

SUPERIOR COURT OF JUSTICE

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JADE ELIZABETH THELWELL (a.k.a. NARAINÉ)

v.

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ATTORNEY GENERAL OF ONTARIO

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P R O C E E D I N G S

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BEFORE THE HONOURABLE JUSTICE J. MYERS
on October 18, 2018 at, TORONTO, Ontario

25

APPEARANCES:

Jade Thelwell a.k.a Naraine

In Person

A. Sinnadurai

Counsel for the Respondent

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Table of Contents

SUPERIOR COURT OF JUSTICE

TABLE OF CONTENTS

W I T N E S S E S

<u>WITNESS</u>	<u>Examination in-Chief</u>	<u>Cross- Examination</u>	<u>Re- Examination</u>
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E X H I B I T S

<u>EXHIBIT NUMBER</u>	<u>ENTERED ON PAGE</u>
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L E G E N D

- [sic] - Indicates preceding word has been reproduced verbatim and is not a transcription error.
- [ph] - Indicates proceeding word has been spelled phonetically.

THURSDAY, OCTOBER 18, 2018

...GREETINGS

5 THE COURT: All right. Let me just - before I call
on you each, let me get a couple of technical
things off my plate. The first is, I just want to
confirm to you that you brought the claim
originally as an application for judicial review
coming to the Divisional court.

JADE NARAINÉ: Yes.

10 THE COURT: We saw the Crown's factum and the panel
of the Divisional Court had the Registrar write to
you to say that the Crown's factum looked right,
that instead of being before the Divisional Court,
the proceeding you wanted to bring for - to require
15 the Crown to proceed with your private complaint
properly belongs before a single judge of the
Superior Court, which is why I am here alone today,
and then, as I understand from the Registrar, both
you and the Crown consented to your materials from
20 the Divisional Court being used today for the
criminal matter.

JADE NARAINÉ: Yes, Your Honour.

THE COURT: Fair? Mr. Crown, that's good?

MR. SINNADURAI: That's right, Your Honour.

25 THE COURT: Thank you. Now, the only other thing I
wanted to raise with you, Ms. Naraine - Naraine, is
I did get from you yesterday something called
omitted documents relied on...

JADE NARAINÉ: Yes.

30 THE COURT: ...and I - I read them, but as I got to
the last document, it was an email from your
criminal lawyer from April 15th, and the first

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Attorney General of Ontario

paragraph in it, your criminal lawyer is saying to
you, don't...

JADE NARAINÉ: Yes.

5 THE COURT: ...disclose privileged matters. Now,
it's your right as the client to decide if you want
to disclose privileged communications or not, but I
wanted to make sure you understood that you don't
have to disclose anything between you and your
lawyer. There could be much harm to disclosing
10 communications between you and your lawyer, and if
you've disclosed this communication inadvertently,
I'm quite happy to tear it out and give it back to
you.

15 JADE NARAINÉ: No, Your Honour. I had asked his
permission prior to this date...

THE COURT: All right.

JADE NARAINÉ: ...and he allowed me to use that
email.

20 THE COURT: So, you're content that you want the
memo from - or the emails between yourself and
Mr. Kayfetz that are in your book of omitted
documents...

JADE NARAINÉ: Yes.

25 THE COURT: ...to stay there.

JADE NARAINÉ: Yes. Thank you, Your Honour. Yes.

THE COURT: Madam Reporter, can you hear
Ms. Naraine? Are you able to hear her okay.

COURT REPORTER: I can hear her okay.

30 THE COURT: Yeah. Okay. Good. Okay. So,
Ms. Naraine, you're going to go first today, and
somewhere in your material, I did read that you -
you understand that what's before me today, under

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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the current law, you have to show that the Crown has done more than make a mistake. You've got to show they've really committed wrongdoing, and I know you understand that if you don't like the law, there is other places you can go to try to change it. I've read that you're considering that in your material, but I just want to make sure you understand that what I'm doing today is I'm not going to decide if the Crown is right or wrong. I'm not going to decide if I agree with them or if I would have done it. I will decide whether you have met - let - met the test to show that they're - that you're entitled to an order requiring the Crown to act as you say, and that requires a significant degree of wrongdoing to be proven. Okay?

JADE NARAINÉ: Thank you, Your Honour. Yes.

20
THE COURT: Do you have any questions about what I've said?

JADE NARAINÉ: No, Your Honour. Thank you.

25
THE COURT: Okay. So, the floor is yours, and so the way this is going to work, I'm going to hear from you, whatever you want to say. I will then hear from the Crown, and you will get the last word.

JADE NARAINÉ: Okay. Thank you.

THE COURT: Okay? You go ahead.

30
JADE NARAINÉ: So, I am here today seeking a judicial review of the Crown's and their decision to stay my sexual assault charges against my perpetrator...

THE COURT: Right.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

JADE NARAINÉ: . . . , which occurred on March 2nd, 2017. As you said, I know it's a high bar, and I have reviewed the law, but I'm hoping that by the end of today I will be able to meet that test. I'm seeking a - a *mandamus* - a *mandamus* to order the Provincial Crown's office to follow their statutory duties to allow me to bring forward my charges in a fair way by allowing me to use the private prosecution system for which it was intended, by allowing me to a fair pre-enquete hearing, allowing a justice of the peace to determine, based on my testimony, whether or not to issue a summons, so that I may put forward my sexual assault, so that my perpetrator can be held liable for his actions towards me. Section 5 of the *Crown Attorney's Act* states that every prosecutor before entering upon his - his or her duties shall take and subscribe before a Crown attorney on the following oath. I swear (or affirm) that I will truly and faithfully, according to the best of my ability, execute the duties, power and trusts of a provincial prosecutor in Ontario without favour or affection to any party. So help me God. The Crowns in my case have breached their declaration by only taking input from one more favourable side. I am a credible witness, and I had other credible witnesses and evidence which supported my testimony, but none of it was allowed to be heard by the justice of the peace because Sean Doyle voiced his opinion about me on the day that my witnesses and I were prepared to testify, based on both irrelevant and

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

inadmissible and even false, fraudulent information that was proved to him by the Toronto Police. Crown attorneys are able to exercise their broad discretionary power, unless it does contain oblique motive, offend the right to a fair trial or amount in an abuse of court process. A Crown attorney must act in good faith, be fair and impartial, and act with the highest ethical standards. Public prosecutions must be acted out with integrity and dignity. A Crown - a Crown must also adequately prepare for each case and not discriminate. In the duty to be fair, the Crown attorney must not express personal opinions on the evidence, including the credibility of - of witnesses, which would have been myself. From the beginning, the Crown attorneys expressed a severe and harsh personal opinion on my credibility, which severely hurt me and caused significant breach to the public trust. My psychologists, lawyers, witnesses and much of their public stated the concern with the Crown attorney's opinion and conclusions, based on no evidence even being heard, despite that it is an error in law to determine a person's credibility based on charges or issues which are irrelevant to the matter at hand. According to the law, the test for credibility in an adult victim is a determination of consistent testimony regarding the material facts related to the case. Crowns are not to make inflammatory comments, such as negative comments regarding the character of a witness, or make statements not supported by fact, as Sean Doyle did at the original pre-enquete hearing when

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Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 he stated that I was convicted of criminal
harassment without any evidence of my being ever
convicted. The duty of the Crown is not to convict
but to see that justice is done in a - and through
a - a fair and thorough trial on the merits. A
Crown is to uphold the law and not subvert it. The
original Crown Attorney, Sean Doyle, failed to do
any investigation. Further, following Crown -
10 further, the following Crowns were more focussed on
finding other reasons to protect Sean Doyle's
decision rather than allow me to showcase my
credibility. Sean Doyle did not speak to me nor my
lawyer. He did not hear from my witnesses and did
not speak to the nurses or doctors at the hospital
15 where I attended. He did not hear from my
witnesses and did not speak - and did not speak to
anyone. He - he had only spoken to the detectives
and members of the police who were already
protecting my perpetrator and their own negligence
20 when they neglected my case for over nine months,
and they wanted to any - to do anything that they
could to stop it from proceeding. Decisions must
be made judiciously, not on a whim or as a favour,
which lacks knowledge or evidence, and it was clear
25 that day that Sean Doyle had made his decision
probably that morning. The Crown's have
continuously stated that there is no reasonable
prospect of conviction but there was a reasonable
prospect. While there is no guarantee, the purpose
30 of a criminal prosecution is not to obtain a
conviction. It is to lay before a jury what the
Crown considers to be credible evidence, relevant

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 to that alleged crime, which - evidence of which I
had. The role of a prosecutor excludes any notion
of winning or losing. His function is a matter of
public duty, which, in civil life, can be - can be
none charged with greater responsibility. It is to
be efficiently performed with an engrained sense of
dignity. The seriousness and the justness of the
judicial proceedings. The Crown's were more
concerned about the fact that they wanted an easy
10 path to a conviction or else they were not willing
to allow me a fair chance. They must do these
duties absent of any political motive. Sean Doyle
was protecting police accountability, and it was
evident, and there were subsequent Crowns who kept
15 protecting one another and hoping that I would just
let it go. But it made me feel bad about myself
and those around me didn't think it was fair,
including other Crown's, such as Louise Collins,
the Crown attorney in charge of my harassment
20 charge, who gave my lawyer a look that it seems
ridiculous that they're blocking it just because I
was charged with harassment prior. As well as
public, other lawyers and other reputable people.
People are charged every day and charges are
25 withdrawn or people are acquitted, so why should a
woman not have a chance at justice when that's the
worst that can happen? The worst that can happen,
if my perpetrator was to be charged, was - would be
that he would defend himself. He would bring
30 forward his defence. The criminal lawyer would
present it to the Crown. If the Crown believed
that he had a strong defence, they would withdraw

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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the charge, or else if I had a fair chance at a trial, we would put it through. There was no reason to stay it. Everyone should be able to - to try at least to get justice. Prosecutors owe special duties of candor and respect to all victims. Prosecutors must display sensitivity, fairness and compassion in their dealings with the victims. I received no compassion from the Crowns but instead just cold responses. Sean Doyle, especially, seemed very judgmental towards me by - and making me feel bad about myself at the initial hearing. He was - he was looking at my - he was talking down about my character and looking at me like he knew I would never have justice. He was smiling and whispering and smirking a lot, and this hurt me because my perpetrator hurt me a lot, and I didn't know how it was funny, and I was also hurting a lot inside. Prosecutors must ensure that efforts are made and that victims are provided with all the relevant information that allows for a full and - for a full and fair participation in the criminal proceeding. Prosecutors also have an important role to play in identifying victims who may require assistance to fully access the criminal justice system or communicate their evidence to the court. However, I did not have any help from the prosecutors to communicate my evidence to the court. I was just simply blocked. The Crowns further interfered on an ongoing basis with targeting by pressuring other Crowns not to withdraw my false charges brought by my perpetrator after I reported my sexual assault, as well as

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5
10
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arranging for me to be falsely charged on January 25th, so that I could not attend my pre-enquete hearing with my lawyer. Last week the Crown ordered that the police falsely charge me for a letter that I sent to my perpetrator three months ago for a civil matter, so that I would miss today's judicial review. However, my lawyer, Danny Kayfetz attended the police station and showed my bail condition, which stated that I can communicate freely regarding my civil matters with my perpetrator, further informing her that there is an ongoing action against TPS, in which she should not involve herself in the false charges, in which the honourable detective closed her file and decided not to proceed with the charge.

THE COURT: Okay. So, sorry. I think you just said to me that the Crown...

JADE NARAINÉ: Yes.

THE COURT: ...precipitated that event.

20
JADE NARAINÉ: Yes, Your Honour.

THE COURT: Can you point me to the evidence that shows that?

JADE NARAINÉ: All I know is that - all I can say, if you will accept it...

25
THE COURT: Mm-hmm.

30
JADE NARAINÉ: ...is that I was sitting with my lawyer at his house going over my disclosure for another case in which he told me he just received a call from the police officer - or detective - Melanie Lantaigne, and she had stated to him that she didn't even really think that the - that this would be a breach because it looked like civil

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

litigation. However, the Crown has pressured her to place this charge, so I'm going to have to turn myself in, and my lawyer and I quickly tried to prepare anything that we could to kind of beg Melanie, please don't place this false charge. It's false, and if you do place it, we're going to have to add you to the TPS lawsuit because it's not fair, and, at which point, she looked over the evidence, and she decided not to place the charge. But, as you can see, Your Honour, even with that charge, there has been multiple breaches and charges like this that the police and the Crowns have buried on top of me that are similar false charges. For example, in April 2018, I was charged for sending a similar letter, and I was charged for a breach, and my - my bail conditions that I'm not supposed to send out a letter at that time, unless it's through legal counsel. So, we - my record label and I retained a lawyer to send out a notice regarding my civil matters, and the detective ignored the fact that we had a retainer agreement and proceeded with the charges anyway. However, once we got to the bail hearing, the - I was released with an even lesser restriction that I can now communicate with him directly because we didn't want any more false charges. So, it's been a lot of ongoing targeting.

THE COURT: And - and have you been convicted of harassment at all?

JADE NARAINÉ: No. I haven't. Not ever.

