

1 SEPTEMBER 4, 2013

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3 THE JUDGE: Yes. You can have a seat for a
4 moment. This is a review with respect to section 13 of The
5 LERA Act, and I have Mr. Johnston here and you have --
6 standing before the court with respect to this matter. The
7 commissioner sent you a letter, sir --

8 MR. P. [REDACTED]: Yes, Your Honour.

9 THE JUDGE: -- with respect to his findings, and
10 I have read that letter, and this is your opportunity, you
11 have appealed that decision and this is your opportunity to
12 make comments to myself concerning the, the matter and what
13 you think with respect to the commissioner's letter to you
14 and his particular findings.

15 Before we get there, at the time, there was --
16 your son was -- also had a LERA complaint.

17 MR. P. [REDACTED]: Yes, Your Honour.

18 THE COURT: Has that been withdrawn?

19 MR. P. [REDACTED]: He, he got sick. It's not
20 withdrawn but he couldn't resume the court.

21 THE JUDGE: Pardon?

22 MR. P. [REDACTED]: He could not come to the court
23 today because he was sick.

24 THE JUDGE: He couldn't come because of why?

25 MR. P. [REDACTED]: He couldn't come to the court
26 today because of flu.

27 THE JUDGE: Because of?

28 MR. P. [REDACTED]: Flu.

29 THE JUDGE: Flu.

30 MR. P. [REDACTED]: He, he was sick.

31 THE JUDGE: Okay. At one time, according to the
32 documents I read, he withdrew his complaint.

33 MR. P. [REDACTED]: In other matter. Not this matter.

34 THE JUDGE: Not this matter. Okay. So that's

1 what we have to determine now, what matter we're talking
2 about --

3 MR. P. [REDACTED]: Yes, Your Honour.

4 THE JUDGE: -- and, and so we can deal with that.
5 Okay. I'll hear you then.

6 MR. P. [REDACTED]: Yes, Your Honour.

7 THE JUDGE: I have, as I say, read the, the
8 documentation and the, and the letter sent to you by the
9 commissioner dated February 13th of 2013.

10 MR. P. [REDACTED]: Yes, Your Honour.

11 THE JUDGE: Okay.

12 MR. P. [REDACTED]: Yeah. Yeah.

13 THE JUDGE: Okay, Mr. [REDACTED], we'll hear from you.

14 MR. P. [REDACTED]: Yes, Your Honour. Your Honour,
15 this is the case of unreasonable search and seizure, and on
16 the police part, they raided our, our house without search
17 warrant, and it was all the documenting, we have evidence
18 to back up because I just want to go through the new
19 information, I just filed it. We, we were in an
20 examination for discovery on June 20th and 21st, and it was
21 established that time police admitted. I filed those -- a
22 transcript with the court already. They admitted that they
23 raided our house without search warrant at that time when
24 we're there, even though we requested several times about
25 the search warrant. We wanted to see it or at least what's
26 happening, but it, it didn't happen that way.

27 And then our request to speak with our counsel
28 was ignored and rejected at that time, even though we
29 requested several times that we would like to speak with
30 our counsel.

31 And, and thirdly, they -- when they were going to
32 destroy our property, I had requested close by the officer
33 that there is no need to go through that hassles. We have
34 a remote control in the kitchen. Could you relay this

1 message to your colleagues that all they have to do, press
2 the button and the doors will be open, make it easier for
3 themselves and for us, too. And they, they didn't. That,
4 that -- they said have their own way. I can't do anything.
5 So that was a deliberate attempt on the part of police to
6 destroy. They were on a destroy mission to us.

7 So, we, we -- for, for -- to back up all my
8 claim, I have this transcript. I think you must have read
9 that or seen it. I filed it recently, and it was admitted
10 by them of their wrongdoing in a, in a recent examination
11 for discovery because I have a separate statement of claim
12 against the police, and we are dealing with it right now.
13 Yes, sir.

14 So I think that this is a case of a severe breach
15 of our Charter rights under section 8, 9, 10 and 15(1) of
16 Charter of Rights and Freedoms. Yes, sir.

17 There was a whole -- almost -- it seemed like the
18 whole Winnipeg Police was at our place just to apprehend
19 one person, so we feel that what they did, that, that was
20 our last day of Ramadan, we are Muslims, and this was a
21 premeditated plot by the police against us, so they, they
22 wanted to make sure we are humiliated.

