

1 SEPTEMBER 2, 2014

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3 THE CLERK: This court is now open; Judge
4 Heinrichs presiding. You may be seated.

5 MR. JOHNSTON: Good morning, Your Honour.

6 THE JUDGE: Good morning everyone.

7 Just for the record perhaps if everybody
8 identifies themselves so it's on the recording.

9 MS. SOLDIER: Yes. Good morning, Your Honour.
10 It's Soldier, first initial S. for the monitor appearing
11 for Mr. [REDACTED].

12 MR. MCKENNA: Paul McKenna for the respondent
13 officer, Your Honour.

14 MR. JOHNSTON: And Devon Johnston for the
15 commissioner of LERA, Your Honour.

16 THE JUDGE: And there's a motion before THE JUDGE
17 but before we deal with that I don't see, is it
18 [REDACTED]?

19 MS. SOLDIER: Yes.

20 THE JUDGE: Is that how you pronounce it?

21 MS. SOLDIER: Mr. [REDACTED].

22 THE JUDGE: I don't see him here and you've lost
23 contact with him and he's not here and --

24 MS. SOLDIER: That is correct.

25 THE JUDGE: -- nobody's heard from him at all?

26 MR. JOHNSTON: I don't believe that the agency
27 has had any contact with Mr. [REDACTED].

28 THE JUDGE: Not in the last recent past?

29 MR. JOHNSTON: Yeah, I'm, I'm just being told by
30 my client that LERA has made some inquiries to try to
31 locate Mr. [REDACTED]. They've not had any success.

32 MR. MCKENNA: Your Honour, he has not contacted
33 me, Paul McKenna for the record.

34 THE JUDGE: And perhaps the police have him under

1 surveillance again for different reasons.

2 MS. SOLDIER: I'm not sure.

3 Yes, Your Honour, I, I don't think I have to
4 expand more in terms of what I laid out in the motion in
5 the affidavit. Simply put, Mr. [REDACTED] was aware of
6 this date last fall when it was set. We had, as I
7 indicated, we had some conversation with respect to the
8 date and the fact that materials needed to be sent to me.

9 Materials were sent to me. I had a chance to
10 review them and when the date was coming upon us for
11 materials to be in, I contacted Mr. [REDACTED] at Milner
12 Ridge at the end of July. I was advised that he had
13 actually been released from custody in May and I -- Mr.
14 [REDACTED] and I did have a conversation that if his
15 release date came prior to this hearing date he would need
16 to -- it was his responsibility to contact me and provide
17 me with contact information as to where he, where he would
18 be residing.

19 THE JUDGE: I take it the others have no position
20 on Ms. Soldier's request to withdraw as counsel and I'll
21 grant that --

22 MS. SOLDIER: Thank you.

23 THE JUDGE: -- permission.

24 MS. SOLDIER: Your Honour, I do have all the
25 materials and I'm just wondering if perhaps I should return
26 them to my friend's office or --

27 THE JUDGE: You could keep them on your file for
28 file purposes.

29 MS. SOLDIER: Okay. I, I will.

30 THE JUDGE: I don't see that it'll do anything
31 other than stay with them or, or go anywhere at this point
32 in time.

33 MS. SOLDIER: All right. I shall do so. Thank
34 you, Your Honour. Good morning.

1 THE JUDGE: Thank you. It's now 9:37; nobody has
2 heard from Mr. [REDACTED] and it's his application.

3 MR. MCKENNA: Your Honour, I, if I might move to
4 have the matter dismissed for failure to appear and given
5 that the Act at Section 13(4) provides that the onus is on
6 the complainant to substantiate the nature of the
7 application.

8 THE JUDGE: And can we just page him one more
9 time?

10 MS. SOLDIER: If I may be excused, Your Honour?

11 THE JUDGE: Yes.

12 MS. SOLDIER: Thank you.

13 THE CLERK: [REDACTED] please attend to
14 courtroom 316. [REDACTED], courtroom 316.

15

16 (REASONS FOR JUDGMENT DELIVERED)

17

18 (PROCEEDINGS CONCLUDED)

CERTIFICATE OF TRANSCRIPT

I hereby certify the foregoing pages of printed matter,
numbered 1 to 3, are a true and accurate transcript of the
proceedings, transcribed by me to the best of my skill and
ability.

DARLA D. FORBES
COURT TRANSCRIBER

**IN THE MATTER OF: Law Enforcement Review Act
 Complaint No. 2011/248**

BETWEEN:

[REDACTED],

Complainant

- and -

[REDACTED],

Respondent.

TRANSCRIPT OF PROCEEDINGS, before The Honourable Judge Heinrichs, held at the Law Courts Complex, 408 York Avenue, in the City of Winnipeg, Province of Manitoba, on the 2nd day of September, 2014.

APPEARANCES:

MR. D. JOHNSTON, for the Commissioner

MS. S. SOLDIER, for the Complainant

MR. P. MCKENNA, for the Respondent

BAN ON PUBLICATION