THE COURT: And there is no - you didn't plead to anything?

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Attorney General of Ontario

5 JADE NARAINÉ: I pled guilty to criminal harassment
for the ex-boyfriend for the 13 text messages in, I
believe it was last year. However, I - at that
time, I did not feel that I - I guess, Her Honour,
at that time, did not believe that - that this
would meet the criteria of criminal harassment.

THE COURT: Mm-hmm.

JADE NARAINÉ: I'm going to get into that a little
bit later.

10 THE COURT: Okay. Sorry. You go ahead.

JADE NARAINÉ: Okay. Thank you. So, ever since
the police forgot about my case, and I tried to do
a private prosecution, the police and Crowns have
targeted me. My perpetrator and a group of men
15 have been so empowered by the Crown's actions that
they have targeted me more than ever for breach
after breach, which they have maliciously conspired
at, which police have placed over and over. They
laugh at me online, and have worked - sorry, Your
20 Honour. Sometimes I get emotional. They - they
laugh at me online, and work close lawyer with the
police who have...

THE COURT: Mr. Deputy, could...

JADE NARAINÉ: ...who have encouraged the men to
cause harm against me.

25 THE COURT: Mr. Deputy, can - can we possibly have
some Kleenex for Ms. - Ms. Naraine?

JADE NARAINÉ: Thank you.

THE COURT: Thanks very much.

30 JADE NARAINÉ: They work closely with the police,
who encourage them to place charge after charge,
and they buried me in a mountain of false charges,

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 which there is clearly no evidence of the charges,
but lots of evidence of the perjury and public
mischief, but all they're doing is trying to avoid
liability for their own actions. Today I'm going
to walk you through my experience reporting my
sexual assault to the police, to my experiences
with the private prosecution with the Crowns. Then
I'm going to walk you through the charges and how
I'm innocent of each, and then I'm going to walk
10 you through their reasons for staying the
prosecution, as well as get into their opinion of
my credibility and how they were wrong about it,
and then I'm just going to show you a detailed way
how my perpetrator and other individuals and
15 reputable individuals had shown a lack of
credibility and that even though I was the one who
was scrutinized, how it was all just character
assassination, and how they failed to engage with
any of my evidence in a meaningful way when I tried
20 to clear their discrepancies, and how even after I
filed a complaint with the Crown's office, they
only took three days to respond to my complaint and
- meaning that they did not fairly investigate it.
They just asked the other Crowns their opinion.
25 They said that the same thing, there is no
reasonable prospect of conviction, and then they
just sent out the letter with the same thing, and -
and, at the end of this, all I'm asking for is just
a fair hearing, just so that a justice of the peace
30 can decide whether or not to issue the summons and
that I can just use the process the normal way for
which it was intended. So, I'm referring to the

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Attorney General of Ontario

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amended application record. So, I reported my sexual assault to the Toronto Police on March 17th, 2017, in the evening time, to Detectives Bruce Connor and Maureen Trueman. Bruce Connor was the main detective. Maureen Trueman was the partner. Bruce was very thorough and very nice. However, he became ill during the investigation, and during this time I followed up many times with Bruce through email, where I also cc'd his partner, Maureen Trueman. However, I never heard back from either of them. As part of my evidence, I included in Exhibit C, my statement of the sexual assault. I don't know, Your Honour, if you have already read these or if I should go through them.

15
THE COURT: Well, I have read the entire thing but...

JADE NARAINÉ: Okay.

20
THE COURT: ...I think you should feel free - this is - frankly, there is a lot of material.

JADE NARAINÉ: Yes.

25
THE COURT: So, feel free to highlight things for me that you think are...

JADE NARAINÉ: Okay.

30
THE COURT: ...particularly important if you - but do know that I'm - I'm basically familiar with it. I have read it all.

JADE NARAINÉ: Okay.

THE COURT: Just in Exhibit C I see there is page numbers at the bottom right, so you can perhaps refer me through some of those or whatever you like. Well, actually there is all different page...

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

JADE NARAINÉ: Yes.

THE COURT: ...numbers. Forget it.

JADE NARAINÉ: So, I included a statement of the sexual assault, which I won't read for you since you've already...

THE COURT: Okay.

JADE NARAINÉ: ...probably - most likely reviewed it, and I included a - a victim statement as well...

THE COURT: Mm-hmm.

JADE NARAINÉ: ...a psychology report diagnosing me with post traumatic stress disorder and depression, as well as anxiety and association with intimate or sexual relationships with men, a fear of abandonment. My medical records clearly showcase that I had obtained a discharge, which the doctor stated would have been caused from the blood from vaginal tearing. I also had a medical report for heart racing and dizziness after a nightmare that I had had replaying the sexual assault. I also had text messages where I expressed my anger to my perpetrator about the violent sex. I also had other emails and other evidence just which supported that he would be interested in a violent sexual lifestyle, as well as a witness statement from my witnesses, Mike Dmitrovic, my grandmother, Doreen Rosanen, and a witness, a stranger that I had met the following day, Martin Lask. All of these individuals are credible witnesses, reputable careers, and they have no history with the law. After nine months had passed by, at the advice of my friends and family, I called 53 Division to find

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Attorney General of Ontario

5 out why my perpetrator had not been charged. This
was when I was advised by Detective Sergeant Gray
that he had looked into the system and realized
that my case was the only one who seemed to be
neglected or forgotten once the detective in
charge, Bruce Connor, had become ill and never
returned to work. He had stated that the case was
still open and that Bruce had left a note saying
10 further investigation required, and that I should
just call back the following day to have it
reassigned. When I phoned the next morning, they
advised me that Maureen Trueman, the detective's
partner, should have taken the case. However, I
realized, at that moment, that I had been cc'ing
15 Maureen Trueman for many months, several months,
with Bruce Connor on emails following up about my
sexual assault, in which she did not say anything
about the partner being ill and she did not respond
to any of my emails, and I also experienced a phone
20 call with her where I had called her to tell her
that I had another witness who would like to come
forward, in which she just brushed me off and said
you're so irrational, and I don't need to speak to
this witness, and I said but Bruce Connor,
25 Detective Bruce Connor had stated that if I had any
other witnesses that I can remember that would have
known anything from the incident to please - he
gave me his card and said please call me, and - and
she's like, well Bruce can - can do whatever he
30 wants, but I - I don't want to do it. So, at that
point, I just let it go. I sent her - or someone
from my record label had sent a follow up email to

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 her, just stating that it was unfortunate that you
would cut her off after Bruce Connor had said to -
to follow through with the witnesses, in which she
responded, well, I'm sorry if I was ignorant, and -
but that was pretty much it. I believe the email
just said I'm sorry if I was ignorant, and - but
she did not take any actions to rectify the
situation. She did not call me back or ask me to
come in or anything like for the - to provide the
10 witness. So, I realized at that point that I'm not
comfortable with Maureen Trueman taking my case
because I realized early on that she had some
opinion about me. So, I just spoke to her - her
supervisor, Daniel Sabatics, Detective Sergeant
15 Daniel Sabatics, in which he stated that that was
unusual that she would not take the witness, and
I'm going to just see what's going on, and I'll get
back to you. After he stated that, he never got
back to me, even when I called up to state that you
20 told me that you would get back to me. Would you
please provide me with information why my
perpetrator was not charged and - because I'd
spoken to several other criminal lawyers who defend
the accused's sexual assault, and they had stated
25 that there was enough evidence for the police to
lay a charge...

THE COURT: Mm-hmm.

30 JADE NARAIN: ...but still no response. After -
after that had happened, that was when I decided to
do the private prosecution. I - I just kind of
didn't really know what I should do, so I contacted
some lawyers, and one of them, Raj Napal, had

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 stated that there is an option in Canada or in
Ontario called the private prosecution and said
that he's reviewed the evidence, and he thinks that
the JP would issue the summons, and we can go
forward with that, and so, at that point, we moved
forward to the private prosecution. We submitted
my private prosecution on November 17th, 2017, to
Justice Shonicker at the - the College Park
10 courthouse. She was very compassionate. I
obviously became emotional, and she was nice and
helpful. Prior to the hearing, I voiced my opinion
about how my harassment charges would impact my
case, just because, I don't know, I kind of - I
wasn't - I wasn't familiar with the law, and I kind
15 of - I - I was just curious maybe if it would
impact it because it is embarrassing to be charged,
and I didn't know how anyone would judge me. But I
explained to my lawyer that I had two previous
charges, and one was an executive who had owed a
20 payment, which I later succeeded in
Small Claims Court, and I received the payment, and
- and some more money for the trouble, as well as a
boyfriend who - my first boyfriend, who blocked me
out of the blue after promising genuine intent
25 after intimacy, and because I attach a bond to sex
and because of my abandonment from childhood, I
didn't know, because he was my first boyfriend,
that it would affect me that way, so I sent like 13
or 14 text messages just kind of asking like how
30 could you like block me and how could you break up
with me and things like that, and it was nothing
threatening though, but the police charged me. I

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 explained to Raj Napal that I had no criminal
record, and I agreed to a peace bond for the first
investor, but that the charges were withdrawn and
that the boyfriend - the case with the boyfriend
was still ongoing, and his statement to me was that
your issues with the law before as a matter of
evidence both irrelevant and inadmissible, so
please don't worry. He felt confident that that
was also irrelevant to the law on credibility. So,
10 during the pre-enquete hearing on December 17th,
2017, at College Park, I arrived with my witnesses
and we all sat down. My witnesses there were
Martin Lask, the stranger I had met, Mike
Dmitrovic, my music producer, as well as my
15 psychologist, Lila Hakim and Pamela Percy. Some of
the witnesses had flown in from other cities as
well. Sean Doyle was standing there, and he was
eager to start the process. He seemed a little bit
thrown off when I stated that I had a lawyer who
20 would be arriving soon. He appeared to be overly
confident. He was pulling up his pants and looking
at - like his head was held high. He was looking
at me and my witnesses kind of funny, kind of like
smirking with the other - he was there with an
25 Assistant Crown attorney, and he was whispering and
looking at us kind of oddly, and when it was time
to go in, Sean Doyle told me that I'm not allowed
to go in, and he went with my lawyer separately
with - so it was just him, the lawyer and the judge
30 or the justice of the peace, and actually, I don't
believe that the justice of the peace was there
yet, but I don't want to - I don't know for sure,

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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so I'm not going to say, but I believe that they were just having - or no. I remember now that my lawyer had told me that they had asked the justice of the peace for a moment to speak alone, and so they got into a heated argument in there, where I could hear it from the outside, but I couldn't tell what they were saying. After my - my lawyer exited the room, he told me that Sean Doyle is not going to be letting the prosecution move forward today. He's going to stop it now, and I said like why is this happening, and he said it's not - it's not right, and it's not fair, and he's - Sean Doyle is saying that you've been convicted of criminal harassment, and I said no, I've never been convicted, and I can prove it, and I have emails from my lawyer. It's still ongoing, and he's actually looking either for an absolute discharge or, at this point, he's looking to overturn the guilt plea because he has reviewed the disclosure and doesn't feel that I - 13 text messages would meet the criteria, and he stated other reasons, which included she is guilty of forgery. She - the perpetrator and her got into a fight in February and a presentencing report was prepared. It just so happened that when my lawyer did walk out of the hearing room and convey this to myself and my witnesses, that my - a witness, Martin Lask, had stated that he had received a phone call from Detective Maureen Trueman prior to coming to the hearing before his flight in from Ottawa to Toronto, in which his own words he stated that Maureen - the phone call was unusual because it

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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appeared that Maureen was intimidating him from attending court. She was asking inappropriate questions, which were unrelated, and stating that there was just no reason for him to attend. So, from - from her statements, it appeared to us that she knew that the private prosecution wasn't going to proceed, and it seemed that she had perhaps given Sean Doyle, based on his conclusions, false information about the status of my charges and about me personally, and, in a conversation between Maureen Trueman and my lawyer, Danny Kayfetz, Maureen had confessed to him that the police investigation did slip through the cracks, though she claims that it's not her fault because she was not fully assigned.

THE COURT: Can you help me with what the false evidence is?

20
JADE NARAINÉ: The false evidence that she provided to Sean Doyle was that I was convicted of criminal harassment as....

THE COURT: So, when you pleaded guilty, were you not convicted?

JADE NARAINÉ: No.

THE COURT: So, what happened with the plea?

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JADE NARAINÉ: It's ongoing. We're overturning the plea.

THE COURT: All right. What else?

JADE NARAINÉ: And that there was - I'm guilty of forgery.

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THE COURT: And have you been convicted of forgery?

JADE NARAINÉ: No. The Crown actually - I was discharged for that. A few months after I reported

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 the sexual assault, my perpetrator had had me
charged with that, claiming that I had signed his
letter. However, my lawyer had sent me some emails
and stated to me that the Crown had agreed to
withdraw the charge.

THE COURT: And has it been withdrawn?

