

1 NOVEMBER 23, 2016

2

3 THE JUDGE: Good afternoon, gentlemen.

4 MR. JOHNSTON: Good afternoon, Your Honour. It's  
5 Devin Johnston appearing this afternoon.

6 THE JUDGE: Yes.

7 MR. JOHNSTON: For the Commissioner of LERA.

8 MR. MCKENNA: Paul McKenna for the respondent  
9 officers on all three matters.

10 THE JUDGE: Yes. Thank you. Which matter do you  
11 want to deal with first?

12 MR. JOHNSTON: I'm not sure if my learned friend  
13 has a preference. I take it that [REDACTED] is not in the  
14 courtroom at the moment so perhaps we could page [REDACTED]  
15 [REDACTED] to the courtroom.

16 THE JUDGE: Right.

17 MR. JOHNSTON: While we deal with the other  
18 matters.

19 THE JUDGE: Right. Is he in or out?

20 THE CLERK: [REDACTED] to courtroom 408. [REDACTED]  
21 [REDACTED] to courtroom 408.

22 MR. JOHNSTON: As far as I'm aware Your Honour  
23 he's not currently in custody although he was recently. If  
24 you'd like me to speak to that matter I'm certainly happy  
25 to.

26 THE JUDGE: Yes. Certainly, why don't you --

27 MR. JOHNSTON: You may recall when we last  
28 appeared before you, Your Honour, Mr. [REDACTED] was not in  
29 attendance and there was some confusion as to his  
30 whereabouts and particularly whether he was in custody.

31 Since that time I can indicate that the  
32 commissioner has provided two letters to Mr. [REDACTED] at  
33 different addresses. One of those, in a letter dated  
34 October the 31st, was sent by registered mail to an address

1 in Dauphin, Manitoba. That was the last address that the  
2 agency had --

3 THE JUDGE: Yes.

4 MR. JOHNSTON: -- had known. Subsequent to that  
5 letter being sent out, I was contacted by a judicial  
6 assistant, [REDACTED] (phonetic) who indicated that  
7 she was able to determine that Mr. [REDACTED] had recently been  
8 in custody in Thompson and was able to identify an address  
9 in Thompson where, where he may be located, that being [REDACTED]  
10 [REDACTED] in Thompson. And so on November the 10th a  
11 further letter was sent to Mr. [REDACTED] at that address.  
12 That -- the first letter that went to the address in  
13 Dauphin was sent by registered mail. And I can indicate  
14 that it was signed for by somebody at that address, not  
15 necessarily Mr. [REDACTED] himself, but somebody at that  
16 address did sign for it.

17 And with respect to the November 10th letter that  
18 was sent to Thompson, that has not been delivered and so as  
19 far as I'm aware what would have happened is they've put a  
20 delivery notice up on the door or in the mailbox to come  
21 and pick it up at the post office but so far that hasn't  
22 happened. Nobody has come to pick it up.

23 THE JUDGE: All right. It is 2:23. Mr. [REDACTED]  
24 has not answered to the page that was issued a few minutes  
25 ago before Mr. Johnston started speaking.

26 What's your position, Mr. McKenna?

27 MR. MCKENNA: Your Honour, I'd move to have this  
28 matter dismissed.

29 THE JUDGE: Any comment on that?

30 MR. JOHNSTON: We take no position, Your Honour.

31 THE JUDGE: All right. So the [REDACTED] matter  
32 will be dismissed then.

33 MR. MCKENNA: Your Honour, if I could ask for a  
34 continuation of a ban on publication pursuant to Section

1 13(4.1)?

2 THE JUDGE: Yes. That will be granted. Thank  
3 you.

4

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(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.

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DARLA D. FORBES  
COURT TRANSCRIBER

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**THE PROVINCIAL COURT OF MANITOBA**

IN THE MATTER OF:                   The Law Enforcement Review Act  
Complaint No.: 2015/152

**BETWEEN:**



**Complainant**

- and -

**XXXXX,**

**Respondent.**

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**TRANSCRIPT OF PROCEEDINGS,** before The Honourable Judge Rolston, held at the Law Courts Complex, 408 York Avenue, in the City of Winnipeg, Province of Manitoba, on the 23rd day of November, 2016.

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**APPEARANCES:**

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

**MR. P. MCKENNA,** for the Respondent