23 And the next day was our Eid day, which we had to
24 serve in, in the jail, and we couldn't resume our
25 congregation next morning, [REDACTED], because of the
26 negative media by CTV, and the Free Press, all the places.
27 Due to the humiliation and all this negative publicity, we,
28 we could not even join our congregation that -- which was
29 very important for us.

30 Your Honour, they destroyed our lives now, in our
31 neighbourhood, in our community and in -- with our
32 associates because they are beginning to think, you know,
33 there must be something that -- terrible we, we have done,
34 which, which is not the case because we were given those

1 charges, about 11 charges, when we were released from
2 Public Safety Building.

3 By that time, when we went to attend the court,
4 we were told there is no such your names here. There are
5 no charges we can see. So then later on, the prosecutor
6 sent us, in writing, all those charges. They say we are
7 not going against you people. So this, this was a very
8 important information for you to note, sir.

9 We wanted to get the transcript of this incident.
10 We were told in the transcript department that there is no
11 such a record or whatsoever. Yes, sir.

12 And so recent -- and the recent discovery could
13 speak for itself now, that they try to do some cover-up on
14 certain things which, which were disclosed now in our
15 transcripts, and they admitted it. For example, we've been
16 asking that some money was missing in our black safe. All
17 along, they were saying, well, there was only one safe. We
18 returned it. But at the discovery, when I examined the
19 officer, and he admitted it, he said yes, there was another
20 black safe, and we, we seized it, and it was never
21 recorded. It was never recorded by the police until, you
22 know, the time of discovery, it was revealed by police and
23 admitted that that's right, there was a black safe was also
24 seized, and because we had the money, about \$950, plus iPad
25 in that safe. So police never gave us any inventory
26 whatsoever.

27 And when we came back from Public Safety
28 Building, our house was ransacked. It seemed like it was a
29 tornado hit this house, and we have all the pictures here,
30 we took it right away when we -- it's about 80 pictures
31 here. The whole house was ransacked, Your Honour, yeah.
32 It took us almost a half-day to organize the house. It was
33 turned upside down. They destroyed it. And later on we
34 had to spend about \$3000 for the damage, what they caused

1 it to, to our house. Yes.

2 So I think this is example of police over-reacted
3 and crossed the boundary of their jurisdiction in dealing
4 with this matter, and that needs to be considered because
5 we haven't done anything wrong, including my, my minor son
6 who was let stand in a full view of neighbourhood for,
7 for three hours, in open view, including minor son, with
8 they were handcuffed. The whole family was handcuffed and,
9 and standing there, on, on the highway. So they wanted to
10 make sure all neighbourhood can view it.

11 And then they went to door-to-door to our
12 neighbourhoods, the police, and they were telling them,
13 leaving the impression something extreme is going to
14 happen, go to the basements. So the neighbourhood was very
15 scared. They were giving the impression that there's some
16 type of terrorism is going to happen, or there'll be a
17 stand-off.

18 Your Honour, for the last 41 years of residency
19 in Canada I never had such a situation before in my life,
20 yeah, and never had a stand-off with the police. You could
21 check my record of past 41 years for residency. And I
22 don't know why they wanted to give this impression to, to
23 the media and to the neighbourhood to destroy our lives.

24 Our lives are shattered now. We can't -- with
25 the humiliation, we can't face our own community because
26 they had made up their mind. They say the whole police, at
27 least 20, 30 police officers, don't come some place for
28 nothing, so they made up their mind already. In the
29 neighbourhood, wherever we go, and to my associates, they
30 are keep asking about that situation, even now, what
31 happened, and why this thing happened, you know, what did
32 you do, all this, and why you all people were arrested, and
33 why all kind of media publication. So we can't convince
34 them because of this whole negative publicity against us.

1 And, and I think this was a premeditated plot
2 because of our past complaint against the police because
3 we, we complained against them about their wrongdoing
4 against us in the past. We went to the Human Right
5 Commission, and the LERA and the professional standards
6 unit. So that, that was their reprisal, that's, that's
7 what we feel very strongly, against us. Yeah. So this is
8 about the breach of our Charter rights, sir, yeah. That's
9 what happened with us. And this is a short story.

