
24 able to finish and give some time --

25 CNSL M. ERINA: I -- I will --

26 THE COURT: -- to Mr. Holsworth for reply?

27 CNSL M. ERINA: -- I will do my -- in fact, if I don't
28 I will just let the Crown's factum speak for
29 itself.

30 THE COURT: Okay. All right.

31 CNSL M. ERINA: I will finish.

32 THE COURT: All right. Very good. Thank you.

33 THE CLERK: Order in court. This court stands
34 adjourned until 11:23.

35

36 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)
37 (PROCEEDINGS RECONVENED)

38

39 THE SHERIFF: Order in court. All rise.

40 THE CLERK: Court is reconvened.

41 CNSL M. ERINA: Thank you, Justice.

42 Do I have till 12 -- I'm just going to watch
43 my time. I have till 12:30, is that right?

44 THE COURT: Well, now I need to give Mr. Holsworth some
45 time for reply.

46 CNSL M. ERINA: Ah, that is true.

47 THE COURT: So can you do your submissions by 12:40 or

Proceedings

1 12:20 rather. I can't sit late.

2 CNSL M. ERINA: I'll try and do it by 12:15.

3 THE COURT: If you can, it'll be appreciated. Do what
4 you can.

5 CNSL M. ERINA: Absolutely.

6

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

8

9 CNSL M. ERINA: When Mr. Holsworth advances seven
10 grounds of appeal and according to the Crown's
11 submission none have merit, he has not
12 demonstrated that there is an error of law or a
13 miscarriage of justice that would require that the
14 verdicts be set aside. And before I get started
15 with the submissions I think it's important to say
16 -- in fact, it's stating the obvious that this, of
17 course, is an appeal from the decision of Judge
18 Brown. It's not a trial of the criminal justice
19 system. Yet, of course, that's how Mr. Holsworth
20 wants to use it. And by his own admission, of
21 course, it's a political protest. It's a platform
22 that he is using in part or in large measure to
23 advance his grievances with the criminal justice
24 system which I, of --

25 THE COURT: I think it's broader than the criminal
26 justice system. I think it would certainly
27 include the family law system.

28 CNSL M. ERINA: I think the justice system generally,
29 that's -- that's correct. And he sees things
30 through a particular lens and that, of course, is
31 coloured in his perception of the entire justice
32 system and that is coloured, in my submission, his
33 grounds of appeal, his conduct at the trial, his
34 conduct today in appeal, and all the proceedings
35 previously. Much of which is completely
36 irrelevant.

37 Now turning to the facts, and I am not going
38 to go through them in any particular detail except
39 for the *Charter* application. I have set them out
40 in the Crown's factum which I believe Your Justice
41 should have before you, I hope. It's filed on
42 December 23rd, I believe.

43 THE COURT: I think -- 28th, I think.

44 CNSL M. ERINA: Ah, yes, that's correct.

45 THE COURT: Yes, I have that.

46 CNSL M. ERINA: [Indiscernible]. And it's one of two
47 booklets that doesn't have a green cover that's

Submissions for Crown/Respondent by Cnsl M. Erina

1 easy to identify. I -- I set out in the -- in the
2 Crown's factum the history of the first trial, the
3 first appeal, and what took place before Justice
4 Newbury. I am not going to go into those details.
5 They are there. And normally they wouldn't be
6 relevant, but the nature of this appeal they are
7 and that's why it's in the Crown's factum.

8 On page 4 I briefly described what occurred
9 at the fix date on August 10th before Judge Brown
10 because that's relevant to one of Mr. Holsworth's
11 grounds of appeal. I'll touch on those facts when
12 I deal with that ground. And then starting at
13 paragraph 13 in page 4 and carrying on for several
14 pages is the facts of what happened at the trial.
15 And for the purposes of today, I just want to give
16 a brief just high level overview. And, of course,
17 the trial had two -- I could think fair to say had
18 two parts. The *Charter* application which is the
19 focus of this appeal and the trial proper which is
20 not. And Mr. Holsworth was present for the
21 *Charter* aspect and he wasn't present for the trial
22 proper. When Justice Brown ruled against him,
23 Mr. Holsworth I think fair to say was upset, had
24 some choice words which I won't repeat. They're
25 in the transcript. Left the courthouse not to
26 return. The Crown applied to proceed with the
27 trial on an ex parte basis. That application was
28 granted. The trial proper proceeded. The rulings
29 for the decision to proceed ex parte are in the
30 appeal book, as of course is the *Charter* -- rule
31 in the *Charter* which I'll be referring to in some
32 detail in -- in due course. And all I'll say
33 about the trial proper is it was not -- very
34 similar to what occurred at the first trial. The
35 Crown established its case through documents
36 [indiscernible] evidence, namely, a number of
37 affidavits establishing the notices of requirement
38 that were served upon Mr. Holsworth by registered
39 mail, affidavits establishing non-compliance,
40 corporate registry documents establishing Mr.
41 Holsworth's position in the corporation who the
42 returns pertain to, diary notes of officer
43 involved, and the viva voce testimony of one
44 witness. The same witness that testified at the
45 first trial, an officer of the Canada Revenue
46 Agency. He testified to the circumstances of the
47 service, of the requirements and the non-

Submissions for Crown/Respondent by Cnsl M. Erina

1 compliance. As well -- and this is set out in the
2 Crown's factum, the contents of three telephone
3 calls with the person he believed to be Mr.
4 Holsworth and those conversations are put into
5 evidence after a ruling was made on voluntariness.
6 And Judge Brown found that they were voluntary and
7 properly admissible and that ruling is in the
8 appeal book. And after the Crown's submissions on
9 the trial proper Judge Brown carefully considered
10 the evidence and ultimately found Mr. Holsworth
11 guilty on all four counts and that judgment
12 likewise is within the appeal book.