10 JADE NARAINÉ: No. And the perpetrator - and then
he had stated the - the perpetrator and me got into
a fight in February regarding a letter. That was
also false information. We never got into a fight
regarding a letter, and then the last - the last
statement was that a presentencing report was
15 prepared, which is true, but I'll get into why that
was irrelevant as well. During the time - so,
after this, Sean Doyle decided - well, they got
into a heated argument, firstly, where they were
arguing about my credibility. Raj - Raj Napal was
stating that I was very credible and that Sean
Doyle was bringing in some heavy allegations and
20 opinions prematurely, which were false, and that he
would like time to defend them. Raj had stated -
Raj had stated that he always knew that I was
heavily injured from the sexual assault because I
had confided in him personally because we had had a
25 conversation about how he no longer represents
accused sexual assault - the accused because he
just feels that it's a lack of integrity, so he -
so I kind of just opened up to him personally about
my experience with the sexual assault. So, he was
30 definitely an advocate. He - he really believed
that I - I was assaulted. Sean Doyle allowed Raj
Napal to have his way but seemed very arrogant when

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 he left. He gave me a look like he knew that the
prosecution would never go through and that he
would not let me have justice. Though I was hurt,
I just remained calm. At this point, Raj Napal
told me that he had never seen anything like this
in all his years working as a lawyer. He stated
that he has privately prosecuted other women who
had previous charges, and he did not think that it
was relevant, and he had stated that it should
10 never matter. It's just completely inadmissible by
law. So, after this, Sean Doyle transferred
carriage. He recused himself from - from the
matter. I sent an email. Raj....

15 THE COURT: When you say it's inadmissible at law,
you're saying, of course, that if you were on a
witness stand during a trial, they wouldn't be able
to ask you about a prior harassment conviction
but....

20 JADE NARAINÉ: Well, I was not convicted, firstly.
If I was convicted....

25 THE COURT: Well, your guilty plea. But when you
say it's inadmissible at law, are you saying that
the Crown isn't allowed to consider your - whether
you've been charged or convicted of any offences in
making its assessment as to whether to stay a
charge?

30 JADE NARAINÉ: Not just based on it's - on - on
it's front. It needs to be investigated more
because the definition of credibility, from what I
researched, is that in law for sex assault is
inconsistencies and dishonesty and because of my
harassment charges are just sending....

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

THE COURT: Excuse me.

JADE NARAINÉ: Bless you.

THE COURT: Go ahead.

JADE NARAINÉ: Because my charges are just
regarding sending text messages...

THE COURT: Right.

JADE NARAINÉ: ...it has nothing to do with
dishonesty, so one would have to look deeper into
it, rather than just state, oh, because she's been
charged, she's - she's a liar. She's not credible.
She's not believable. And I think that that was
lacking with Sean Doyle's investigation because he
would have seen that I've never - none of these
harassment charges have to do with lying. In fact,
if he had looked deep enough, he'd have see that
the complainant....

THE COURT: Yeah.

JADE NARAINÉ: If he had looked deeper, he would
have seen that the complainants were the ones who
had had inconsistencies and not me. During the
time that Sean Doyle recused himself, Raj Napal
became ill, so I took over, and I sent - even
though the charges were irrelevant, according to
lawyers, I sent him some information, just to let
him know that he was wrong about his decision.

THE COURT: Mm-hmm.

JADE NARAINÉ: So, I stated to him that I have not
been convicted of criminal harassment. The
criminal harassment was very minor, just some text
messages. My lawyer is just awaiting from the
psychologist that I would always react
appropriately - appropriately after break ups to

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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resolve the matter with an absolute discharge. I have really learned quite a bit about my abandonment and trauma and how it's caused some reactions. However, I will always be aware in my life and react more appropriately. Both never blocked me on text or email and they had that option. That's the first option police give to harassment complainants. I went into very much detail into the charges when I emailed them, so I stated precisely that for the - for the boyfriend charge, that I was charged with one count of criminal harassment. The victim was my boyfriend. I just stated that he was the first boyfriend that I ever had, and he had initiated an intimate relationship, where I advised that if we were to become intimate it would be a not a casual relationship because I'm not capable of doing so. I just attach a bond to intimacy, and I - I'm not really the type of girl that can just be promiscuous. Through a series of text messages, he advised that he did not want a casual relationship either, and that he wanted a genuine relationship. He knew that my - he knew about my previous experience with the - the police with the investor. However, after two - two and a half months of dating, he just blocked me out of the blue. I started texting him a few times to find out why he would be so mean to me. During this time, he went back and forth regarding meeting me for closure. He claimed most girls were okay with casual relationships, was not considerate to my feelings, and then he just went to the police to

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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report harassment. It was also noticed that he was living a life where he had actually been with ten girls in a two-year period, which is his business, but just to show you that he didn't really care about women's emotional health or feelings. He stated he was filling a void with sex, and he was just trying to sleep with as many girls as possible. He told the police that his work suffered as a result of my text messages, however it was promoted that - I mean it was realized that he had been promoted right after the arrest to assistant vice president, followed by vice president many months later, and he told - he also told the police he was not afraid of me. He - but then later on in his victim's impact statement, he stated that I would be very afraid of her if I was to see her in person. I guess he was trying to influence the - the court outcome. I also sent a nice email to his work with his permission, in which he failed to include in the disclosure, and in 2017, my lawyer, Lisa White, who I realized at a later date failed to review the evidence, coerced me to plead guilty. However, my new lawyer, Danny Kayfetz, is in the process of overturning the plea and proving my innocence in this unsubstantiated harassment charge. So, Sean Doyle from that was very aware of what was going on. He knew that the charge was very minor. It did not show any evidence of dishonesty or lack of credibility, that it was just regarding some text messages and that there was some sort of a process of potentially

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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overturning the plea and that I was not convicted,
as he - as he had originally thought.

THE COURT: Well, sorry. What happened after you
said that you pleaded because you just said there
was a victim impact statement? That usually means
there is a sentencing.

JADE NARAINÉ: Yes. However, sentencing has been
cancelled. What we're doing is we're overturning -
like we are - we have - my lawyer filed a
10 motion....

THE COURT: But - but did the judge at the hearing
accept your guilty plea?

JADE NARAINÉ: Yes, she did.

THE COURT: And then she would have said, and I
15 enter a conviction. No?

JADE NARAINÉ: No.

THE COURT: Okay.

JADE NARAINÉ: I have the transcript from - or part
20 of the transcript from the hearing, which I'll go
through. So, in Supplementary Motion Record 2 of
the plaintiff, so what had happened is - well,
first I'll show you the letter from my lawyer. I
don't seem to have it with me...

THE COURT: Okay.

JADE NARAINÉ: ...but you would have it in the -
25 the package that I dropped off yesterday.

THE COURT: Which letter are you....

JADE NARAINÉ: It's number - number one. Actually,
I have it right here. So, on August 19th....

THE COURT: Yeah.

JADE NARAINÉ: On August 19th, my lawyer released a
30 letter to my previous counsel, stating that I've

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Attorney General of Ontario

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been retained to review the above client, and my review indicates that she is probably not guilty of criminal harassment. The court was not told that the complainant had given consent to communicate as much as she likes. He then withdrew his consent. Jade sent 13 text messages the same day. None were threatening but reviewed the issues between them. The complainant attended police two days and said he was concerned. The police cautioned her by email. Jade never texted him after he closed her off. The - you got the Crown to agree that one email was relevant. The complainant went to police days late - after - days later, and so, basically, long story short, he was - he was sorry, but he had to raise - to overturn the plea, based on ineffectiveness of counsel...

THE COURT: Mm-hmm.

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JADE NARAINÉ: ...to strike the plea. In Supplementary Motion Record 2, there is an excerpt from the transcript from the - the hearing with Justice Caldwell. So, my lawyer, basically, what had happened is I retained a lawyer, Lisa White, and she had basically, when I had hired her, told me that if I provide her with \$5,000, she will - she was basically saying you won't be guilty on my watch. However, once she was retained, she kind of just started to coerce me to kind of take a deal and plead guilty. So, the court - the court had stated that - or Justice Caldwell had stated that let me just take a look again. We have an admission of one post, just so you're aware, only one post in the second paragraph. But if you

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 scroll down to the bottom of her statement, or in
the middle, she says that I guess what I'm
struggling with is that I was under impression
there was a lot more postings that were being
admitted to. So then - so, essentially, we have
one post and a number of emails and text messages.
I have 13 texts and 8 emails, but I don't know what
- anything about what's in them, and I can't just
say on it's face that somebody texting someone 13
10 times constitutes criminal harassment. So, I think
I need a little bit more detail of the postings
aren't acknowledged. I mean I guess what I'm
struggling with is that many people can send 13
texts and it wouldn't be criminal harassment.
That's when the Crown said she agrees, but she's
going to file more - she's going to file
everything, so that it can be assessed properly.

15 THE COURT: Mm-hmm.

20 JADE NARAINÉ: But what had happened is that I was
still sentenced that - or not sentenced - I was
still pled guilty on that same day, even though the
- the lawyer - the judge didn't look through or she
was not provided the - to look through anything.
Just based on my lawyer kind of saying that 13 text
25 messages does constitute as criminal harassment
after he told her to stop. However, what my lawyer
had missed is that there was a text message that
was in the police disclosure, which stated that -
from the victim, which stated you can text me as
30 much as you like if it will make you feel better,
and that was completely missed by the court, and on
the following pages, it shows exactly - when I'm
asking

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 to overturn my guilty plea, it - I outline what had
happened. He blocked me - he blocked me out of the
blue at the beginning of June. On June 11th, he
unblocked me and sent a text message that I can
text him as much as I want, if it will make me feel
better, where he states that will not make you feel
any better. I did nothing wrong or malicious. I
just couldn't make you happy and was hurting you.
10 I'm mature enough to realize it. I do think you're
a great person, just young. I didn't block you to
break up. I was planning to send you a full text
about it. You aren't blocked. You can message me
as much as you like. If you think it will make you
feel better, it won't. So, I messaged him. Then
15 he told me to stop texting him, and then - but he
stated to - and then he did go to an officer, but
he had stated to the officer that same day that -
or the officer had made a note here, Tim Tuckwell,
stating that he does not feel threatened by
20 Naraine's actions, nor does he fear safety, despite
stating that Naraine knows where he works or lives.
He just finds her contacts to be annoying and
unwanted. He just wants the police to caution her
only. He feels sorry for her. So, I never texted
25 him after that day. But on July 5th - and that -
that date was June 23rd. But on July 5th, which
was two weeks later, police issued me a caution
through email, stated please do - do not contact
him again. So, I responded to this email by
30 affirming that I would never contact him again, and
I also noted that I had not contacted him since he
originally asked me to stop on the June 23rd.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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However, police still charged me with harassment on August 15th, which was a month later, actually, more than a month, 40 days later, despite no more communication by me to him. On the day that I pled guilty, it looked like the judge was concerned about the contact [sic] of my - content of my text messages, unsure if they would meet the criteria of criminal harassment. As she stated, anyone could send 13 texts. Then, without the judge being told anything about the content of my texts, his consent, or that he had told the police I had no fear and had stopped the texts the same day he asked me to, I was found guilty. The judge was not told the sequence of me being blocked so I could not text him, followed by him removing the block and allowing me to communicate, followed by him changing his mind about giving me permission to text, where he told me to stop. The judge was not told that he did not feel threatened or that the caution was emailed to me on July 5th, 12 days after the last text. The judge was not told that he - that on August 2nd, the police phoned me to tell me they were arresting me. This was - this was days after the last text and 40 days after the police caution. The effect on me being told I would be charged was very traumatizing because I had PTSD association with police because I suffered - and I suffered anxiety. So, as you can see, the harassment charge is still ongoing, but this was not something that someone should say that they're not going to be able to now be a credible person or get justice for a sexual assault because nothing in

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 my text messages were threatening. The Crowns brought up - the Crown attorneys brought up something about a postings, because I had went to my psychologist and she had stated that, you know, so many beautiful girls are coming in from - and kind girls are coming in to - to me and speaking to me about men that they have met online.