10 And you could check in all the record, and it
11 will speak for itself now, that they have no -- they, they
12 don't have any reasonable ground to go after a whole
13 family, and humiliate and destroy them on their very sacred
14 day. Especially, this was Ramadan and Eid when they did
15 that. They could have come earlier or a little later.
16 They didn't have to pick that day, especially, but they
17 picked that day to, to -- especially, so that they thought,
18 we will go, (inaudible) congregation, and then we meet our,
19 our friends and associates in the community, so that we
20 could be humiliated, so we couldn't go there as a result of
21 this situation.

22 And so this, this is the briefer description of
23 what happened to us, Your Honour.

24 THE JUDGE: Okay. Anything else?

25 MR. P. [REDACTED]: And so I think I have covered the
26 main, main --

27 THE JUDGE: Okay.

28 MR. P. [REDACTED]: -- things, yes.

29 THE JUDGE: Okay. Good.

30 MR. P. [REDACTED]: Yes.

31 Mr. McKenna?

32 MR. MCKENNA: Thank you, Your Honour. By way of
33 clarification, I wonder if you could clarify for me if I'm
34 just responding to the application filed by Mr. [REDACTED]

1 [REDACTED]?

2 THE JUDGE: Yes.

3 MR. MCKENNA: Thank you. Your Honour, I know
4 you've read the briefs and it's not my intention to go
5 through them in great detail. I'm not going to go through
6 the, the test, except just to, just to identify for you
7 that in Mr. [REDACTED] materials he provides a case
8 that as decided back when the test was different, when they
9 were using Pushpanathan and cases like that, where there
10 was actually a finding of mixed fact and law. It would be
11 a test of correctness that has evolved into the test that
12 we have now that was led by the Dunsmuir case, and so we no
13 longer have that distinction where you, you almost dance on
14 the head of a pin, trying to figure out if there is any
15 fact inside the, the argument, and if there is, maybe it's
16 a test of correctness.

17 Instead, in issues like fact, and, and, and law,
18 it is now a test of reasonableness, and that's what's set
19 out in our materials. So the case provided by Mr. [REDACTED]
20 has now been replaced by this, this new law coming out of
21 the Supreme Court of Canada, and which has been adopted by
22 some of your -- several of your brother and sister judges
23 over the last few years.

24 At page 9 of our materials, we addressed much of
25 what Mr. [REDACTED] addressed to you just now, Your Honour, and
26 I was just trying to take notes very, very quickly from
27 what Mr. [REDACTED] was, was, was telling you in his opening
28 remarks, that there was some -- a suggestion that this new
29 information, which an exam for discovery, transcripts, that
30 is, indicate that there is an admission that the search was
31 done without a search warrant. I believe that's what Mr.
32 [REDACTED] said. I wasn't a hundred percent sure. I took the
33 notes as quickly as I could. And that's all been addressed
34 by the commissioner. The fact is that the officer that had

1 the warrant left it on the kitchen table and that the
2 officers that were then given custody of Mr. [REDACTED] gave him
3 a copy of the search warrant at the station because they
4 did not have one.

5 They are what they call the turn-over crew. And
6 it's, it's a procedure that's been developed by the
7 Winnipeg Police Service, whereby they send in the tactical
8 support team. They clear the house. There are no other
9 officers allowed in. The searching officers, the officer
10 in charge of, of the search warrant, none of them are
11 allowed in. They're not allowed into the house. Only the
12 tactical support team. And then the -- a copy of the
13 search warrant is left in the kitchen. When they say the
14 house is cleared, then the other officers can come in. And
15 the officer that spoke to Mr. [REDACTED], I think the
16 commissioner quite rightly concluded that he did not have a
17 copy of the search warrant and advised that he would get
18 one at the station, and in fact that's what did happen.

19 The -- Mr. [REDACTED] says that he was denied access
20 to a lawyer. The officers are not about to -- I believe
21 this officer didn't have a cell phone, but if he did,
22 they're not about to give their cell phones to people that
23 are in their custody to make calls to the lawyers, and so
24 what they did is they gave him his call at the station, and
25 the commissioner so found.