13 I am going to now turn to the grounds of
14 appeal. Now, with the greatest respect
15 Mr. Holsworth trying to understand some of the
16 grounds of appeal is a bit difficult and made it a
17 bit more challenging by the fact that
18 Mr. Holsworth didn't submit a statement of
19 argument which of course he's not required to do,
20 but, of course, a statement of argument would
21 amplify or perhaps clarify so I have done my best
22 to reframe what I believe Mr. Holsworth's
23 complaints are on each of the seven grounds of
24 appeal and I have reframed them and as set out in
25 the Crown's factum. And they're collectively, I
26 believe, at page 11 at paragraph 33. And I am
27 going to go through each of them now, but what I
28 would say just by overall is that three of the
29 grounds I framed as errors of the trial judge
30 which was -- are properly framed for appellate
31 purposes and that's grounds four, five, and six.
32 Three of the grounds relate to complaints about
33 the overall process and that's grounds two, three,
34 and seven. And the first ground is kind of unique
35 and I will try to explain what I mean by that when
36 I come to it because I am not going to start with
37 the first ground.

38 I am going to start with the sixth ground
39 which is -- I framed as did the trial judge err by
40 dismissing Mr. Holsworth's *Charter* application.
41 Because, in my respectful submission, that really
42 is the most -- probably the most important issue
43 before the court on this appeal because as I am
44 going to try and show Mr. Holsworth's *Charter*
45 application is like -- encompasses his grievances,
46 his various manifestations of it, and the trial
47 judge exercised, in my submission, his discretion

Submissions for Crown/Respondent by Cnsl M. Erina

1 and exercised it properly in dismissing summarily
2 the application because it had not reasonable
3 prospects of success. And the standard of review
4 is deferential when exercise the discretion in
5 that manner and, in my submission, the trial judge
6 made no error.

7 Now, what I'd like to do is begin by looking
8 at the transcript --

9 THE APPELLANT: [Indiscernible].

10 CNSL M. ERINA: -- of the trial.

11 THE COURT: Mm-hmm, I have it.

12 CNSL M. ERINA: And perhaps we can start on page 1,
13 right at the beginning -- actually page 2.

14 THE COURT: Okay, I'm there.

15 CNSL M. ERINA: And right from the outset Mr. Char --
16 Mr. Holsworth made clear, in my submission, to the
17 trial judge that he had some type of *Charter*
18 application to make. He made a number of
19 complaints which are set out in the -- in the
20 transcript and I have summarized in the Crown's
21 factum in the facts at page -- just for brevity
22 I'll just point to page 4 in the transcript at
23 page 14 -- pardon me, the Crown's factum, at
24 paragraph 14. So these are the complaints
25 right -- just right at the gate; judges and
26 lawyers have engaged in poor behaviour, sharp
27 practices, the Law Society of British Columbia has
28 engaged in improper conduct, lawyers unable to
29 represent Mr. Holsworth to protect his rights,
30 there's a conflict in the ethical duties, lawyers
31 were in breach of the *Charter*, the Crown was in
32 breach of the *Charter* for failing to comply with
33 the enforcement procedure of the *Charter*. And I
34 pause, that of course has come up many times in
35 Mr. Holsworth's submissions. And I believe what
36 he's referring to is the Crown not responding to
37 his notification of *Constitutional Question Act*
38 which ultimately was the subject of the voir dire
39 on this case -- or, pardon me, of the *Charter*
40 application. Going on, the -- the Attorney
41 General of British Columbia is not complying with
42 the enforcement procedure of the *Charter*.

43 Now, the trial judge -- turning to page 5 of
44 the transcript, I'm looking here at line 19 at
45 page 5. The trial judge wanted to make sense of
46 all of this. He's had a barrage of complaints
47 thrown his way and the trial judge says, and I

Submissions for Crown/Respondent by Cnsl M. Erina

1 quote [as read in]:

2

3

No, no. I just want to know succinctly what
4 your arguments are.

5

6

7

8

9

10

11

12

13

14

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19

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And this is going to become a theme that goes on
where the trial judge makes several attempts to
try and identify what exactly Mr. Holsworth are
you trying to argue. Now before he does that he
goes on, and this is covered in the balance of
that page of the transcript and carries on to the
next page, gives Mr. Holsworth some preliminary
information, ostensibly because he's self-
represented, about the procedural and substantive
aspects of a trial; the burden of proof, things of
that nature, and includes a brief description of
due diligence which I'll come back to when I deal
with that ground of appeal. But when that's done,
the trial judge returns to this -- trying to
ascertain what the application is.

21

22

23

24

So now I'm looking at page 7 of the
transcript at line 16 where the trial judge
addressing Mr. Holsworth says [as read in]:

25

26

27

28

29

30

31

32

33

34

Now, you -- you say you have some concerns
that you started raising and I'm going to
give you this opportunity now to succinctly
frame what you want to argue. And you have
told me certain things, but I want you to
articulate it again and frame it clearly
because I have to decide whether or not we're
going to go down that avenue or we're going
to follow the course I just put to you.

35

36

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So what the trial judge there is clearly
signalling, he's exercising his screening function
-- he's going to exercise his screening function
to determine whether a prospective application has
a reasonable prospect of success so that it merits
taking precious court time to hear. He says that
expressly to Mr. Holsworth, "I want to know what
it is succinctly to know whether or not we're
going to go down that road." And it follows
there, his further attempts to find what -- what
it is. But the trial judge also says,
importantly, and I'm on the same page at paragraph
37. Because the trial judge has heard

Submissions for Crown/Respondent by Cnsl M. Erina

1 Mr. Holsworth mention a bunch of things from his
2 past and trial judge says at line 37 [as read in]:
3

4 But I can't assist you with that today, I
5 amplify I am only dealing with this four
6 count information and I can't somehow weigh
7 your prior experiences and decide an outcome
8 with respect to the prosecution based on your
9 prior experiences that you characterized.

10
11 And that's correct because they're not relevant.

12 So then we go on at the top -- at the end of
13 the page where the trial judge returns to what the
14 nature of the breach is and says:
15

16 And then you say the Crown is in breach of
17 the *Charter*.
18

19 And there's a bit of discussion where
20 Mr. Holsworth said -- talks about having served
21 the Attorney General with the enforcement
22 procedure and that's at line 10, page 8. The
23 court says at line 15:
24

25 You're saying judges aren't able to
26 administer the *Charter* properly?
27

28 Mr. Holsworth talks about a conflicts of interest
29 and then the trial judge at line 24 puts it to
30 him.
31

32 Okay. That's your argument?
33 And Mr. Holsworth's reply is: Well, I did
34 serve it on the Attorney General. It's not
35 my entire argument, but that's the start of
36 it.
37

38 So the judge hasn't nailed it down with great
39 specificity yet. So it goes on. Same page,
40 there's now a discussion of Mr. Holsworth having
41 provided the notice of constitutional question and
42 that's at line 44.