10 Apparently, there is a new trend with online dating, where men are just kind of meeting lots of women and having sex with them and just dropping them or disappearing. Some of these times the men do it just after a couple of weeks of knowing them, but for me I knew him for almost three months, and the psychologist said that that was mean of him

15 just to block you. Most women develop emotions after knowing them a few weeks or a month, and so she had stated that it was good of me to - to post what had happened to me because the Crowns were saying that I did a smear campaign on this man, but

20 I didn't do a smear campaign. All I did was post online that he blocked me out of the blue after promising genuine intent, and I guess he's not a good boyfriend material guy, as I thought that he was, and the Crowns took this as that she's posting

25 false defamatory postings on this man, but - and I'll get into how I - it's been proven that I've never posted any defamation because I have been in front of a Superior Court judge, where one man was trying to - to sue me for defamation, but Justice Nishikawa, in the Superior Court, had stated that

30 after reviewing her postings and reviewing the evidence that she provided with the postings, that

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 they were justified, and they're not defamatory, in
which that person was actually going to pay me
several thousand dollars just to dismiss the case
because - so I think that the Crowns were just not
- not looking deep enough into this. They didn't
even ask me about the postings. They just assumed
oh, the complainant says that you did a smear
campaign on him, and it was alleged, and you pled
10 guilty to criminal harassment, but they're not
looking deep - deep enough into it to see what the
context of everything really is, in which they
would see that I'm actually very credible. The
second harassment charge - or the second harassment
charge that they were including in their decision
15 not to put it through was the one that I had in
2014. I was arrested for extortion and criminal
harassment of an investor at the time. I met him
during an investor search. I just kind of googled
around to see like private investors and see if -
20 and send my proposal and see if they would be
interested in like a private investment. I know
they mostly invest in financial things, but I
thought some of them invest in small businesses and
start ups, so I thought they might be interested,
25 and he had stated that - that he would invest into
my career and that he would also make
introductions for me with his other millionaire and
billionaire friends. He agreed that the
relationship would be investor/artist and would not
30 be - would not be sexual because I know that I had
brought that up as a concern because I just - I
was told that

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 sometimes that can happen, like crossing of
boundaries, and so, while he was figuring out the
whole investment type of thing, he said send me
your proposal, I'll talk to some friends, but, in
the meantime, I wanted to do a music video, so he
agreed to provide me with \$5,000 to put towards the
music video deposit. I also put \$3,000 of my own
savings into it, and this music video was to be
10 done in Los Angeles, California. I met him at
Marché for lunch, where he handed me the \$5,000.
Prior to meeting me, he sent me a text message,
stating that I only have eyes for you, which was a
little bit unusual, but I - I didn't pay much
attention to it, but he had - either way, it
15 supports what I'm going to - what I'm going to say
in moving forward. After providing the payment, he
agreed to provide the balance, an additional
\$5,000, at a later date. I did double check to
make sure that he was still providing it before
20 sending off the \$8,000 deposit. He said yes. If
you turn to Exhibit L, I have the

25 text messages still. So, for one thing, after -
the second text message would be where he stated
I'm at the bank. They won't let me transfer it,
and I said okay, no - no worries, and then he says
I will bring the cash, and then he said tomorrow,
and we decided to meet at Marché, and then the text
message before that he says - or the text message
30 that came after that date was when I got home the
following day, and I said hey, I just - I'm just
about to send my payment to Los Angeles for

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Attorney General of Ontario

5 the music video. I wanted to know if you would
still be providing the balance. He said yes. I
said okay, because I need to book the plane trip
and hotel soon, and he said sure. I said awesome.
Thanks. I appreciate it so much. And he said what
are you up to and such. After this date, he
started sending me sexual text messages at
10 nighttime. They were kind of excessive. They were
probably almost every day. It was just things like
I'm imagining you in a bra which only covers your
nipples, or I'm very hard now, or please call me to
help me out. I did not really engage. I did not
respond to any of the sexual text messages. He
then started saying things that he would buy me a
15 Condo at the Ritz Carleton, a new phone, and
provide me with spa and skin treatments and a
\$10,000 monthly payment, if I would do the phone
sex. I did not want to do - I did not want to do
any of this. So, he called me one night to try to
20 do phone sex. I answered the phone. He - and then
he started talking to me sexually, so I hung up the
phone. I knew that I didn't want to do any kind of
phone sex or sexting. To this day, it's not
something that I ever do, especially with strange
25 men that I have no intimate relationship with. A
few weeks later when it came time to pay the
balance for the music video, he became very angry.
I know it's hard to believe that he's 50 years old,
but he was sending me text messages like barf and
we all have problems, boo-hoo. When I tried to
30 explain that I would lose the deposit, the \$8,000
deposit for the opportunity, I just stated that it

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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meant a lot to me. So, I started emailing him repeatedly asking for the payment, demanding it. He then gave a fraudulent police report, stating that I never owed - that he never owed me any money, and the first payment he gave me was an attempt to end extortion. So, as you can see, there was no evidence of extortion because he willingly provided me the payment, and right before providing me the payment, he told me he only had eyes for me. There was no evidence. I would have never known that I was - that he felt extorted. There was nothing there. I did not see any disclosure or a police report until a year after I pled guilty to the charge because my lawyer did not show me. At the time, I had a lawyer representing me, Robb McDonald. He basically told me I don't need to attend any court dates. He's just going to - he'll let me know the last court date. I tried to tell him a little bit that I want to - you're going to show the evidence, right, that he lied and that like I - he owed me money and stuff, and he's just like don't worry about it. You're not going to get a record. I'm just going to get you like an absolute discharge, and you'll have no record. It won't harm you. So, from that, I thought it won't harm my future, and he's saying that it doesn't matter. So, that's why it's unfortunate that these Crowns are using it against me now because I - I - I'm just going - I'm just....

THE COURT: So, what - what was the outcome?

JADE NARAINNE: So, the charges were withdrawn, and I agreed to a peace bond for one year. So, he told

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 me to plead guilty to avoid the trial. However,
after speaking to Clayton Ruby and Danny Kayfetz,
who I had approached for another matter with
Passport Canada, they stated that I should have
just went to trial....

THE COURT: That you won.

JADE NARAINÉ: Sorry?

THE COURT: That you won.

10 JADE NARAINÉ: Yeah. I won the two judicial
reviews.

THE COURT: Yeah.

15 JADE NARAINÉ: But they were going to represent me
in like a civil matter, just to get some like lost
income and investments as well. So, they had
stated that you should have just went to trial,
displayed the sexual harassment, the lies, the
promise of the payment, and he probably would have
20 been - been complete - the judge would have
completely just acquitted - acquitted you. But,
either way, as I told you, I was non-convicted of
the charge, so I had no criminal record. The
psychologists that I had told about the investor
stated that he may have white collar - it's a
25 psychotic disorder or something of the such. There
was other evidence in other - other books and
things. I know that he was working a lot with -
with the - the founder of PayPal, Elon Musk, who
had stated that he is great at
30 making money but has no heart. So, it was evident
that he didn't - he was just very cold, and he did
not care if I would get falsely in trouble. So, I
was diagnosed with depression and PTSD in 2015

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 because my life was in shambles. I began to lose
all of my investors, fall back in rent payments and
had trouble coping with the memories of the assault
- I mean - sorry the - of the arresting detective,
Lauren Hassard, who believed me in having a similar
career previously in the entertainment field. So,
it just so happened that during my arrest, the
detective in charge - the first detective was very
10 nice. He was a male. He contacted me and told me
you seem like a nice person. Just take him to
Small Claims Court to get your payment, and I never
contacted him again after that. I said thank you.
I - I didn't know anything about Small Claims
Court. I appreciate it. And, however, then there
15 was a female detective, who took over shortly
after, who was very mean, and she had stated that
no, I'm going to be charging you for criminal
harassment, and I said but the other detective said
that he wouldn't, and the - just to go to court,
20 and but she is like no, but I'm going to do it
anyway. So, you have to come and turn yourself in.
Anyway, she - she expressed to me during the arrest
that she used to be in the entertainment industry.
In any case, she took my passport, and, to be
25 honest, after speaking to many lawyers and
experiencing bail hearings and things like that,
it's not something that is a normal thing to do for
a first - a first offender, a young girl, polite,
Canadian born, not a flight risk, not a - not a
30 safety - not a public safety risk. There is just
no reason to do it and it was evident because when
I told her that I was supposed to go to do a music

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 video and that I'm pursuing a career and stuff like
that in the entertainment field, it was clear -
that was when she said okay, so then I'm going to
need your passport. It seemed like she was almost
just trying to rub it in - rub it in to make things
more difficult for me. Inappropriate emails were
also exchanged. After I did a judicial review or
during my judicial review with Passport Canada, I
10 saw an email where Passport Canada was informing
the Toronto Police that I was in a suicidal state
from not being able to pursue my career, in which
she just wished good luck and sent like a winking
face email, which is Exhibit N, where she says good
luck with - I think it says can you forward me
15 those emails that raise concern about suicidal
threats, please and thank you. Good luck, with a
winking face emoji. When I saw this, I felt kind
of like hurt by it, just because it's not something
to really joke about, and it's not professional,
20 and she caused all of this, and it's just - it's
almost like a huge joke. The police constable,
Kaylann Ball, she also provided false information
to Passport Canada. She had stated that the
passport was taken as a bail condition, despite
25 that it wasn't. It was taken at the discretion of
that officer. Later on, when I did do a complaint
with OIPRD, they informed me that a police officer
is not allowed to hold onto a passport. Like
they're not allowed to hold onto it in their
30 custody, and they're also not allowed to hold onto
it once the charges are withdrawn. What they do -
the process is - is that they told me I was right.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 The detective does have to send the passport
immediately back to Passport Canada. So, she was
definitely in the wrong, and she was doing
something illegal. So, I went on to successfully
sue the investor, in Small Claims Court, for what
was owed or double of what was owed. So, that was
Exhibit O. You can see the minutes of settlement.
10 Then I also won the two judicial reviews, as you
stated, where the Honourable Judges Southcott and
Mactavish ruled that the *Charter*-protected mobility
rights were breached, and in which point I decided
to open up an action against them in the Superior
Court, where I'm being represented by a lawyer.
15 So, all of this evidence was emailed to Sean Doyle,
Crown attorney, with tons of attachments. Even
Sean Doyle had stated in his response about I
received your voluminous emails. So, he definitely
had all of this evidence. So, there was no doubt
20 in his mind. He couldn't possibly think I was not
credible. So, moving forward, the Crown stated
that based on my - actually - moving forward, the
Crown stated that my past guilty pleas of
harassment means that I'm not credible victim for a
sexual assault. As a result, it's caused a lot of
25 shock to society how the justice system is
selecting who is worthy of protection. As I stated
multiple times, the two harassment charges that I
pled guilty were both without merit and charges
that I should have never pled guilty to, due to my
30 overwhelming evidence, which would have
contradicted the complainant's statements to
police as credible, as well as the

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 second guilty plea was being overturned. Also,
because the police, they - because the police was
going to charge me last week and then they - once
they reviewed the bail condition, they realized
that it wouldn't be a breach, it just goes to show
how easy it is that police are placing these
charges. They - they're not even looking into the
evidence. They're not even reading the conditions.
10 The - so half the time - I believe half the time,
that police are making false charges, and they're
not paying attention to close detail, and
unfortunately, sometimes people are victims to
this. So, as I stated, Danny is looking for a full
dismissal for harassment. He's looking to overturn
15 the plea. He's spoken to the Crown, who has
confirmed that most likely she is going to withdraw
the charge once the guilty plea is set aside.
There is just no reasonable prospect of conviction
for the harassment charge because it was only 13
20 texts and he gave me permission, and there is just
no doubt about it. But, Christine Jenkins, Crown
attorney who took over carriage once Sean Doyle set
aside, stated that to my new lawyer I retained,
George Gray, that even if her charges are
25 withdrawn, it's the allegations that are the
problem. So, I found this kind of difficult,
because as I stated, so often do police place
charges that are withdrawn later, and anyone can go
to the police and say anything that they want, and
30 - and really, in Canada and in Ontario, the law is
that it's innocence until proven guilty, and if you
- if someone is going to be giving police a

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

statement, unless you're found guilty and convicted, it's just not something that should be used against you. So, if charges are withdrawn, I don't think that Christine Jenkins was right to say that her withdrawn charges are still making her not credible. I - I don't believe that that is - that that is fair in the law. In the public's opinion and in the opinion of the *Charter*, everyone should be treated equally, even if a woman who has been charged and found guilty of harassment or an offence, I believe that she is still credible. In my own opinion, I believe, even if someone is convicted of a crime, that there are crimes that are performed on them, I believe that they should still be able to get justice. You don't - you shouldn't just lose your - your rights as a human being just because you have been charged or - or convicted, and this is all depending on the crimes, of course, but I still believe that everyone should have justice. Harassment is not a crime of immorality. Even in the USA, even if you're convicted of criminal harassment in Canada, you can still go to the States because they don't consider that a crime of immorality. Whether or not I have abandonment and have difficulty letting go and send 13 tests or whether an investor owed a payment and I demanded it, it's a far cry from being dishonest and not credible, and allegations should also never be taken as fact until guilt is proven. Anyone can say anything they want to police and the person being falsely accused or charged should not suffer the consequences of the complainants' misconduct.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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Now, the other reason why they wanted to stay the prosecution was because of this forgery charge. So, in June 2017 - well, I'll backtrack. So, there was a presentencing report that was going to be prepared for a sentencing for the boyfriend, the harassment charge. I went to see a probation officer, and I provided him with character references. I provided him with letters from my music producer, an investor, and my grandmother, and my boyfriend at the time, who was my perpetrator in this matter. I had permission from all of those people to use - well, I had letters from all of these people. After I provided these letters to the probation officer, I contacted my boyfriend to tell him that I had used him as a character reference and if - if Jahmal Cameron calls - if Jahmal Cameron calls, who was the probation officer, then just to, I guess, say nice things, and also I had stated that he had knew me for four months instead of two, like the letter that was provided - like the letter that I had used on his behalf.

25
THE COURT: Sorry. What - what does that mean, the letter you used on his behalf? Did you put - sign a letter in his name?

30
JADE NARAINÉ: No. What had happened is there were letters that were provided to me for another matter, for a civil matter, and, if you look at all of those letters that I had provided to the probation officer, they're all dated a different date, and they all state - they're writing about something else...

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

THE COURT: Mm-hmm.