26 The third thing that I, I was writing my notes is
27 that there was some comment about the garage being opened
28 with force, and the explanation given to the commissioner
29 was that the, the team did not know if anybody would be in
30 the garage and if they would be armed, and so they have
31 their own methods of, of entry into these types of
32 buildings, and the person that Mr. [REDACTED] was talking to was
33 not part of the tactical team, and he is instructed, as is
34 everybody else that is not part of the team, to stand

1 clear. And so he had explained to the commissioner that
2 the tactical unit has their own methods of dealing with
3 these entries for officer safety purposes, and that's,
4 that's the way it was dealt with, and the commissioner was
5 satisfied with, with that explanation.

6 While it seemed like there were a lot of people
7 at the house, it is a standard procedure in the
8 circumstances like that, because this what they call a high
9 risk entry, and you, you just don't know what's going to
10 happen. In fact, one of the things that happened is the
11 son ran out the door with a box with a sawed off shotgun in
12 it. Nobody accepted that to happen, and you have to be
13 ready for those sorts of things, and they don't know what
14 would happen, or whether anybody else has any weapons.

15 Mr. [REDACTED] is, is saying, in his appeal materials,
16 in his application for review materials, that this was done
17 to humiliate them because they're Muslim, and I'm going to
18 invite you, Your Honour, to have a look at page 38 of the
19 LERA file. That would be -- there, there are -- it, it
20 came in bundles for me and I don't know if it did for you.
21 It's the main LERA file. And if you're looking at page 38,
22 you're looking at occurrence reports, which are typed
23 notes, and on page 38 summarizes the question and answer he
24 has with Mr. [REDACTED], in which he asks him specifically what
25 is the discrimination that occurred here, and Mr. [REDACTED]
26 says that it was motivated by the fact that there had been
27 involvement with police which had been ongoing for a few
28 years. He had sued the police and made complaints to LERA,
29 and in his opinion, the action taken by police leading to
30 this complaint is reciprocal, and they are picking on him.

31 So when it was his opportunity to say what, if
32 any, discrimination there was, he said it was that they
33 were being picked on because they had sued the police. Now
34 we hear, in these materials, that it's because they're

1 Muslim, and it's, it's not something the commissioner would
2 have investigated because it's not something that was
3 raised by Mr. [REDACTED].

4 Your Honour, as you know, the -- and if you've
5 taken the opportunity to look at the transcripts of the
6 exam for discovery, we, we say that they are inadmissible.
7 We, we adopt the argument that has been put forward by the
8 commissioner's counsel with the, with the case law of the
9 commissioner, and that argument is found at page 10 of the
10 commissioner's brief, and looks at the two exceptions to
11 the rule, that in a judicial review, you don't look at
12 anything but the record. The two exceptions are where the
13 affidavit could be admitted only where necessary to prove
14 error going to jurisdiction, which cannot be proved on the
15 record. For starters, there's no argument of jurisdiction
16 here, and so we don't even get to whether or not this would
17 help to prove an error of jurisdiction. The second
18 exception that's at page 10 of the commissioner's brief
19 would be that the evidence could be admitted to prove an
20 error of procedural fairness that can't otherwise be proved
21 from the record. Those two exceptions are the exceptions
22 that have been adopted by the Court of Appeal of Manitoba.

23 We were not told what these exam for discovery
24 transcripts were supposed to show, but whatever they're
25 supposed to show, they certainly don't fall within those
26 two exceptions. We're now hearing from Mr. [REDACTED] that they
27 show an admission of a breach of Charter rights. Your
28 Honour, you know what exam for discovery transcripts are
29 used for, and if you had taken the chance to read these, of
30 course you know that they don't admit to having breached
31 any Charter rights, Your Honour. They talk about the sorts
32 of things that I just finished talking to you about, which
33 is things about how the search warrant was left on the --
34 in the kitchen, on the table, and then a copy was given to

1 Mr. [REDACTED] as soon as they arrived at the station. They
2 talk about how Mr. [REDACTED] was provided with a call to a
3 lawyer upon arrival at the station, and of course the other
4 thing is that I know that there was some, some mention in
5 the materials that there was, there was no charge and
6 caution, and of course the charge and cautions show up
7 numerous occasions in the materials and the commissioner
8 commented on that, as well.