43 Carry on to the next page, Mr. Holsworth
44 talking about the fact that the Crown hasn't
45 complied with that. That's line 6 to line 8. And
46 then the judge puts the same question finally at
47 par -- at line 14. [As read in]:

Submissions for Crown/Respondent by Cnsl M. Erina

1
2 No, no. I just -- okay, so is that your
3 *Charter* argument though?
4 And Mr. Holsworth's reply: Oh, no, that's
5 the initial stage of the *Charter* argument. I
6 could go on and on about the *Charter* breaches
7 I have experienced.
8 Trial judge says, looking at line 23: Did
9 you put it in writing?
10
11 And now we start to move towards identifying the
12 notification of quest -- constitutional question
13 which was heard in the first trial. So the trial
14 judge says, "Did you put it in writing"?
15 Mr. Holsworth at line 33 -- and I'm just -- I'm
16 not going line by line here.
17
18 Like some of it is, some of it isn't.
19 And the court: You ha -- no. You have to
20 be definitive or I can't weigh it.
21
22 Just going down the page.
23
24 The Court: Was there some written notice?
25 Mr. Holsworth: Well, I'll give it to you.
26 It's been served on the Crown.
27
28 Now, it's not clear on the record if anything was
29 given to the trial judge there. I do not know.
30
31 But the court says: Is that the same
32 notice --
33
34 This is the last line on page 8.
35
36 -- is that the same notice that was before
37 the court in the first trial?
38 And Mr. Holsworth: It was.
39
40 So now the cour -- [indiscernible] -- it's the
41 same question.
42
43 So is that what you want to argue?
44 Line 3, Mr. Holsworth: Yes, that's correct.
45
46 But then Mr. Holsworth goes on at line 6.
47

Submissions for Crown/Respondent by Cnsl M. Erina

1 Well, not other things, that's the basics of
2 why I'm here is the Crown refused to respond
3 to the *Charter* so this is my enforcement
4 procedure. I'm in the court protesting a
5 failure of the Crown to comply with the
6 *Charter*. That's the entire reason we are
7 here.
8

9 What follows in the next few lines is the Crown,
10 Mr. Ferbey, referring to having a certified copy
11 of the notice that was filed July 15th.
12

13 The court says: Is that the notice,
14 Mr. Holsworth?
15 Mr. Holsworth at line 10 says: Well, it's
16 stamped by the Court Registry.
17

18 Now ideally that should have been entered as an
19 exhibit and it was not, but, in my submission,
20 it's been identified sufficiently that what's been
21 referred to is the notification of *Constitutional*
22 *Question Act* that was litigated at the first trial
23 before Judge Sicotte. It was filed --

24 THE COURT: And just so I'm clear, I think it's in the
25 appeal book.

26 CNSL M. ERINA: Yes, and that's --

27 THE COURT: Tab 4.

28 CNSL M. ERINA: I believe that is correct.

29 THE COURT: Yes, it's got the same --

30 CNSL M. ERINA: Yes.

31 THE COURT: Yes. Okay.

32 CNSL M. ERINA: And that's the reason I feel it's
33 properly included because although it hasn't been
34 marked as an exhibit it's been identified as such
35 with sufficient specificity in the record. Now,
36 what I can't say though is whether the back page
37 was -- well, actually I'm not going to go down
38 that road because I can't say whether the judge
39 ever saw it.

40 So finally ending up here is that the judge
41 then says -- and I am looking, it's back to the
42 transcript at page 10 and this dialogue between
43 the trial judge and Mr. Holsworth it ends with
44 Mr. Holsworth essentially agreeing that the nature
45 of his *Charter* argument is that notice of
46 constitutional question, but amplified or expanded
47 upon, and that is as much specificity as the trial

Submissions for Crown/Respondent by Cnsl M. Erina

1 judge could gather. And, in my submission, when
2 one looks at the transcript as a whole and the
3 nature of Mr. Holsworth's complaints, it's clear
4 that the amplification or the additions are more
5 of the same. They're more of Mr. Holsworth's
6 grievances about the entire justice system. This
7 is the base, this is where it started, because
8 this file refers to the transcript issue. This is
9 what spawned it all. But when Mr. Holsworth, you
10 know, going back to the transcript says, "I could
11 go on and on" and if he can, but the trial judge
12 has identified, in my submission, envelops all of
13 his grievances.

14 So then Mr. Ferbey makes submissions for the
15 Crown. Briefly, he makes the submissions that the
16 application has no success because it's been heard
17 and adjudicated upon at the first trial, upheld by
18 the justice, and ultimately leave was denied by
19 Justice Newbury.

20 Page 17 of the transcript at line 33 is an
21 encapsulation or the final summary of the Crown's
22 position. The prior page is where the ju -- Ms.
23 Bryan [phonetic] is simply going through the prior
24 judgments. But again, page 17, line 33 is really
25 the encapsulation, if you will, of the Crown's
26 position.

27 So having heard Mr. Ferbey then Mr. Cu -- Mr.
28 -- I'm sorry, Mr. Holsworth -- that was a bad slip
29 -- Mr. Holsworth made his submissions and right
30 from the get-go he raises that word *political*
31 *protest*. He makes it known [as read in]:

32
33 This is my political protest. Everyone deems
34 my life experiences irrelevant, but it is
35 relevant.