JADE NARAINÉ: ...but they still describe my character. So, when I went to the probation officer, I told him that will these letters be okay? I know they're not written for this matter, but they just describe my character the same, in which he was fully aware of this - this fact and he accepted these letters, in which I then told everyone that I used them and that their probation officer will probably call them. Now, my boyfriend had provided me a letter for a civil matter in which he had stated that he knew me for four months, even though it was two. I - so, I told the probation officer the same, so that it would be coinciding with the letter. He did not want it told to the probation officer that he knew me for four months because he stated that, for a criminal matters, everything needs to be very precise, and so I had said, okay, no worries. I'll just tell him to - to not use you as a character reference, but if he calls just say two months and - and so be it, in which he kind of got super - like he made kind of like a big deal about it and said just tell the probation officer that I'm in the military or started trying to think of things that I could tell, and I just told him that I can't tell him that, obviously, because I'll be caught in a lie, and then I'll be in trouble. So, I'm just going to say that - I guess just ignore his call. If he calls, just say two months, and what can you do. So, at which point, after this he denied - when the probation officer contacted him, he denied

Jade Elizabeth Thelwell (Naraine) -and-
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ever providing that letter, and he - he - he slandered me to the probation officer as well. Now, two weeks prior to slandering me for the probation officer, he had sent me a text message, stating that you are a great girl with a lot of great qualities and a lot to offer. I have that text in one of these motion records, but basically, that text message was sent when I was thinking about going to the police to report the sexual assault, I guess, he - he - he wanted to kind of hold onto me, and he didn't want to break up. However, after I went to report the sexual assault or - and told him that I would be going, that was when he started sending threatening text messages, saying that I'm going to bring a universe of shit onto you that will make your head spin. I'm going to - I'm going to report you for harassment, and I'm sure that it will interfere with your ongoing case. I'm sure that my friends at 41 Division would be happy to pass along the message that you're harassing again, in which point I got very overwhelmed, but I thought that none of these professionals are going to listen to what he says because they're - they're smart enough to not listen to this. So, I just advised at the probation officer that I no longer want to use him as a character reference. I've just reported him for sexual assault. He was very violent. I provided him with volatile details of the - the assault, about the infection, about the blood, everything I told him on - in a voicemail, and - but he still - and even though he has the

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discretion to - to balance conflict of interest and not engage in humiliation, he still used the perpetrator as a character reference, and he wrote that I spoke to him, and he states that all these bad things about me, that she's this and that, and she's harassing me, and she - she's a bad person. She - I believe she has borderline personality disorder. She's - just so many false things. I never signed a letter for her, and it just - it harmed so much stuff. It harmed my reputation in the court for the ongoing matter. Then suddenly nobody believed me anymore because he was denying signing the letter. He was saying all these bad things about me, but nobody really grasped what happened. He - everything was fine in our relationship until I reported to him to police, and I told Sean Doyle this. I told the Crowns that - like as soon as I reported him to the police, that was when things changed, and he started to get revengeful. Before that, he was not mad, and he thought I was a nice person. But I think that the Crowns did not pay attention to the - the - the - like the dates, the chronology of the occurrences, because Sean Doyle did state that they got into a fight about a letter in February, but we never got into a fight about the letter. As I explained, he stated that he could only say four months - or two months instead of four, so I said okay, no worries, and I was really nice to him. So, that's not a fight. Secondly, he thought that - he told Raj Napal that he believed that I - that I was revenging by bringing forward the sexual assault

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 because he had reported me for forgery, but he
didn't understand that the forgery charge or the
forgery report came months later, after I already
reported my sexual assault, and that it was the
opposite. The charge for forgery occurred - well,
after the presentencing report was prepared, I
noticed other issues with it. For one thing, the
probation officer had also misquoted my reference -
10 my investor, Rolf Reininghaus, and if you would
turn to - just a minute. Sorry. I'm just - letter
from Rolf Reininghaus is Exhibit R. If you turn to
Exhibit R, there is a letter from Rolf Reininghaus,
one of my investors, that I also used as a
15 character reference for that same report, and he
had stated, hi, my name is Rolf Reininghaus. I'm a
cofounder of a successful Canadian pharmaceutical
company formerly known as Biovail Pharmaceutical
Corporation. You may find reference to me on the
20 Top 1000 Power Books - top - 50 top-paid
executives. I'm writing today in connection with
the matter of the presentencing report provided on
April 19th, 2017 to Jade Naraine. I was contacted
a couple of weeks ago by a probation officer by the
name of Jahmal Cameron from the Scarborough
25 Probation and Parole Office and was asked a few
questions regarding my interactions with Jade,
pursuant to a character reference provided in March
26 in connection with an ongoing criminal
harassment case. I understand that the
30 presentencing report contains a statement to me -
ascribed to me to the effect that our relationship
went sour after I informed Jade that I could not

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 provide her with an investment for her career and
that I started to receive unwarranted text messages
from her. I was very shocked to hear that this
statement had been included in the report. This
10 characterization of my experience with Jade is
completely inaccurate and does not in any way
reflect my perception of Jade. I have absolutely
no recollection of having ever uttered these words.
Why would I make comments to the probation officer
in patent contradiction with my description of
15 Jade's behaviour in my reference later dated March
26, 2016? I confirmed to him that Jade was always
polite, respectful and kind, and that she never
bothered me in any way, and that I did provide her
with financial assistance to help her record some
20 demo songs with - which only attest to my
favourable impression of her as a person. I
understand that during the legal proceedings nobody
paid attention to her comments regarding this. Not
only do I not appreciate being misquoted, but I
25 find it irresponsible on the part of the probation
officer. She is struggling daily with her career
aspirations and should be treated with respect, and
then further stated that it's quite appalling. He
would like it investigated and reviewed, and that
30 it naturally caught the attention of everyone who
thought that Jade might be mentally ill and
routinely harass men, when, in fact, this is
unlikely to be the case. As mentioned earlier, she
has never bothered me in any way and was always
totally professional. She has always been
friendly, kind and compassionate and ambitious and

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

highly talented and her alleged behaviour of harassment is very much out of character for someone like her, and confirmed that I did have depression and PTSD, and it's all notarized. Anyone who wants to check can just call the notary. So, that was also sent to Sean Doyle and everyone, all the Crowns and the police and everyone. So, from this it became clear that this probation officer probably had spoken to, as much as it's hard to believe, probably spoke to the police, and the police are trying to tell him go hard on her, do whatever you can to make the report wrong. So, that's why he provided such a long statement, allowing my perpetrator to slander me, and then misquoted one of my best references, and then only used a very short statement from my producer, who also said good things about me, but he just took whatever plain statement he could take, and then my grandmother, very short statement. So, I got an overall inaccurate presentencing report, and my lawyer had to file a motion to have it dismissed, basically, on the grounds that under no circumstance should a woman's perpetrator be used as a character reference, and this particular probation officer was obviously incapable of the simple task to just copy what people say and put it in a report. As well as this probation officer no longer works as a probation officer. I filed a complaint, and I launched an action, and he's been - I don't know if my actions have anything to do with it, but he was removed to a different ministry. He's no longer working there. So,

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

again, that was to take care of the presentencing
report issue because Sean Doyle had expressed
concern, so I just informed him that it was all
false and provided all the evidence I could. Now,
the division that reported me for the - or that
arrested me for the forgery, Jahmal took this -
Jahmal made this presentencing report in March - in
March - at the end of March 2017, after I had
reported my sexual assault. Now, that was when he
would have known that the boyfriend had denied
signing the character reference letter. However,
Jahmal did not act on that because he called me,
and I told him that all of these letters were
provided for a different matter. He knew that I -
that I was telling the truth, and he did not do
anything about it until I went to his office and
served him with the court documents. Exactly 45
minutes after serving him in June, almost three
months later, 45 minutes later, I received a phone
call from a detective at 41 Division, which is the
division where the - my ex-boyfriend, has friends,
who stated that they would be charging me for this
letter that the ex-boyfriend denies signing. My
lawyer, Danny Kayfetz, tried to contact her to tell
her that she should do signature analysis. There
is something bigger going on here. The boyfriend
was just reported for sexual assault. He's denying
signing it. If you look at the signatures, they're
- they're almost the same. There is no way Jade
could have known how his signature is. She's never
seen it. And - but still, they - they said no,

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 we're going to charge her anyway. We have - we -
we - we're not going to be doing signature
analysis. So, after I was charged with forgery, it
was really degrading, obviously, because it was my
perpetrator, but - and I was being told now to stay
like 15 metre - or 200 metres away from my
perpetrator, and I - I just found this like so
difficult for me, just because he was my
perpetrator, not vice versa, and I don't know why
10 I'm being told to stay away from him, and I have to
leave a store or a bus if he's there. It's just -
it seems absurd to me. But I just - I went there,
and I got through it, and then my lawyer told me a
few months later that he had spoken to the Crown in
15 charge of forgery and stated that the Crown has
agreed to withdraw the charge. His statement to me
exactly was that the Crown looked at it and
basically said what is this. This is a letter.
It's a paragraph long. It says she's a nice girl.
20 Looks like the boyfriend's signature. He's denying
it now. This is just not a - we're not going to
send her for signature analysis. We're just going
to withdraw this. So, I have the - the text
message or the email from Danny Kayfetz, Exhibit Q,
25 where he states to me, trying to touch base with
Pamela by phone. Do you have her email? I was in
court today in Scarborough. The Crown confirmed to
me withdrawal after I complete the City Hall
charge. Again, tell no one, please.
30 Unfortunately, I had to tell Sean Doyle that it's
going to be withdrawn because he was basically
saying that I can't put my sex assault case through

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 because I'd been, in his eyes, I'm guilty of
forgery. So, at which point, I - I forwarded a
screen shot of this email, and I also provided Sean
Doyle, Christine Jenkins and - yeah, both of those
Crowns, with my lawyers contact information, so
that they would be able to touch base with him
regarding that.

THE COURT: Mm-hmm.

10 JADE NARAIN: After - but still, the Crowns didn't
pay any attention to that. Instead of paying
attention to that or even contacting my lawyer to
find out what's going on, they decided to do the
opposite and prevent forgery from being withdrawn.
15 From there, it became an uphill battle with
forgery. Forgery was no longer going to be
withdrawn right away. During a court date with -
during a court date where my lawyer, Danny Kayfetz,
was sitting with the Crown attorney for forgery in
Scarborough, he stated to me that the Crown
20 attorney for forgery has been getting a lot of
pressure from the Crown attorneys at College Park.
They're saying that why - they're asking, why are
you withdrawing forgery. Like so, from that - from
that, my lawyer concluded that please don't tell
25 anymore people that forgery is being withdrawn
because the Crown in Scarborough is now under
attack. He's under risk. And I said, why is he
under risk? He's doing the right thing. I don't
understand why it's such a big deal, and then he
30 said that because when - if he withdraws forgery,
obviously, it's going to put the - the Crown - the
Crown's decision to stay my prosecution in scrutiny

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 because they - they thought that I was going to be
guilty of forgery. So, Danny Kayfetz specifically
said that the Crown had gotten 13 phone calls from
various police officers and Crowns for the duration
of the next few months regarding forgery, trying to
pressure them not to withdraw.

THE COURT: Is there evidence from Mr. Kayfetz
before me saying that?

10 JADE NARAINÉ: I only have the - the emails where
he says that the Crown in Scarborough is at risk
and that my telling people is making - making it
difficult for him to have the charge withdrawn. I
also have a text message from Danny Kayfetz, where
15 he states that one of the Crown attorneys at
College Park is trying to, in his eyes, she's being
very arrogant. She's trying to impress her boss,
Sean Doyle, by making things more difficult for me
to resolve the charges, and this is just his
20 observations while he's in court and speaking to
people. I felt bad that I had told Sean Doyle
after that that the forgery was being withdrawn. I
thought that it would help the situation, but all
it did is make it worse. I thought that Sean Doyle
would see that it was being withdrawn and then say
25 okay, perfect, so once it's withdrawn, we can open
your prosecution, or we can open your prosecution
now. But instead, it was just the opposite, and I
didn't expect that at all. So, I did offer my
lawyer's contact information, as I stated. So,
30 Christine Jenkins, the second Crown attorney, she
ignored all of the information and followed in the
steps of her boss, Sean Doyle. Now, Sean Doyle -

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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actually, before I move on, I'll just - the email
from my lawyer, Danny Kayfetz - so, yeah. So, she
says - so he states here that the seriousness of
the problem is I told you not to tell anyone what
I'm working on. Unfortunately, that's what he
meant, but I'm telling the Crowns in College Park
that forgery is being withdrawn. He said, more
seriously, it affects my ability to work with the
Crowns not in College Park, because now they are
targets and may have to defend their positions
rather than work with me to achieve the results
that I want for you. So, he says, now I must prove
to the Scarborough Crown that he's not at risk.
So, yeah. So, that's just his opinion on what had
happened once I told Sean Doyle and the Crown's
forgery was being withdrawn, and then that was why
he told me tell no one please in the email. Please
don't tell anyone that it's being withdrawn.
Furthermore, Christine Jenkins decided to further
stay the prosecution....

25
THE COURT: Which prosecution?

JADE NARAINÉ: The sex assault.