9 So although we take the position, as you know
10 from our materials, that the exam for discovery transcripts
11 ought not to be admitted, if you were to admit them, we say
12 that they don't prove anything, and, and actually what,
13 what you're looking for is whether or not they prove that
14 the commissioner erred. We don't believe that they do
15 that. They address everything that the commissioner
16 addressed, and that he analyzed in detail in his letter,
17 which we call the section 13 letter, which was sent to the
18 complainant.

19 Your Honour, the, the last thing I want to
20 mention is that, that there is a suggestion by Mr. [REDACTED]
21 that the search warrant was improper, and of course it
22 would be contrary to everything we know about the justice
23 system if, for starters, the search warrant would not be
24 challenged in, in the trial of young Mr. [REDACTED], and
25 instead of even having a trial and challenging, Mr. [REDACTED]
26 [REDACTED] pled guilty, and pled guilty with regard to having
27 possession of items that were obtained through the search
28 warrant, and then Judge Garfinkel, when listening to the
29 guilty plea, also ordered the forfeiture of the items that
30 were, that were seized on the basis of this search warrant.

31 It, it's almost a -- I, I, I think back to times
32 when we used to argue cases like abuse of process. It, it
33 would almost be -- or bring the system of justice to
34 disrepute in some way that you have an individual out there

1 who has pled guilty on the strength of a warrant, and then
2 for a complainant/appellant in a, in a, in a matter like
3 this to ask you to declare that the -- there, there is
4 something defective about that warrant.

5 And the time was during the processing of the
6 criminal charge to challenge the warrant, and, and from the
7 reading of the materials, you will know that the
8 commissioner, during the course of the processing of this,
9 advised the [REDACTED] that if they were taking issue with the
10 search warrant, that they ought to do so through the
11 processing of the criminal charges.

12 I believe I've covered everything that Mr. [REDACTED]
13 said in his material.

14 THE JUDGE: The only other thing that you did
15 mention --

16 MR. MCKENNA: Yes.

17 THE JUDGE: -- that you haven't dealt with is
18 about the safe. There was another safe that was --

19 MR. MCKENNA: Ye.

20 THE JUDGE: Yeah.

21 MR. MCKENNA: The, the safe was opened and found
22 to be empty. I'm, I'm, I'm afraid I don't understand what
23 Mr. [REDACTED] point was. It was opened. There were, there
24 two of them.

25 THE JUDGE: Yes.

26 MR. MCKENNA: There was a lock box. The lock box
27 had \$2500, had a couple of other items, and it -- they were
28 returned to Mr., I believe it's [REDACTED].

29 MS. [REDACTED]: [REDACTED], [REDACTED].

30 MR. MCKENNA: [REDACTED].

31 MS. [REDACTED]: (Inaudible)

32 MR. MCKENNA: I'm sorry. [REDACTED] --

33 THE JUDGE: Yes.

34 MR. MCKENNA: -- who signed for them.

1 MS. [REDACTED]: Yes.

2 MR. MCKENNA: And then there was the safe, which
3 was opened. It was found to be empty.

4 MS. [REDACTED]: No.

5 MR. MCKENNA: And, and --

6 THE JUDGE: Yeah.

7 MR. MCKENNA: -- that was left at that. I'm,
8 I'm --

9 MS. [REDACTED]: That was my safe.

10 MR. MCKENNA: I'm afraid I don't understand what
11 the point is and, and --

12 THE JUDGE: Okay. I, I, I take it the allegation
13 is that it wasn't empty.

14 MR. MCKENNA: Oh, oh, I understand that.

15 THE JUDGE: Yeah.

16 MR. MCKENNA: I just don't understand the -- I
17 understand that part.

18 THE JUDGE: Yeah, okay.

19 MR. MCKENNA: There was, there was something
20 there about how they denied --

21 THE JUDGE: Yeah.

22 MR. MCKENNA: -- something about the safe.

23 THE JUDGE: Yeah.

24 MR. MCKENNA: What they've always denied, Your
25 Honour, and you're quite right, thank you for pointing that
26 out, is that there was 900 to \$950 is what they had said,
27 and I believe an iPod.