36
37 And he talks about there being insufficient
38 procedure safeguards so that he can get a fair
39 trial. In my submission that also supports the
40 idea that what this *Charter* arg -- argument is
41 about are his grievances. And he goes on to, I
42 think, fairly described in the Crown factum was a
43 diatribe with a litany of more complaints which I
44 have summarized, and I won't repeat, in the
45 Crown's factum, at page 7, paragraph 22. Suffice
46 to say, this is where he makes complaints about
47 judicial independence, that's the only reason he

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1 gives is because judges wages are paid by the
2 government. He makes much complaint about Justice
3 Newbury, that she has unlimited discretion and her
4 decisions are arbitrary. He questions the
5 authority of the Court of Appeal stating it's not
6 operating legitimately according to the *Charter*.
7 And interestingly he states [as read in]:
8

9 I have no rights. You're going to rule
10 against me. This process is arbitrary and my
11 evidence will be disregarded.
12

13 The trial judge then gave judgment and
14 that -- this judgment is in the appeal book at Tab
15 18. And, in brief, the trial judge found in the
16 judgment that what Mr. Holsworth's *Charter*
17 complaint was essentially the same one that he
18 made at the first trial and that is at
19 paragraph -- page 4, paragraph 11. And, in my
20 submission, that finding is correct. There's no
21 palpable [indiscernible] error there.

22 Then in paragraph 12 states [as read in]:
23

24 I am bound by their decisions --
25

26 He's referring to Your Justice and Justice Newbury
27 because it's essentially the same application.
28 Again, also, in my submission, independently by --
29 and I say that because his words [as read in]:
30

31 I conclude there is no reasonable prospect of
32 success.
33

34 Because they're irrelevant. In my submission,
35 there is no error in the trial judge coming to
36 that decision and he goes on to dismiss them
37 summarily.

38 Now, Mr. Holsworth's reaction to that, as I
39 have already said in my opening, he wasn't happy
40 with that decision and tried to continue to make
41 his political protest. The judge would not permit
42 him, stating correctly that he had made a
43 decision. Mr. Holsworth ultimately then left the
44 courtroom, again not to return.

45 So I wrap up this ground of appeal, in my
46 submission, the trial judge made no error
47 dismissing Mr. Holsworth's *Charter* application.

Submissions for Crown/Respondent by Cnsl M. Erina

1 He gave Mr. Holsworth ample opportunity to -- to
2 articulate the nature of the application. He gave
3 Mr. Holsworth adequate opportunity to make
4 submissions on why it should be heard and made no
5 error in ultimately deciding to summarily dismiss
6 it. It was a proper exercise of the trial
7 judge's, again, screening function as set out in
8 the *Cody* [phonetic] case; essentially the same
9 reasoning that Your Justice stated in the first
10 summary appeal with respect to how Mr. Holsworth's
11 *Charter* application was dealt with by Judge
12 Sicotte. Exactly the same.

13 Now, I'm going to turn to ground five -- I am
14 dealing with just a couple out of order here --
15 and this the due diligence. And the argument for
16 the Crown it starts at page 15 --

17 THE COURT: No.

18 CNSL M. ERINA: I'm sorry. I'll just have me one
19 moment. Page 14.

20 THE COURT: It looks like it's page 14 --

21 CNSL M. ERINA: Yeah. No, I --

22 THE COURT: -- starting at --

23 CNSL M. ERINA: -- was right. It was -- it's --

24 THE COURT: Paragraph 42?

25 CNSL M. ERINA: Yes, thank you. It's finding when
26 you're at the podium your own argument starts to
27 not look familiar anymore. Yes, pa --

28 THE COURT: I've had that experience.

29 CNSL M. ERINA: -- page 14 at paragraph 42.

30 Mr. Holsworth makes complaints about not knowing
31 the elements. He talks about guilty mind and I'll
32 address that momentarily. But there is no basis
33 to any suggestion the trial judge erred in not
34 providing Mr. Holsworth information about the due
35 diligence defence. As I have set out in the
36 Crown's factum, I am now looking at paragraph 42,
37 in that initial explanation to Mr. Holsworth at
38 the outset of the trial when the trial judge is
39 talking about some of the aspects, procedural and
40 substantive. He did -- the trial judge did state
41 correctly some aspects of the due diligence
42 defence. And I have put into the factum that
43 quote -- that quote.

44 Then in the ruling on the *Charter* argument, I
45 believe in the last paragraph or very close,
46 paragraph 15, once again the trial judge told
47 Mr. Holsworth about the due diligence defence in

Submissions for Crown/Respondent by Cnsl M. Erina

1 greater detail. And I have put that quotation as
2 well in the Crown's factum at paragraph 43. In my
3 submission, the trial judge was -- those are
4 accurate descriptions of law. The defence of due
5 diligence is well known to the law, take all
6 reasonable steps to comply. And so there's no
7 basis to suggest Mr. Holsworth was not provided
8 with a proper explanation. Moreover, the fact
9 that Mr. Holsworth left the courtroom before the
10 trial proper started hardly puts him in a position
11 to complain that he wasn't given the proper
12 opportunity to address his guilty mind defence
13 however he wished to do so. He left because he
14 didn't like what happened in the *Charter* argument.
15 And it's fair to -- and reasonable, in my
16 submission, to think the trial judge probably
17 would have given him another explanation of due
18 diligence in the trial proper. Mr. Holsworth
19 didn't stick around. And as far as the offence
20 being one of due diligence, one of the elements is
21 not a guilty mind. The Crown proves the *actus*
22 *reus*; identity, jurisdiction, the fact that the
23 notice of requirement were served, the fact that
24 they weren't complied with. That is the Crown's
25 case. And then if the Crown establishes its case
26 beyond a reasonable doubt Mr. Holsworth has the
27 option of raising a defence of due diligence or he
28 can demonstrate that the amount of time given
29 wasn't adequate or, I believe, the requirements
30 were an issue for a proper purpose under the
31 *Income Tax Act*. That's encapsulated in the *Sedhu*
32 case which is --

33 THE COURT: Which I think I referred to in my earlier
34 decision if I recall correctly.

35 CNSL M. ERINA: Yes. And it's in the Cro -- book of
36 authorities at Tab 2, paragraph 37, as a -- as a
37 summary of what I have just stated.