THE COURT: Mm-hmm.

JADE NARAINÉ: So, Sean Doyle had transferred
carriage to Christine...

THE COURT: Yeah.

30
JADE NARAINÉ: ...Jenkins, another Crown. So, it
seemed here that Sean Doyle assisted Maureen
Trueman at 53 Division by not putting through the
charges but decided on it too prematurely. Then he
moved - transferred carriage to Christine Jenkins
once things became a little bit out of hand, once

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Attorney General of Ontario

5 we - he realized that he was wrong about a lot of
things. So, she came up with some new reasons why
she's not going to let the prosecution move
forward. So, Christine's reasons were new and not
consistent with Sean Doyle's reasons, which it
seemed that they would keep changing, with the sole
effort of blocking me. Her reasons were that Jade
tried to get her perpetrator to lie to a probation
officer. Now, I never tried to get him to lie to
10 the probation officer. I used the letter he had
provided me for the civil matter. He did not want
to use that letter, and, if you read the text
messages, all - all it says is that - I don't know
if the - the Attorney General will read them, but
15 if - you'll see that all - all they say is that,
like no worries. If you don't want to be a
character reference, I'll just tell him not to. If
he calls, say two months. No worries. But I was
so nice to him. There was no trying to force him
20 to do anything. In fact, there was a text message
from him to me trying to force me to lie to the
probation officer, to tell him that he was in the
military, not here. Then Christine said, in the
previous allegation from 2014, Jade threatened to
25 do a smear campaign on men to ruin their
reputation. So, again, the Crowns are assuming
that these are smear campaigns to ruin people's
lives, but all I did was post what had happened
with people. For example, just that he blocked me
30 out of the blue and also with the investor, I
didn't post anything at all. All I said was that,
you know,

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 because he really promised me that money, and he
was sexually harassing me. All I basically said to
him was that if - I believe it was something to the
lines of, if you don't - oh, if you don't provide
the agreed upon payment, everyone will know that
you promise women money and then sexually harass
them, and if they don't respond to your text
messages, you don't provide it anymore, which
again, is not dishonesty or anything. I was just
10 reporting the facts, and - but I did not post
anything about him online. I was just upset in the
moment, and I'm sure everyone, including the
Crowns, have moments in their life where they're
just upset, and it shouldn't be scrutinized in such
an extreme way. Further, she said she....

15 THE COURT: Can I ask what gives you the ability,
or the trial experience, or the insight, in order
to say how you know how the Crown attorney's office
ought to be assessing your credibility?

20 JADE NARAINÉ: I don't....

THE COURT: You know, they run trials every single
day of the week...

JADE NARAINÉ: Mm-hmm.

25 THE COURT: ...so they know, perhaps better than
you, what's going to play in front of a judge and
jury and what's not.

JADE NARAINÉ: Mm-hmm.

30 THE COURT: So, how do you get to stand here and
say they shouldn't say this is a problem. They
shouldn't say that about - listen, I believe....

JADE NARAINÉ: Mm-hmm.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

THE COURT: I believe a hundred percent that you
are telling me your truth.

JADE NARAINÉ: Mm-hmm.

THE COURT: I have no problem that you're standing
here telling me things you believe to be absolutely
true.

JADE NARAINÉ: Mm-hmm.

THE COURT: Okay? So, I'm not - I'm not
questioning your credibility today.

JADE NARAINÉ: Mm-hmm.

THE COURT: But I'm saying - I'm asking you to help
me understand where the Crown is committing
wrongdoing...

JADE NARAINÉ: Mm-hmm.

THE COURT: ...if it, as experienced trial lawyers,
are saying the things that you think are innocent,
they think are show stoppers in a criminal trial.

JADE NARAINÉ: I - I'm - I don't know. All I'm
saying is that, from my experience, credibility,
from what I'm reading online and in the law on
CanLii and through lawyers, I'm finding out that
credibility has to do with honesty,
believability...

THE COURT: Mm-hmm.

JADE NARAINÉ: ...and - and inconsistencies....

THE COURT: That's correct.

JADE NARAINÉ: ...but related...

THE COURT: Yeah.

JADE NARAINÉ: ...in the matter.

THE COURT: Yeah.

JADE NARAINÉ: I've been told that....

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

THE COURT: Well, as a matter of evidence law, in a case...

JADE NARAINÉ: In a case.

THE COURT: ...credibility has to be related to that case...

JADE NARAINÉ: Exactly.

THE COURT: ...but they're talking about - okay. Sorry.

JADE NARAINÉ: So, they're saying that I'm not credible for this case...

THE COURT: Yeah.

JADE NARAINÉ: ...because of something from 2014 of a not - unrelated case. So, from the law, it just makes sense to me that that would be irrelevant in this matter because nothing I've done in this matter related to the perpetrator would be inconsistent as of yet because no evidence has been heard, and I'm only basing it also on my experience in the courts because I've been in court for defamation, and the judges have ruled that nothing that I posted was defamatory. So, I'm just...

THE COURT: Mm-hmm.

JADE NARAINÉ: ...going based on what I've just experienced. But maybe Sean Doyle, perhaps in good faith, will not - will just - maybe in the idea, black and white, someone told him that I posted something, and, in his eyes, he thought I did defamation of false statements, but...

THE COURT: Right.

JADE NARAINÉ: ...that was two premature. He needs to ask me. He should say did you post false

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

statements, and I would tell him no, they were true, here's why and such.

THE COURT: Just - I mean I just want to let you know. I've got as Exhibit Q...

JADE NARAINÉ: Oh, yes.

THE COURT: ...the emails from - between - or texts...

JADE NARAINÉ: Yes.

THE COURT: ...between you and - and ...

JADE NARAINÉ: Yes.

THE COURT: ...where he asks you to lie.

JADE NARAINÉ: Yes.

THE COURT: So, I - I - I did get that.

JADE NARAINÉ: Okay.

THE COURT: Go ahead.

JADE NARAINÉ: So, she said that she's not getting the same information from the Crown attorney's office that forgery is being withdrawn. So....

THE COURT: Okay. Yeah. You - you prevented that from happening.

JADE NARAINÉ: Oh, yes. I prevented that from happening just by telling people.

THE COURT: Yeah.

JADE NARAINÉ: So - yeah. So, after she had - had of conveyed that to me, that she's not getting that, I contacted my lawyer yet again and said that Christine is saying it's not being withdrawn, and - in which point Danny had stated I had spoken to the Crown again and he has not changed his position, but that's when he stated but he has gotten some phone calls from the Crowns in College Park and that he's just concerned that I'm - that he might

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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be under some pressures. That's all. So, I guess the - the Scarborough Crown was just trying not to upset anyone. He was going to follow through with his withdrawal, but he wanted to express to the Crowns in Scarborough, perhaps, I'm just assuming maybe that he hasn't made up his mind yet or something more neutral. Then she stated that there is just too much. The jury would never find him guilty. There is no reasonable prospect of conviction, and it's not in the public interest, and then just one last very small thing, which is that her grandmother does not remember writing an email to Todd Higo and detective in 2015. So, I responded again that she had been given the wrong facts, and I could have explained the - the truth in trial. I explained the text message where Luke asked me to lie for him, and so there was - like the dishonesty was there. It - it's just not - if that was to be brought up in trial, that would help as well. So, she could have shown it to me, and then furthermore, I stated that I did not do a smear campaign on anyone, nor did I - nor would I ever do a smear campaign on anyone, and then she did contact me and state that but it's alleged that you were doing false statements about people, and I don't - so, that's when I informed her that you can't just go by allegations. You have to look at the - what was posted and look at the evidence to see if it's true or false, and, in regards to my - my grandmother, my grandmother is 82 years old. She does have some mental problems. For example, we went to a psychiatrist, I believe,

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 last year, and she had stated that she - she
sometimes hears some voices in her head, and she -
she also - she also forgets like a lot of things
that she does and says. So, it can be really
difficult for me because sometimes when she acts as
a witness, it's not as consistent with my stories,
and also when she - like she'll do something and
then she'll completely black out, and then she'll
remember that she did it much later.

10 THE COURT: So, she's no use as a witness.

JADE NARAINÉ: No.

THE COURT: Okay.

15 JADE NARAINÉ: And so, she basically - so she
basically stated that - so, she sent some emails in
concern for something in 2014 to Detective Todd
Higo, and then when Todd Higo came to her house to
interview her, she was so unusual, she was - I'm
sorry - she started talking about like - like
unrelated things, like her - like gorillas and the
20 zoo, and she started saying to Todd Higo that she
never sent an email. She doesn't remember sending
any emails. Maybe it was John, the man who you're
reporting who sent the emails, and then she further
stated that or maybe it was Jade who sent the
25 emails, and I guess Todd Higo didn't understand her
mental state, so - and it's not a severe mental
state. She's not full-out - she is very
functioning in society, but she - she is an elder
and she does have some mild mental - so, maybe Todd
30 Higo didn't pick up on it. So, Todd Higo made a
note in his report, saying that her grandmother
does not remember sending emails to me. Could it

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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have been Jade? So, from that in the system, Christine Jenkins had thought that that was kind of concerning. So, we also - but the thing is, Christine Jenkins doesn't know my grandmother, obviously, so I tried to convey what we know. So, my lawyer, Raj Napal, actually - when we were - to put through my private prosecution, he spoke to my witnesses and found them all to be credible, but he spoke to my grandmother and stated that I don't think we should include your grandmother in the - in the prosecution. Just by speaking with - with her, I don't think she's going to be a valuable witness for you, and so we - we also recorded her making a phone call to a detective, and then a few weeks later we - we recorded her again saying do you remember ever calling that detective, and she said I have no recollection. But then like a month later, she remembered that she did it. So, I conveyed this to the Crown's office. I sent them email - like video footage of her typing on the computer, to show that she's a fast typer. She - I sent them an audio recording of her - the audio recording of her saying that she doesn't remember. I tried to explain some of the mental states. I also expressed that the psychiatrist report did say that. I also even told them that Raj Napal actually stated not to use my grandmother as a witness and that this is why, when I reported my sexual assault, I told the detectives that I don't think my grandmother would be the best. They still wanted to speak to her anyway, but I...

THE COURT: Mm-hmm.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 JADE NARAINÉ: ...I told them in advance that it's probably not going to be beneficial. So, I did everything I could to help Christine Jenkins to see that my grandmother is just not - she should just be written off, and we should just move forward with the prosecution with my credible witnesses and with myself.

THE COURT: Okay.

10 JADE NARAINÉ: But again, she just ignored that and said - said that we just can't move forward.

THE COURT: Let me just stop you for a sec because we've been at this for about an hour and a half, so we're going to take a quick break...

JADE NARAINÉ: Okay.

15 THE COURT: ...for a couple of minutes. I'm not pressuring you at all. I'm just inquiring. How far through do you think you are?

JADE NARAINÉ: I don't have much more to do, so probably just a half an hour.

20 THE COURT: Okay.

JADE NARAINÉ: Thank you.

THE COURT: Okay. We'll be back at twenty to.

R E C E S S

25 U P O N R E S U M I N G :

THE COURT: Yes, Ms. Naraine.

30 JADE NARAINÉ: Okay. So, you were asking before the break the - about the credibility. I was just referring to a case law case, *R. v. A.M.*, 2014, in CanLii. I did not include this in the - in the book of authorities, but it basically goes into

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determining how to evaluate an adult witness'
credibility, and it states here that one of the
most valuable means of assessing a witness'
credibility is to examine consistency between what
a witness said in the witness box and on other
occasions...

THE COURT: Mm-hmm.

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JADE NARAINÉ: ...whether - whether or not under
oath. Inconsistencies may emerge in these
testimonies.

THE COURT: Right.

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JADE NARAINÉ: So, because Sean Doyle prevented me
from taking the witness box, and he did not look
into my original police report, it was impossible
for him to determine my - my credibility in regards
to this case, and I just think - I believe that I
should have had that opportunity. So,
inconsistencies also range, so if they're not minor
then - I mean if they don't concern a material
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issue that has to do with the matter, like the -
like a huge thing that someone couldn't forget...

THE COURT: Mm-hmm.

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JADE NARAINÉ: ...then it's really - it's not
relevant. So, that's just where I'm finding what
is the - what they should consider as credibility,
and then just based on my other lawyers telling me
that my previous charges, it's just not related to
this. That's just where I've come to that
conclusion.

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THE COURT: Okay. Thank you.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

JADE NARAINÉ: So, I don't know. Did you watch the
- if you were able to watch the DVDs from the
material?

THE COURT: No.

JADE NARAINÉ: Okay. So, in the DVDs, we
interviewed some members of the public about -
because the Crowns were saying it's not in the
public interest and you can see very genuine
responses. A lot of people - and we explained
about the - the previous charges, and they're
saying that even if someone was convicted, I don't
think that it's fair or that everyone should be
able to have a fair hearing, a fair pre-enquete
hearing, and that it shouldn't matter if someone
has evidence that some - something was perpetrated
on them. Then everyone should be equal. And they
further stated that the - the types of charges that
they were describing were really like small and
not, just kind of, in their eyes, not important.

THE COURT: Okay.