28 THE JUDGE: Okay.

29 MR. MCKENNA: And they've always denied that.
30 They've always taken the position that that safe was empty.

31 THE JUDGE: Okay. Yes.

32 MR. MCKENNA: And unless you have any questions,
33 Your Honour --

34 THE JUDGE: Okay.

1 MR. MCKENNA: -- that's my comments.

2 THE JUDGE: Anything that you wish to add, Mr.
3 [REDACTED]?

4 MR. P. [REDACTED]: Yes, Your Honour. That's a
5 defence that, that there is always this -- sorry. They
6 said put the search warrant in our kitchen, but when we ask
7 especially that officer [REDACTED] (phonetic) that do you
8 leave any such warrant any place, he says no. So I don't
9 where did they get that, that they left the search warrant
10 in the kitchen. There was no such a thing when we came
11 back from jail. We could not find any paper there.

12 And for, for the sake of argument, even if they
13 left it, then why did they not tell me at the Public Safety
14 Building that don't worry, when you go home, there is a
15 search warrant sitting on your kitchen table? Why did they
16 prepare it at that time and gave it to me then when --

17 THE JUDGE: Well, you got one at the station, did
18 you not?

19 MR. P. [REDACTED]: At the next day. Next day.

20 THE JUDGE: Okay.

21 MR. P. [REDACTED]: Next day. All night, when we
22 stayed in the jail, the next day, after I talked to my
23 counsel, I, I (inaudible), and I (inaudible) the counsel,
24 do you have a paper and a pen ready, I want to explain to
25 you that until now, it was almost one o'clock in the
26 morning, I've been asking for search warrant, and the badge
27 number of the officer, I am not being supplied that, and
28 she says all right, I'm going to make a note of that.

29 And when the officer came back after my
30 termination of the call, I explained to the officer I
31 already told my counsel that I, I am not being provided
32 search warrant and your badge number. And then after he
33 -- half an hour later, he came back, about two o'clock, and
34 he provided with search warrant.

1 And the search warrant was invalid, too. Search
2 warrant said only that this was issued for [REDACTED].
3 It didn't say that the whole family has to be detained and
4 arrested. Yeah. There was no such thing in the search
5 warrant. I have the copy of the search warrant here. And
6 there was no reason for the whole family to, to go through
7 hell, especially when we are preparing for Eid the next
8 morning. We were so happy that day because end of Ramadan.
9 It was the day, very important. And they didn't have to --
10 they could deal with the, the person for the search warrant
11 is issue for, yeah, if they have any concern, but why the
12 whole family, including minor, had to go through all this
13 hell? That's our question to the system and the judge.

14 And they are keep emphasizing the section 13.
15 Your Honour, section 13 doesn't say that the police has
16 authority or the government has authority to go through, go
17 to the innocent people and destroy their property, and
18 their reputation and their name because section 13.
19 Because defence is keep emphasizing section 13. The
20 commissioner has authority under section 13. But section
21 13 has to be reasonable, too. Every law has to be
22 reasonable to apply to the citizens. It is not that --
23 because -- just because they have authority, so they can
24 just abuse their authority and go after the people if they
25 don't like them. So section 13 is misinterpreted. Yes,
26 sir.

27 THE JUDGE: Okay. Thank you, sir.

28 MR. P. [REDACTED]: Yes.

29 THE JUDGE: I have, have all the material, I
30 think, now. The one question I'm going to ask, and, and it
31 may not be relevant, but I haven't received a transcript
32 that he's referred to. Have you received those?

33 MR. P. [REDACTED]: Yeah, they have, sir.

34 THE JUDGE: Okay. And have you received those?

1 MR. JOHNSTON: I have, Your Honour.

2 THE JUDGE: They -- were --

3 MR. JOHNSTON: I believe it's the, the transcript
4 of an -- the exam for discovery of three police officers in
5 June, as part of the civil suit.

6 THE JUDGE: Yes. Okay.

7 MR. JOHNSTON: And I thought, I thought a copy
8 was sent by Mr. [REDACTED] to the court.

9 THE JUDGE: No, I don't believe it was.

10 MR. P. [REDACTED]: Oh. I, I --

11 THE JUDGE: Therefore, as I say, how -- what part
12 it plays I'm not deciding yet, but I do think I should have
13 a copy of that.