38 Now, in fairness, I did note the trial judge
39 -- go back to the transcript momentarily -- at
40 page 5 -- page 45, not page I'm sorry -- page 5,
41 line 45, the trial judge stated -- and this is an
42 error with the greatest of respect -- stated that
43 [as read in]:

44
45 Among other things, the Crown must prove all
46 parts of the offence --
47

Submissions for Crown/Respondent by Cnsl M. Erina

1 That's true. But then said:

2

3

-- and that you intended to commit them.

4

5

That's not correct. But nothing in my submission turns on that because when one looks at the trial judge's reasons in the trial proper there was no test for *mens rea* that was employed. And, in fact, that would work to Mr. Holsworth's advantage anyway because it would put a higher burden on the Crown to have to prove *mens rea* which it doesn't have to. So nothing turns on the appeal on that statement. And those are all the submissions I have on that particular ground.

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Now -- and now I go back to the beginning, the abuse of -- the abuse of process. And the Crown's argument here is on page 13 starting on paragraph 37. I am looking at the time so I think -- I think I'm going to be okay.

16

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THE COURT: Good.

21

CNSL M. ERINA: Now, this ground of appeal is a bit trickier and -- and giving it some more thought it may be that the way I framed it here is not particularly helpful to the court. Although, the argument ha -- certainly the Crown stands by that. And what I mean by that is this: Mr. Holsworth I believe wants this court to make a finding that there is an abuse of process, I think. The difficulty with that is that, is that a new issue on appeal or is it a manifestation of what was -- Mr. Holsworth attempted to raise at the trial. I think it's the latter. But if it's a new issue on appeal, ordinarily appellate courts don't hear new issues on appeal.

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THE COURT: I wouldn't tend to view it as a new issue on appeal.

36

37

CNSL M. ERINA: Then -- and -- and I agree. As I say, I think it's a manifestation of what he attempted to bring before Judge Brown, but that being the case the real issue then was Judge Brown correct to summarily dismiss? It wouldn't be for the appellate court to then go ahead and hear the application that was dismissed because that would take a proper evidentiary record.

38

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Now, this case is a little bit different because to the extent that Mr. Holsworth's abuse applications are based on completely irrelevant

46

47

Submissions for Crown/Respondent by Cnsl M. Erina

1 matters, probably nothing turns on it, then
2 Your -- Your Justice could find there's no abuse.
3 And that is what I argue in the Crown's factum
4 that there is no abuse. Mr. Holsworth argues it's
5 an abuse of process to have fixed a date and heard
6 the trial in the face of -- of overwhelming
7 evidence of abuse of process. Well, there is no
8 overwhelming abuse of process. That is his
9 grievances. They're irrelevant. And it's also,
10 at least with respect to the suggestion it was an
11 abuse to hold the trial. Justice Newbury's
12 decision is the complete answer. Justice Newbury
13 ruled that the tri -- that Your Justice's order or
14 the new trials was correct. No error on summary
15 appeal. The trial had to be heard. It's not open
16 for Mr. Holsworth to complain about that. That
17 can't be an abuse. All these issues were raised
18 before Justice Newbury who dismissed them and I
19 won't repeat her quote at the end, but it's
20 certainly applies here.

21 With respect to the fix date it was certainly
22 not an abuse for Judge Brown to have fixed a trial
23 date. It doesn't even remotely come into the area
24 of abuse. At that time Mr. Holsworth had an
25 outstanding application for leave to appeal.
26 There was no appeal. He was applying for leave to
27 appeal. So at that time Your Justice's order was
28 outstanding, valid, and Judge Brown was required
29 to give effect to it. And in his -- the
30 transcript he alludes -- or he -- he -- he
31 mentions that and he -- and Judge Brown was
32 correct. Further, Judge Brown is correct to
33 express concerns about delay. And in that regard,
34 as I have indicated in the factum, I look at
35 the -- -- the issue -- the commentary from *Jordan*
36 about the culture of delay. So Judge Brown acted
37 completely appropriately. Nothing remotely
38 touching on what could be con -- construed as an
39 abuse of process. This -- when I looked at the
40 two prong test that was stated in [indiscernible],
41 effect the fairness of the trial, absolutely not,
42 it's not the trial it's the fix date. And is it
43 conduct that brings into question the integrity of
44 the justice system, hardly. There is no basis to
45 this ground of appeal.

46 The -- the remaining grounds of appeal I can
47 deal with quite quickly because really they are

Submissions for Crown/Respondent by Cnsl M. Erina

1 just manifestations in one way, shape or another
2 of -- of Mr. Holsworth's grievances which as I
3 have already submitted have really been caught by
4 the umbrella of ground six.

5 So ground two was the authority and
6 jurisdiction of Crown counsel and the court.
7 Well, in -- in the Crown's factum I just dealt
8 here with the trial judge because I address
9 complaints about Crown counsel in the seventh
10 ground of appeal. And the argument here is in the
11 Crown's factum at page 13, paragraph 39. And
12 simply put, there is no issue with jurisdiction.
13 As I have stated in the factum, Mr. Holsworth was
14 before a Provincial Court judge on a summary
15 conviction offence in a Provincial Court. There
16 is no evidence, and I can't imagine how there
17 would be, to suggest anything else. Judge Brown
18 had full jurisdiction over this offence by virtue
19 of the *Criminal Code* and full jurisdiction over
20 Mr. Holsworth the person to try this case and
21 there is no merit whatsoever. The fact that Judge
22 Brown also didn't answer Mr. Holsworth's question,
23 the one that he pointed out in the transcript, is
24 of no [indiscernible] effect. To fail to answer
25 that does not suddenly remove Judge Brown's
26 jurisdiction to hear the case.

27 I turn to ground three, judicial
28 independence. In the record before Judge Brown,
29 as I read it, Mr. Holsworth's comments about
30 judicial independence were tied the source of
31 judge's salaries. That's not a basis to
32 compromise judicial independence. There is no
33 merit at all to that and that should be -- that
34 ground of appeal really deserves no further
35 comment. Mr. Holsworth has not produced any
36 evidence or any submissions that would call in to
37 question Judge Brown's judicial independence and
38 his ability to hear that case -- this case.