JADE NARAINÉ: So, furthermore, if you do have time
to review the DVD, it - it is quite interesting.
It was enjoyable to see kind of what the public
thought, and it was really, really helpful for me,
and also in there, there is the CBC stories that
were done on this matter. So, Justice O'Marra -
first - actually, first I just want to get into -
actually, I'll start with the Justice O'Marra
ruling. So, I had....

THE COURT: I've read it.

JADE NARAINÉ: Okay. So, briefly, from that I was
just going to point out that he was able to see,

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Attorney General of Ontario

5 obviously, from the evidence, and I did include, as
similar to this, information about all my charges.
He didn't find them to be relevant to this
particular matter, as well as now - there seems to
- I just want to get into the pattern. Richard
Nathanson was another Crown that had taken over
nearing the end.

THE COURT: Mm-hmm.

10 JADE NARAINÉ: Christine Jenkins again transferred
carriage to Richard Nathanson, Crown attorney.
Richard Nathanson was the Crown who attended my -
the hearing I was supposed to be able to have.
However, they arranged for me to be charged on that
15 day, so I could not attend with my lawyer. On the
day that I was charged for that supposed breach,
the honourable judge - I don't have the transcript
with me, but the honourable judge did tell the
Crown that the evidence was lacking, and there was
no real basis for this charge, at which point the
20 young Crown there was really fighting to have - to
hold me, and like his face was pretty much going
red, he was trying so hard, and my lawyer, Danny
Kayfetz, asked him, like in private after that -
like I've never seen so much targeting for - for
25 this girl. She's done nothing wrong, and he said
well, I been given instructions. So, it became
clear from there that the - that the senior Crowns
at College Park, which would be Sean Doyle, was
giving instructions to the junior Crowns to do
30 whatever they could to hold me detained, and they
knew beforehand that I was going to be arrested
because my lawyer, George Gray, who attended the

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 hearing, I asked him how did you know that I was
arrested, and he said well, the Crowns told me.
They knew. So, it was evident that it was - it was
known beforehand by the Crowns. So, there seems to
be a pattern. Every time that I have a hearing, it
seems to be arranged that I'm either attempted or
prevented from attending. Also, Christine Jenkins
had advised my lawyer not to do a judicial review
on this matter, even though my lawyer had kind of
10 said that it would be a good idea to do. Then also
Richard Nathanson was the one who, when my lawyer
was sitting with the Crown at - in Scarborough, was
the one who had called and again pressured the
Crown not to withdraw the charge, and I know that
15 witnesses are not allowed to be summonsed for
judicial reviews, but I mean Danny Kayfetz can
attest to all of this. If he - if he - if he was
here, he would be willing to.

20 THE COURT: Yeah. The fact that he hasn't is a bit
of a problem for you.

JADE NARAINÉ: Mm-hmm. I understand. I guess he's
not....

25 THE COURT: You keep telling me things that he said
and that other people told him to....

JADE NARAINÉ: Mm-hmm.

30 THE COURT: There are - your friend - your friend -
the Crown counsel has been very polite and not
interrupting, but I'm sure he's saying to himself
that you're relying on all kinds of evidence that's
not properly admissible because it's hearsay, and
actually it's double hearsay. It's someone told

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

Danny and Danny told you, and there is no affidavit from Danny.

JADE NARAINÉ: Mm-hmm.

THE COURT: So, there's a....

JADE NARAINÉ: All I - yeah.

THE COURT: It's a....

JADE NARAINÉ: All I really have is the emails where he expresses the pressures.

THE COURT: Right. I understand that.

JADE NARAINÉ: Mm-hmm. Now, there also seems to be a pattern here with - and I just want to make it clear that up to this date I've been emailing the Crown's office with new evidence to prove that things are - so, they - they know up to - or last week that we're overturning the plea. So, they know everything, but never were they willing to reopen or....

THE COURT: Right.

JADE NARAINÉ: Now, the patterns that are happening that I've encountered here is that it started with the police basically having that - having the complaint filed against her, and then she started with the abnormal phone calls to Danny Kayfetz, upset that she had - that I had filed a complaint against her, and then that moved to obviously, Sean Doyle, and then him transferring carriage again to someone else, Christine, and then transferring carriage again. It seems to be that a continuous protection or a coverup for the previous Crown's mistakes or previous police's reasonings or mistakes because every time it is transferred, it's a new reason. Also, even with charges, as soon as

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Attorney General of Ontario

5 a complaint is filed, or a police officer is added
to the law suit, they change new officer, now a new
detective, and it keeps going like that. Now,
again, this is not - it's not just a he said/she
said case in my matter just because it's not just
my testimony. I'm not coming forward years later.
I did have like a lot of evidence that really shows
that this - this has happened, for example, the
10 hospital report. The nurse remembered me when I
went back. So, obviously, the blood. Obviously,
the psychology reports. I did thorough testing.
Obviously, my witness that I saw the next day, who
is a complete stranger, who had offered to take me
to the hospital. I - I broke down in front of him.
15 He - I expressed the sexual assault, and then
obviously, my music producer, who noticed the
change in behaviour right away, and none of these
people, especially the stranger, have any value in
being even - having to fly in from Ottawa to be
20 here. It's - it was a strain for him, but he did
say that I could tell that you were very hurt by
this, and I wanted to come forward and - and help
in any way that I could. So, it wasn't just a he
said/she said. There was some corroborating
25 evidence to support the claims that I was making.
Again, I just - you've been through the material,
but there is a lot of - a lot of quotations from
various individuals, lawyers, professionals,
stating that there was enough evidence. There was
30 really no reason for the Crowns to - to block it -
this - like this, and, as I said, I just don't
believe, in my opinion, that the Crowns have

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 engaged in any of my evidence in a meaningful way,
and I think that they had other reasons for staying
this prosecution. My perpetrator is known to have
close friends on the police force. He's expressed
it many times to me in front of judges even, and
he's just been treated like he's - he's above the
law. As part of the - when I had received the
judgment from Justice O'Marra, I had informed my
perpetrator, through credible lawyers and process
10 servers, that he was in default on March 25th,
2018, and he was able to - to - he - he provided a
sworn affidavit saying that I only found out about
it on July 13th...

15 THE COURT: Mm-hmm.

JADE NARAINÉ: ...and I had an audio recording and
some witness statements, which were dated from
March 25th, in which he stood in front of the judge
and said, well, I just didn't believe her, I guess,
and Justice Corbett completely just allowed this,
20 that oh, it - it's not perjury. He didn't believe
you. But I mean I've done everything right and
credible, and I don't believe that this should have
been set aside. But, in any case, as you can see,
everything seems to go his way. It's just that
Justice O'Marra was really nice, and he had stated
25 that he had hoped that it would help me provide
closure...

THE COURT: Mm-hmm.

JADE NARAINÉ: ...and Justice Corbett, he didn't
30 even really let me speak at the hearing, and
[indiscernible] researched online that he had done
something similar in the past, and that in an

Jade Elizabeth Thelwell (Naraine) -and-
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appeal, he was found a bias. So, I appealed the decision, but I just didn't have a fair hearing, and my perpetrator has just done so much to me. Aside from the sexual assault, if you look in the police disclosures, he's - he's making these little creations with other men. He's working with another man, previous boyfriend, stating things like he made a police report stating that I believe that she was at my house, and she loosened a wheel on my car, so I would get into an accident with my son, and then the other man had corroborated that story and said that I believe that Jade might have done this, and the problem with this is that this was done or apparently the wheel was loose months before, and he made this report two days after already claiming to fear for his life of something else, and it's just consistently they're trying to think of what they can tell the police to try to get them to get me in trouble, and sometimes when it works, they laugh at me online, and they say the police are so dumb, and they just keep charging her, and they just kind of laugh at like the whole justice system because nobody is really making the perpetrators take responsibility for what they are doing, and there is just so much evidence. I don't want to get in too deep because this is for the police claim, but there is so much evidence of perjury, false reports. As I said, one of the men, misled the police when he told the police that I spoke to a lawyer that - that sent me a letter, and the lawyer informed me that he's not

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 retained. He - he like made that up with my
perpetrator again, and the detective completely
charged me for that, even though the lawyer was
retained, and he didn't even check, and so, it's
just an ongoing thing, and - and every time we
leave a court date, my perpetrator and I, he always
laughs at me and tells me that he doesn't even
have to try and he wins because nobody really
catches on to him because he - when he presents in
10 front of the courts and in front of police, he
presents like he's this honourable paramedic, but
when you actually look into it, there is so many
inconsistencies in his stories, and he's - he's
very - like a - like almost like putting on like a
15 show or an act of this presentable honourable
paramedic, and just nobody is really seeing through
it, I think, and that was - has been, as I said in
my material, my biggest hurdle in this is just that
nobody is really seeing that he's not who he says,
20 and I did send the Crown's office actually a link
to a CanLii court case with him, where judges have
stated that his statements to the court are
inconsistent. They lack credibility, common sense.
He's been in contempt. He did commit crimes before
25 for assault, drugs. He did get a destruction, but
there is other evidence where police gave him
warnings for like illegal bomb making. He never
got a warning for my sex assault. He doesn't get a
warning for all the postings he does on me online.
30 He's done hundreds of defamatory postings,
fraudulent emails to me to harass me and harm me,
but yet they charge me for

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 harassment for sending one letter, so that I look
bad in court in front of everyone, and Justice
Corbett just completely bought it and didn't even
let me explain what's going on, and - and then just
- in the court documents, there is also another
woman who - who testifies that she has experienced
abuse. She states that my perpetrator was always
very verbally, physically and emotionally abusive
to me. He would push me down the stairs. I
10 believe she has - he has the similar traits to a
sociopath, she would say, and I didn't see any of
this until more recently when I was digging in the
court records trying to find something, and it all
is consistent with what I told police. I told the
15 police that I believe he has the similar traits to
a sociopath. I told the police that he's very
emotionally, physically, mentally abusive. There
has been issues with his son suffering depression
and anxiety because of he forces his son to do
20 activities he doesn't like. So, there was a lot of
evidence that the Crowns could have taken into
consideration, just to see that I was credible, and
at least just give me a chance to - to - to move
forward with my hearing and - and see where things
25 can go. But they did not engage. They just
refused to rectify their mistakes.

THE COURT: Okay.

JADE NARAINÉ: That's all I have to say.

THE COURT: All right. Thank you very much.

30 JADE NARAINÉ: Thank you, Your Honour.

THE COURT: Mr. Sinnadurai, two things. First,
I'm sure you would come to this on your own, but I

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Attorney General of Ontario

want to be sure that there is no vilifying of the applicant today.

MR. SINNADURAI: Absolutely, Your Honour.

5 THE COURT: Secondly, what I need to hear from you is two things, whether - you've sat here and heard Ms. Naraine speak about the various elements that make up what she says are the reasoning behind or the reasons that she's been told that the Crown has made it's determination, and she has done a - given her views as to how each of those things has an innocent explanation, and her ultimate explanation or ultimate complaint is, and she said it several times, that in her view the Crown has not fairly engaged in her - her evidence.

10 MR. SINNADURAI: Right, Your Honour.

15 THE COURT: So, I'd like to hear about that at a high level at least, and I'd like to hear about whether the potential that Crowns in one office are preventing charges from being withdrawn in another office might amount to wrongdoing of a sufficient quality on a - on a *mandamus* application. So, tell me whatever you want to tell me, but those are the two things that I would like to and most need to hear about.

20 MR. SINNADURAI: Sure, Your Honour. So, why don't I go through my submissions, and, in the course of doing so, I will address those points.

25 THE COURT: Thank you.

30 MR. SINNADURAI: So, at the outset, Your Honour, obviously, the Crown's position is that this application should be dismissed. I think it would be of some benefit to review the facts before

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

getting into the law and their application to this case.

5 THE COURT: Unless you're going to tell me something different than I don't assess the Crown's - I don't second guess the Crown's exercise of its prerogatives unless it amounts to flagrant misconduct of the type talked about by Justice Quigley, I get it.

10 MR. SINNADURAI: So, I might skim over the law then, but before we get there...

THE COURT: Yeah.

15 MR. SINNADURAI: ...in terms of the facts, it's useful to clarify what exactly happened here and when it happened. So, Ms. Naraine laid her private information in November 17 - on November 17th, 2017. She's already detailed the nature of those allegations. It's here, I think, that we depart, in terms of the narrative. At this point, the College Park Crown attorney's office asked Rick Nathanson, Richard Nathanson, to take carriage of the matter and decide on the Crown's position. Sean Doyle, who Ms. Naraine has mentioned, is the Deputy Director at that office, and he is the one who asked Mr. Nathanson to take this on. The
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25 reason he asked Mr. Nathanson to take this on was because he recognized that it was a complex matter, and it was a bit more involved than, I guess, other types - other things that typically would be assigned to Crown attorneys in the office to assess. In that case, it had initially been
30 assigned to a junior Crown attorney, but Mr. Doyle gave it to Mr. Nathanson because of

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

its nature, and it would be useful here to tell you a bit about Mr. Nathanson.

THE COURT: I know.