14 MR. P. [REDACTED]: Yes, sir, we have that here.

15 THE JUDGE: Okay.

16 MR. P. [REDACTED]: Yes, sir.

17 THE JUDGE: You, you didn't send it to the court.

18 MR. P. [REDACTED]: I send it to the court, yes, yes.

19 MS. [REDACTED]: We did. I, myself --

20 MR. P. [REDACTED]: Yeah.

21 MS. [REDACTED]: -- you know, came here and with
22 everything.

23 MR. P. [REDACTED]: Filed it.

24 MS. [REDACTED]: Filed it.

25 THE JUDGE: Did it go through your office, do you
26 know?

27 MR. JOHNSTON: A copy was sent to my office, Your
28 Honour, but I didn't forward it to the court. I was under
29 the impression that Mr. [REDACTED] did.

30 THE JUDGE: Okay.

31 MR. P. [REDACTED]: Yeah.

32 THE JUDGE: Well, I'll check on that.

33 MR. P. [REDACTED]: You could check on it.

34 THE JUDGE: But, but, but if I haven't got it, I

1 will go to Mr. Johnston --

2 MR. P. [REDACTED]: No, I will, I will provide it
3 tomorrow.

4 THE JUDGE: Okay. But I can, I can get -- you
5 don't have to provide it. If you've already provided it --

6 MR. P. [REDACTED]: I already provide it.

7 THE JUDGE: -- I will find it.

8 MR. P. [REDACTED]: Yes, sir.

9 THE JUDGE: And, and --

10 MR. P. [REDACTED]: It's worth looking at.

11 THE JUDGE: -- look at that.

12 MR. P. [REDACTED]: Yes, Your Honour.

13 THE JUDGE: And we'll go from there.

14 Now, having said that, the issues that have been
15 raised by you I will examine, and on the basis of your
16 submission, but the, the -- I'm not dealing with the [REDACTED]
17 thing.

18 MR. P. [REDACTED]: Yes.

19 THE JUDGE: He was supposed to be here.

20 MR. P. [REDACTED]: Yes, Your Honour.

21 MS. [REDACTED]: Yes.

22 THE JUDGE: Okay? And so that particular
23 complaint is dismissed, okay? But I will deal with the
24 issues dealt with by Mr. --

25 MR. P. [REDACTED]: [REDACTED].

26 THE JUDGE: [REDACTED].

27 MR. P. [REDACTED]: Yes. Yes.

28 THE JUDGE: And all the issues that have been
29 raised there.

30 MR. P. [REDACTED]: Yes.

31 THE JUDGE: And, and I will look into the
32 transcript matter myself.

33 MR. P. [REDACTED]: And the --

34 THE JUDGE: If I haven't got it, I will get a

1 hold of you, but if you filed it --

2 MR. P. [REDACTED]: Yes, I filed it.

3 MS. [REDACTED]: Yes, I was here to file everything,
4 and then I went to deliver those papers to Mr. Johnston and
5 to Mr. McKenna.

6 THE JUDGE: It, it sounds reasonable. It sounds
7 reasonable.

8 MR. P. [REDACTED]: In person.

9 THE JUDGE: I will, I will check that out. My
10 clerk will look into that.

11 MR. P. [REDACTED]: Yes, Your Honour.

12 THE JUDGE: And we'll find it, and if I don't
13 have it, I'll let you know.

14 MR. P. [REDACTED]: And the black safe matter --

15 THE JUDGE: Okay?

16 MR. P. [REDACTED]: -- needs to be looked at, too,
17 black safe.

18 MS. [REDACTED]: That was my safe.

19 MR. P. [REDACTED]: Yes.

20 MS. [REDACTED]: And, Your Honour, there was money,
21 and [REDACTED] SIN card, and his registration. Everything
22 was in that safe, and that was my safe. And they're saying
23 that it was empty.

24 MR. P. [REDACTED]: Empty.

25 MS. [REDACTED]: No, it was not empty. I have
26 proof --

27 THE JUDGE: There was something in the, in the
28 material about the SIN card being returned.

29 MS. [REDACTED]: It as returned after --

30 THE JUDGE: Okay.

31 MS. [REDACTED]: -- when he was released, but at that
32 time it was in the safe --

33 THE JUDGE: Okay.

34 MR. P. [REDACTED]: Yes.

1 MS. [REDACTED]: -- and the money that was owned by me
2 and this thing, and I even talked to the -- that St. James
3 office where they store everything, and they said yes, we
4 have seized everything from that safe, and the same with
5 the (inaudible). We took the picture, we took everything,
6 and we gave to everybody, even to the court, everything.
7 And in that time the officer said yes, there was black
8 safe, and the items from the black safe was seized and took
9 to that St. James office where the storage is.