39 Ground four, this is the ground -- this is
40 also on par -- page 14 of the Crown's factum at
41 paragraph -- starting at paragraph 41. As -- as
42 the transcript shows, as Mr. Holsworth has made
43 clear in his submissions, he takes great issue
44 with Justice Newbury's decision, complains about
45 the Court of Appeal and again that Justice Newbury
46 has unlimited discretion and it's arbitrary. And
47 with my respect that is a baseless claim attack on

Submissions for Crown/Respondent by Cnsl M. Erina

1 the Court of Appeal. It has no merit and doesn't
2 merit further comment. And, of course,
3 Mr. Holsworth could complain all he wants about
4 the Court of Appeal to the trial judge, but the
5 trial judge has no power to do anything about what
6 the Court of Appeal says. The Court of Appeal
7 held Your Justice's ruling that there be a new
8 trial. That is the end of the matter.

9 Mr. Holsworth can be upset as much as he wants
10 about what the Court of Appeal has to say, but the
11 Provincial Court has no jurisdiction to not hear
12 his trial or to do otherwise.

13 And, lastly, the authority of the Crown is
14 ground seven which just turning a few pages here,
15 page 16, paragraph -- paragraphs -- I'm at
16 paragraph 50, sorry. Mr. Holsworth appears to --
17 to challenge the -- the ability or jurisdiction of
18 the Crown to prosecute because of the complaint
19 that the Crown hasn't responded to his *Charter*
20 application. Well, this has no merit. I mean,
21 Mr. New -- Mr. Ferbey was Federal Crown counsel,
22 represented himself as such. There's no basis to
23 suggest he didn't -- wasn't duly appointed to be
24 Federal Crown and as such under the -- I guess it
25 would be the *DPP Act*, he had full power to
26 prosecute this for the Federal Crown and it's
27 difficult to know what more to say to that. But I
28 will say this about the argument that the Crown
29 never responded, that's not entirely true. Of
30 course, the Crown did respond, but the response is
31 it's not relevant. That's what the Crown's
32 position was at trial. That's what the Crown's
33 position was on appeal. It's what the Crown's
34 position was on the leave for appeal to Court of
35 Appeal and now at the latest trial and here again.
36 That's a response. It's just not the response
37 that Mr. Holsworth wants to hear. I think what
38 Mr. Holsworth means is he wants the Crown to
39 actually carry out the -- fix the system as he
40 would like to see it fixed and there's no
41 obligation on the Crown to do that. The
42 obligation on the Crown is to litigate issues that
43 are relevant to the appeal. And I have told
44 Mr. Holsworth words to that effect I think on more
45 than one occasion through correspondence. So this
46 ground of appeal has no merit as well.

47 It's 12:09 and subject to any questions from

Submissions for Crown/Respondent by Cnsl M. Erina

1 Your Justice those are the Crown's submissions.

2 THE COURT: No. Thanks very much, counsel.

3 CNSL M. ERINA: Thank you.

4 THE COURT: And I don't have any further questions.

5 Do you have any reply Mr. Holsworth?

6 THE APPELLANT: Sure. I can be very brief.

7 THE COURT: Thank you.

8

9 **REPLY SUBMISSIONS ON HIS OWN BEHALF BY THE APPELLANT:**

10

11 THE APPELLANT: How much time do I have?

12 THE COURT: Well, we will adjourn no later than 12:30.

13 Don't feel the need to fill out the 20 minutes --

14 THE APPELLANT: Yeah. No, I think --

15 THE COURT: -- if you don't have that much --

16 THE APPELLANT: -- I think I can be faster than that.

17 THE COURT: -- but you have as much as that.

18 THE APPELLANT: Sure. Thank you.

19

20 Just quickly, regarding the obligation of the
21 Crown, the obligation of the Crown is to comply
22 with fundamental justice and to comply with the
23 *Charter* and my assertion is -- is that the system
24 is not complying with fundamental justice and the
25 Crown is not complying with the requirement to
26 provide fair and impartial trial. And really it
27 is -- it is a larger argument as Just -- Justice
28 Sicotte in July '16 said it's a very large
29 argument. I agree it's a very large argument.

30 I really don't have complaints specific to
31 judges in this forum. It's not that I feel like
32 Judge Brown did me wrong or something like that.
33 That's definitely not the case. Judge Sicotte
34 dealt with the issue to the best of his ability so
35 did Judge Brown. I don't have any problems with
36 them in that regard. But I did ask Judge Brown
37 for clarification on the elements that I was to
38 defend and my understanding from Justice Newbury
39 is that I was entitled to two elements, due
40 diligence and the lack of a guilty mind. And so I
41 tried to assert that with Judge Brown and I tried
42 to present argument regarding my protest nature to
43 establish that lack of guilty mind, but I was
44 refused that and that is why I -- I left the room
45 because I felt like I wasn't being listened to.
46 If I wasn't going to be listened to at the initial
47 stages, at the *Charter* stage, then when would I be
listened to? So I did not feel like my rights

Reply Submissions on his own behalf by the Appellant

1 were being respected. In order to assert that, I
2 had to leave.

3 And that goes to, you know, the -- the old
4 precedent from the Bible, "Let he without sin cast
5 the first stone." Crown is not entitled to
6 discipline the public when they're not in
7 compliance with the law. I know that, you know,
8 you have a background yourself in religious
9 studies and, you know, that is -- that's one of
10 the oldest precedents in the book and it goes
11 along with do unto others as you would have them
12 do unto you. How would anyone in this courtroom
13 feel if they were subject to the abuse that I've
14 been subjected to in the legal system. Would you
15 feel like just laying down and complying with
16 whatever was said or would you feel like you
17 needed to stand up and say I believe this is
18 wrong. I believe this wrong and I am taking a
19 stand as is important for every Canadian to stand
20 to protect the *Charter*. The *Charter* has no power
21 in itself unless someone stands and says this is
22 wrong.

23 The -- in order for -- for transparency in
24 my own -- on my own conduct, I will note that I
25 have complied with the *Income Tax Act*. I have
26 submitted all the income tax statements that were
27 with -- with -- were not supplied before. They're
28 all up to date. The evidence is all before CRA.
29 So there's that. This was not an issue of trying
30 to avoid taxes or evade taxes. That was
31 definitely not the purpose behind it. I will
32 reference -- I made reference to the fact that I
33 had been subjected to appeals by the CRA in the
34 past. Well, for many, many years which caused me
35 a lot of financial distress and, you know, but as
36 -- you know, it's my obligation as a citizen.
37 However, you know, the conduct of the -- the --
38 well, the conduct of the police and all the Public
39 Service, if I don't have a right to appeal and a
40 fair and impartial trial, then the conduct of the
41 Public Service comes into question. You know, the
42 CRA made a ruling that, you know, the -- that a
43 lawyer's trust account statement on the resolution
44 of a purchase --

45 THE COURT: I don't really understand how this is in
46 reply to anything that --

47 THE APPELLANT: Well --

Reply Submissions on his own behalf by the Appellant

1 THE COURT: -- Mr. Erina has said.
2 THE APPELLANT: -- it's about how do I -- how do I --
3 how do I respond or behave with an administration
4 of -- of government that feels they have a right
5 to ignore all the evidence that I can provide?
6 How do I defend myself against errors in the
7 Public Service if I can't appeal that to a court
8 and to resolve the issue and feel confident in
9 that that my evidence will be listened to then I
10 don't have any rights in dealing with the Public
11 Service? And that's definitely the case that I
12 feel is that CRA makes a ruling; well, what do I
13 do with it? If it's wrong, I can't appeal to a
14 court because the courts have already said that
15 they can ignore every evidence that I can possibly
16 provide. The fact that that is there brings into
17 -- a lack of -- the public -- the entire Public
18 Service is led by the court system so the
19 accountability of the Public Service is
20 compromised by the Canadian Judicial Councils
21 claiming that judges can ignore all the evidence.
22 It's a massive problem. I pointed that out to the
23 senate --
24 THE COURT: Okay. This is not proper reply,
25 Mr. Holsworth. You need to confine your
26 submissions to things that are responsive to what
27 Crown counsel had to say.
28 THE APPELLANT: Sure.
29 So I -- my point is I did ask Judge Brown for
30 clarification on the elements. Justice Newbury
31 had provided me with her opinion on it. I was
32 denied that right to provide that evidence to the
33 court. That was wrong, end of statement.
34 THE COURT: Are those all your submissions,
35 Mr. Holsworth?
36 THE APPELLANT: That is the essential problem that I
37 had was -- is a lack of clarity in the case to
38 make. I didn't know what I had to present and
39 when I tried to present evidence that I thought
40 that I was -- had a right to present I was refused
41 that right.
42 THE COURT: When were you refused that right?
43 THE APPELLANT: Before Justice Brown --
44 THE COURT: When did he --
45 THE APPELLANT: -- when I tried to present my Freedom
46 of Information, the information that I had --
47 THE COURT: Are you talk --

Reply Submissions on his own behalf by the Appellant

1 THE APPELLANT: -- on the lack of guilty mind.
2 THE COURT: -- you're talking about the *Charter* ruling?
3 I am trying to understand what ruling you say he
4 violated your right to present your evidence. In
5 which ruling did he do that?
6 THE APPELLANT: Well, I have no idea on the ruling,
7 but in the transcript I tried to provide -- I
8 tried to make a freedom of expression argument
9 because he'd ruled against my -- the fact that
10 they -- he -- that the *Charter* enforcement
11 procedure and all that, he said, "Well, that's
12 already been ruled on --"
13 THE COURT: Right.
14 THE APPELLANT: -- even though no -- nothing is being
15 done about it, it's just ignored, but I -- that
16 was not the entire argument. That is just a
17 problem I'm facing, but I had requested what's the
18 -- that there is more than one element to that.
19 It was due diligence and lack of guilty mind. And
20 I had pushed that issue and that's my --
21 THE COURT: But you -- you left before the evidentiary
22 stage of the trial actually occurred, right?
23 THE APPELLANT: Well, I don't believe that that -- that
24 should have happened before the Crown's case.
25 THE COURT: Sorry, what should have happened?
26 THE APPELLANT: My presentation of that evidence.
27 Because if -- if I -- if I can prove that the due
28 diligence or the lack of guilty mind before the
29 trial then the trial court's evidence, all the
30 rest of it is irrelevant.
31 THE COURT: Doesn't that have the effect of shifting
32 the burden onto you when the burden is on the
33 Crown?
34 THE APPELLANT: Well --
35 THE COURT: It would be very odd for the accused to
36 have to go first in a criminal case or quasi
37 criminal case.
38 THE APPELLANT: Well, okay, that -- that's true, but
39 that -- by going ahead with that case when I was
40 trying to say look, I'm not -- I didn't have a
41 guilty mind at all, this is my position. I was
42 trying to enforce the *Charter*. That's what I was
43 trying to do. That's the entire purpose of my
44 being here and I said that quite clearly. And so
45 the rest -- the Crown's argument, in my
46 submission, is irrelevant because I could prove
47 that I didn't have -- I -- that I exercised due

Reply Submissions on his own behalf by the Appellant

1 diligence, but I wanted to exe -- I want to bring
2 up the lack of guilty mind first because that is
3 my right.

4 THE COURT: Okay. And you say Judge Brown didn't allow
5 you to do that --

6 THE APPELLANT: Right.

7 THE COURT: -- and that was his error?

8 THE APPELLANT: Correct.

9 THE COURT: Okay. All right, thank you.

10 THE APPELLANT: Thank you.

11 THE COURT: So Mr. Holsworth you had said earlier that
12 you would be prepared to give me your copy of the
13 transcript of Judge -- Justice --

14 THE APPELLANT: Sure.

15 THE COURT: -- Newbury's -- your hearing before Justice
16 Newbury. Are you sure you're all right with that?

17 CNSL M. ERINA: Justice, I can e -- I think I have an
18 electronic copy or --

19 THE COURT: If you do that would be better.

20 THE APPELLANT: I can send you an email of it if you --

21 CNSL M. ERINA: Or I can certainly courier the Crown's
22 -- I can -- I can --

23 THE COURT: Actually, an electronic copy would be my
24 preference because it's easier to find things. So
25 if Mr. Erina has that, if you could forward that
26 to me via scheduling, please. Send that to
27 Ms. Strain in scheduling.