10 MR. MCKENNA: Your Honour, if I could just
11 clarify, the -- if you look through the materials, you'll
12 find that the -- they indicate that the SIN card and the
13 monies were in a lock box --

14 MS. [REDACTED]: That was not.

15 MR. MCKENNA: -- which is different from the
16 safe.

17 MS. [REDACTED]: That box was --

18 MR. MCKENNA: They've always, they've always
19 maintained that the safe --

20 MS. [REDACTED]: Okay. I will --

21 MR. MCKENNA: -- was empty.

22 MS. [REDACTED]: no, no, that is a safe. It's not a
23 lock box. It's a big, black safe.

24 THE JUDGE: Okay.

25 MS. [REDACTED]: Yes, sir. And it's so heavy, that
26 you look at the fireproof ones, those ones. Those are the
27 big safe.

28 THE JUDGE: Okay.

29 MS. [REDACTED]: It's not a small lock box that you
30 can -- no, no, no. I have the pictures. And I have the
31 pictures, too, that Mr. McKenna said that left that search
32 warrant on our counter in the kitchen. We have a very
33 small counter. There's no -- nothing -- I have a picture
34 here.

1 THE JUDGE: Okay.

2 MS. [REDACTED]: You can see there's no paper on
3 there. There's only the items what they threw out in the
4 kitchen.

5 THE JUDGE: Okay. I'll adjourn sine die on this
6 matter, and I will review the matter, and a decision will
7 be made.

8 MR. P. [REDACTED]: And Your Honour, (inaudible).

9 THE CLERK: Your Honour, it's number 1, for the
10 LERA complaint number 185 is dismissed?

11 THE JUDGE: I, I can't tell. They wipe, they
12 wipe out the name. It's --

13 MR. P. [REDACTED]: No, no, 185 is this, but not 180.

14 THE JUDGE: Yes. Oh, I'm sorry, that -- we --

15 MS. [REDACTED]: [REDACTED].

16 MR. P. [REDACTED]: We, we are dealing with 180.

17 MR. MCKENNA: Yes. This is 180. This is -- 185
18 is the one you've dismissed because [REDACTED] was not here.

19 THE JUDGE: Okay. Does that help you, Madam
20 Clerk? So it's number 1 has been dismissed. This one has
21 been adjourned sine die for a decision.

22 Okay. Thank you.

23 MR. P. [REDACTED]: Thanks.

24

25 (PROCEEDINGS ADJOURNED SINE DIE)

CERTIFICATE OF TRANSCRIPT

I hereby certify the foregoing pages of printed matter, numbered 1 to 20, are a true and accurate transcript of the proceedings, transcribed by me to the best of my skill and ability to understand.

COURT 

IN THE MATTER OF: Law Enforcement Review Act
Complaint # 2011-80

AND IN THE MATTER OF: An Application Pursuant to s. 13
of The Law Enforcement Review Act
R.S.M. 1987, c. L75

BETWEEN: [REDACTED],
(Complainant)Appellant,
- and -
CST. [REDACTED] and P/SGT [REDACTED],
[REDACTED] Respondents.

IN THE MATTER OF: Law Enforcement Review Act
Complaint # 2011-185

AND IN THE MATTER OF: An Application Pursuant to s. 13
Of The Law Enforcement Review Act
R.S.M. 1987, c. L75

BETWEEN: [REDACTED],
(Complainant)Appellant,
- and -
SGT. [REDACTED]
[REDACTED]
[REDACTED] Respondents.

TRANSCRIPT OF PROCEEDINGS, before The Honourable
Judge Guy, held at the Law Courts Complex, 408 York Avenue,
in the City of Winnipeg, Province of Manitoba, on the 4th
day of September, 2013.

APPEARANCES:

MR. P. [REDACTED], in person
MR. D. [REDACTED] TON, for the Commissioner
MR. P. MCKENNA, for the Winnipeg Police Association

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