28 CNSL M. ERINA: Absolutely. It'll -- it'll be next
29 week when I get back --

30 THE COURT: That's fine.

31 CNSL M. ERINA: -- to my office and that way
32 Mr. Holsworth won't have to part with his.

33 THE COURT: Yes, I -- I feel badly about asking
34 Mr. Holsworth to part -- part with his copy --

35 THE APPELLANT: Yes.

36 THE COURT: -- but I do think given Mr. Holsworth's
37 reliance on what occurred in that hearing, I
38 should -- should have that.

39 CNSL M. ERINA: Certainly.

40 THE COURT: So if you could forward that to me that
41 would be very helpful. All right.

42 So I will be reserving my judgment. I -- I
43 want to tell you that I think it very unlikely
44 you'll have a judgment from me before -- I think
45 you told me your new trial is -- not new trial --

46 THE APPELLANT: Yes, January --

47 THE COURT: -- next trial.

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1 THE APPELLANT: -- 25th or something. Like that's --
2 yeah, I understand I can make argument --
3 THE COURT: I think it's highly unlikely just because
4 of what my schedule is between now and then.
5 THE APPELLANT: Sure.
6 THE COURT: So I wanted to just let you know that so
7 that you can be prepared to make whatever
8 applications you consider appropriate before
9 Mr. Brown. All right.
10 THE APPELLANT: Thank you. And so the --
11 THE COURT: [Indiscernible] Judge Brown.
12 THE APPELLANT: -- the fix date has now been -- the
13 next assize remains in place?
14 THE COURT: Yes. So you -- we have a fix date for 2
15 o'clock on the first day of the next assize here
16 in Nelson which I believe is February 27th.
17 CNSL M. ERINA: I'm sorry, what are we talking about
18 right now?
19 THE APPELLANT: Oh, [indiscernible].
20 THE COURT: When you're next back before the court.
21 THE APPELLANT: Right.
22 CNSL M. ERINA: Okay.
23 THE COURT: So -- for some reason I've misplaced my --
24 THE CLERK: I'm sorry, [indiscernible]. Sorry.
25 THE COURT: Well, I'll say I misplaced it Madam
26 Registrar.
27 So, yes, February 27th at 2:00 p.m., that
28 will be for the purposes of fixing a date for me
29 to provide you with my judgment --
30 THE APPELLANT: Thank you.
31 THE COURT: -- in this matter.
32 CNSL M. ERINA: Justice, if I could, and I'm sorry I
33 didn't do this at the beginning of my submissions,
34 for what it's worth, so I am just going to correct
35 a couple of -- this is fac -- a couple of typos,
36 if you want, when you're reading the Crown's
37 factum.
38 THE COURT: Okay.
39 CNSL M. ERINA: These are -- these are minor.
40 THE COURT: Okay. Sure, go ahead.
41 CNSL M. ERINA: But I thought --
42 THE COURT: Quickly go ahead.
43 CNSL M. ERINA: So at page 3 at paragraph 6 --
44 THE COURT: Yes.
45 CNSL M. ERINA: -- the date July 15th, 2022, that
46 should be 2021.
47 THE COURT: Right. I think I would have caught that

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1 one.
2 CNSL M. ERINA: Right. But -- and then at page -- I
3 think I was -- sorry, this is a little
4 embarrassing, a little asleep here, what I did is
5 at page 3, paragraph 9 --
6 THE COURT: Yes.
7 CNSL M. ERINA: -- well, December 3rd, 2021, that's
8 when --
9 THE COURT: 2021.
10 CNSL M. ERINA: -- Justice didn't hear it --
11 THE COURT: No. It was twenty-twenty tve -- I didn't
12 hear it after I had ruled on it, no.
13 CNSL M. ERINA: That would be physically --
14 THE COURT: That would be a problem.
15 CNSL M. ERINA: -- impossible.
16 And then, lastly, just a couple of tab
17 [indiscernible] because I inserted a document and
18 shifted all the tabs down, so there's just three
19 of these. So at page 10 footnote 54.
20 THE COURT: Yes.
21 CNSL M. ERINA: Right now it says -- refers to Tab 19,
22 that should be --
23 THE COURT: Mm-hmm.
24 CNSL M. ERINA: -- Tab 20.
25 THE COURT: All right.
26 CNSL M. ERINA: And then at page 11 there's the last
27 two, at paragraphs -- at footnote 61 --
28 THE COURT: Right.
29 CNSL M. ERINA: -- that should be Tab 21 not Tab 20.
30 THE COURT: And then --
31 CNSL M. ERINA: And then similarly the one right below
32 it --
33 THE COURT: All right.
34 CNSL M. ERINA: -- on footnote 62 that should be Tab 22
35 not 21 because everything got shi -- that's it.
36 THE COURT: I understand. All right.
37 CNSL M. ERINA: Thank you. And I apologize for not
38 doing that at the outset.
39 THE COURT: That's all right. Okay.
40 So is there something further, Mr. Holsworth?
41 THE APPELLANT: Yeah. No, I just want a clarification
42 on the time, February 27th at 2:00 p.m.?
43 THE COURT: That's right.
44 THE APPELLANT: Okay.
45 THE COURT: And that will just be for the purposes of
46 fixing the date --
47 THE APPELLANT: Yeah.

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1 THE COURT: -- for me to provide my judgment.
2 THE APPELLANT: Ah. And was the Crown --
3 THE COURT: And, yes, either or both of you who wish to
4 do so have the leave to appear remotely for that
5 purpose.
6 THE APPELLANT: Thank you.
7 CNSL M. ERINA: Okay, thank you.
8 THE COURT: Anything further before I adjourn? No?
9 THE APPELLANT: No.
10 THE COURT: Thank you very much.
11 THE APPELLANT: Thank you, Justice.
12 THE CLERK: Order in court.

13

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(PROCEEDINGS ADJOURNED TO FEBRUARY 27, 2023,
AT 2:00 P.M., TO FIX DATE AND DECISION)

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Transcriber: T. Christian

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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.



T. Christian
Court Transcriber