5 MR. SINNADURAI: So, he's the regional sexual violence Crown for Toronto. He is the person responsible for a number of different things in relation to sexual violence prosecutions. He's been a Crown attorney since the year 2000, and was called in 1995, but in the role of regional sexual violence Crown, he provides education and advice to Crown attorneys on sexual violence prosecutions. He works to develop and implement processes and practices, best practices, to assist prosecutors to better understand and address the complexities of sexual violence prosecutions, and he takes carriage of sexual assault cases himself. So, it was for that experience and expertise that he was asked to take - to assess this matter. In particular, he was asked to assess the matter to ensure that the sorts of myths and stereotypes that can often inform and lead to assumptions about sexual assault claims had no role in the Crown's decision, one way or the other, in this case. So, Mr. Nathanson - so, Mr. Doyle didn't make any assessment, didn't come to any decision. Mr. Nathanson did, at Mr. Doyle's request. So, Mr. Nathanson reviewed the materials provided, including the information and the variety of other materials provided by Ms. Naraine, and, after a careful assessment, concluded that there was no reasonable prospect of conviction, and I'll detail the reasons for that conclusion shortly, but it was him that came to

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Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 that conclusion, and he came to that conclusion
before the December 14th pre-enquete proceeded.
So, as part of that analysis, you know, of
reviewing the materials and of looking at the
circumstances around the case, he did inquire with
other Crown attorneys in the GTA. He inquired of
the Crown attorneys who had carriage of
prosecutions against the - Ms. Naraine, and he did
10 this for the sole purpose of determining the status
of those prosecutions. The evidence in the record
reflects that. There is no indication that he, in
any way, interfered with or sought to alter the
course of those prosecutions. He had a set of
allegations. He had Ms. Naraine's corroborating
15 information, and he looked into all the
circumstances available to him. So, as I said,
Mr. Nathanson did not attend the December 14th pre-
enquete. Mr. Doyle did. But that was only because
Mr. Nathanson wasn't available that day. The
20 intention was that Mr. Doyle would enter the stay
on the basis of Mr. Nathanson's conclusions.
However, Mr. Napal, Ms. Naraine's lawyer, attended
as well, and, through mutual agreement, and this is
reflected in the record, they agreed to adjourn the
25 matter to let Mr. Napal provide more evidence, some
more material, to - that might cause the Crown to
reconsider its decision and to ask questions or
engage in more of a conversation. So, the matter
was adjourned on consent. It wasn't somehow done
30 despite the Crown's intention to move forward. The
Crown wasn't insistent on doing anything. The
matter was adjourned to January - I believe it was

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 25th. Sorry. To - yeah. The second pre-enquete
was January 25th, so about a month and a half
later. So, in the time following that pre-enquete,
on December 14th and that January 25th date, a lot
happened. The Crowns reached out repeatedly, and
this was Mr. Nathanson and Ms. Jenkins, another
deputy Crown at the College Park court house. They
reached out repeatedly to Mr. Napal to come in to
meet to discuss Ms. Naraine's concerns, to discuss
10 any other material that he had to offer. He didn't
do so. In the meantime, the Crowns, Mr. Nathanson
and Ms. Jenkins, looked at the material again.
They looked at the new material that they continued
to receive from the applicant and others who said
15 they were associated with her, advocating for the
prosecution being permitted to continue. However,
after that review, they came to the same
conclusion. Ms. Jenkins agreed with
Mr. Nathanson's conclusion, and Mr. Nathanson
20 maintained his conclusion that there was no
reasonable prospect of conviction. So, at this
point, the applicant retained new counsel,
Mr. Gray. The Crowns invited the applicant to come
in to meet with them to discuss the decision and
25 the basis for it. The applicant declined but said
that her lawyer would be attending. Mr. Gray did
meet with Mr. Nathanson and Ms. Jenkins on January
22nd. They met with him for over an hour. They
told them - they reviewed the reasons for the
30 decision. They invited him to ask questions. They
invited him to provide any additional material that
he might have, and he didn't do so. Mr. Gray

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advised the Crowns that he would advise the applicant of their position and explain the situation. So, I'm going to move forward a few days to January 25th, and that's the date of the second pre-enquete. Mr. Nathanson was available for this enquete [sic] and for - sorry - for this appearance and did appear. Mr. Gray appeared for the applicant. I want to correct something that the applicant said in her submission. She said that the Crown implied or said clearly that the Crown somehow orchestrated her being held in custody during this appearance to prevent her from appearing. There is obviously no evidence of that, and actually, the evidence in Mr. Nathanson's affidavit is that they were aware that the applicant had been arrested and was at the College Park courthouse that day, and they expressly provided for her to be there if she wanted to be. So, she'd be taken in from I guess the holding cell. She declined that offer and Mr. Gray did appear for her as well. So, the transcript of those reasons or Mr. Nathanson's reasons for staying the decision are in the record at Exhibit A to his affidavit. I will note that the applicant mentioned again in submissions that the JP expressed misgivings or somehow doubts about the decision. I'll just say that that's not reflected in the transcript. Mr. Nathanson goes through the reasons for the decision at a high level. He notes in his affidavit, and this is reflected to some extent in the transcript, that Mr. Gray sought to confirm that he wouldn't be going through the

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 reasons and - and credibility issues and charges in
detail, so as to avoid any kind of issue there.
So, you can only see the interruption in the
transcript, not that discussion, but Mr. Nathanson
does address it in his affidavit, that it's
provided at a high level to avoid, at Mr. Gray's
request, and to avoid any embarrassment or other
issues for the applicant, and so now I'll go into
10 the reasons for the decision to enter a stay of the
prosecution or the proceeding. So, it was based on
Mr. Nathanson's objective assessment of the
likelihood, the reasonable prospect of conviction,
and so, it wasn't based on any personal assessment
of the veracity of the applicant's claims. It
15 wasn't because he believed or didn't believe what
Ms. Naraine claimed. It was based on his
assessment of what the trier of fact would
conclude, based on the evidence that would be
available to both the Crown and the defence in the
20 event there was a trial, and his conclusion was
that the trier of fact was unlikely to conclude,
beyond a reasonable doubt, that the allegations
could be proven, and that's the key here. This
isn't about believing that the applicant was
25 credible. This isn't about believing that she
wasn't credible. This wasn't about believing that
her perpetrator would - would or would not be
believed. It was about whether a trier of fact
was likely to believe the allegations to the high
30 standard - I mean beyond a reasonable doubt
standard, and upon reviewing all these materials
and all the related material provided by the

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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applicant and her associates and inquiring about the status of the other prosecutions, he concluded that that was not likely, and, for that reason, he thought - he concluded that objectively, there is no reasonable prospect of conviction and entered a stay. Your Honour, the details about or some of the detail for underlying his conclusion are set out in the affidavit. I won't go into them in detail here because I don't think it's necessary, except to say that - to emphasize a point that is made in the affidavit and the factum about the consideration of the other prosecutions. It wasn't the fact of the other prosecutions, and I'm sorry, I'll interrupt myself here to say that the status of those prosecutions is set out in the affidavit. I think the applicant said at one point that she wasn't convicted of a charge, and, in fact, she was convicted, and anyways, it's set out in the affidavit. But the key here is that the - those prosecutions were not considered merely for the fact of them, merely because the applicant had been involved in criminal proceedings previously. It was because of their nature and their similarity in context and other factors to the allegations advanced in the private information. I will just say at a high level they involved sort of events that followed the breakdown of personal relationships that were consistent. Again, I'll - the - the details of those are set out in the affidavit, and I'll leave it there. The other point I'll make is that the forgery allegation, which my - the applicant addressed in some detail

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 was a primary concern of Mr. Nathanson, and this
isn't related to the other prosecutions. This is
related to an ongoing prosecution at that time
about an attempt to mislead the court. So, this is
in relation to a conviction for criminal
harassment. There was a - the Superior Court or
the Ontario Court, in that case, I believe it was,
ordered the preparation of a presentencing report
10 which was being prepared, and, in the course of
that, there was evidence that the applicant had
sought to somehow provide misleading information to
the parole officer, who would then provide that to
the court. Now there was sufficient evidence of
that that a prosecution was commenced. That
15 prosecution was ongoing at the time that the stay
decision was entered. The applicant mentioned at -
at one point in her submissions that that forgery
charge would be withdrawn. All I will say for that
is that is not our understanding. That is not in
20 the evidence. Our understanding is that
prosecution is ongoing. So, again, I don't need to
skim over this, except to say that the basis for
the - Mr. Nathanson's decision was an objective
assessment of the evidence that would be available
25 at trial and that would inform the trier of fact's
decision, and that caused him to conclude that it
was - there was no reasonable prospect that the
trier of fact would convict because they believed
her - the applicant's evidence beyond a reasonable
30 doubt, and so he decided to enter the stay because
there is no - because there is no reasonable
prospect of conviction. All that to say the facts

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 here are - are the - is Mr. Nathanson's decision,
based on these conclusions, based on the evidence
in the record. It was not Mr. Doyle's decision.
It was not Ms. Jenkins decision, although they were
prosecutors who appeared and were involved over the
course of these proceedings. It was
10 Mr. Nathanson's decision in his expertise and
experience. Now, I will briefly address the law,
and I understand Your Honour is - already
appreciates the standard here, but I wanted to
emphasize a few points. There is a case at Tab 4
and Your Honour can - I could just give you the
cites, but you can go to it as well, if you wish.
That's a decision from 2012 of Justice Code and
15 there it was an individual had been convicted of
criminal harassment - sorry - had been prosecuted
for criminal harassment, was acquitted and then
turned around and swore a private information
against a witness who had made the allegation
20 against him. He alleged that she had perjured
herself, among other things. The Crown stayed the
prosecution, and Justice Code dismissed his
application for *mandamus*. In doing so, he set out
the law in this area that Your Honour already
25 appreciates, but I wanted to talk about the
flagrant impropriety standard. So, again, Your
Honour noted, I believe, that it was a high
standard, and it required a certain - a level of
misconduct that was quite serious, and it's not
30 simply - to emphasize the seriousness of it,
Justice Code quotes a number of decisions, and one
of them is - is from the Supreme Court in *R. v.*

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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Nickson [ph] and it's at paragraph 12 of the decision at Tab 4, and so I'll just skip ahead. I'm sorry, Your Honour. I'm just trying to cut out the parts that I think you already appreciate. I'm sorry. It's at - actually *Krieger* at page 6 that Justice Code quotes, and the Supreme Court there says that review for bad faith or improper purpose does not constitute a review of the exercise of prosecutorial discretion, since the official action which is undertaken in bad faith or for improper motives is not within the scope of the powers of the Attorney General. So, the characterization there is that any review - there is no review of a decision taken in a court prosecutorial decision, but where a prosecutor acts outside the role as prosecutor, where they act in bad faith or for an improper purpose, then the court isn't reviewing prosecutorial conduct. The court is reviewing that bad faith and that improper purpose, all to say that a decision taken by a prosecutor is not reviewable, absent something that is so egregious that they are no longer acting as prosecutor. I'll just skip ahead to *Lochner* at Tab 5. This is another decision dismissing an application for *mandamus* in relation to the staying of a private prosecution, but - and this is by Justice Quigley, and I appreciate Your Honour has read the decision, but there are points that deserve emphasis and that is so Justice Quigley cites Justice Tucker in an earlier *mandamus* application, where he notes that there may not be a case in Canada where a prosecutorial stay has been overturned. That

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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doesn't mean it is impossible. It is possible where there is clear evidence of an abuse of process, and again, the standard here is not simply decisions made in the course of a prosecution. It's where someone has carried out an abuse of process, and then the other important point here is the discussion about the evidence required to establish abuse of process. So, at paragraph 26 or 61 of *Lochner*, Justice Quigley quotes Justice Tucker, who says - who dismisses the evidence of the abuse of process on the basis that it's simply affidavit evidence provided by the applicant that is at best untested by cross-examination and at worst hearsay and self-serving. He goes on to say that the only acceptable - acceptable evidence in the case before him were the reasons provided by the Crown for staying the action. Finally, Your Honour, in *Perk v. Ontario* at Tab 6, it's an older case, but it's useful for its discussion of the evidence required to establish the type of misconduct that would warrant revisiting a prosecutor's decision to stay a prosecution. Here this is an application for a *certiorari* and *mandamus*. At paragraph 8, Justice Dambrot discusses the evidence - or Dambrot discusses the evidence that must be shown. First of all, it must be evidence of misconduct bordering on corruption, violation of the law, bias or improper motive. He goes on to warn that the judge will not inquire beyond a facial sufficiency of the Crown's exercise of prosecutorial discretion. There must be a threshold showing of impropriety. Quoting Justice

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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Finlayson at - in *R. v. Durette*, Justice Dambrot says - notes that the accused in that case bears the burden of making a tenable allegation of *mala fides* on the part of the Crown. Such an allegation must be supportable by the record before the court, or, if the record is lacking, an offer of proof. The allegation of improper or arbitrary motives cannot be an irresponsible allegation made solely for the purpose of initiating a fishing expedition and hope that something of value will accrue. Finally, Justice Dambrot notes that the Crown in that case articulated a perfectly reasonable explanation for the withdrawal of charges and that was sufficient. And so, Your Honour, my submission is that's the case here. We have evidence in the record that sets out a perfectly reasonable basis for the decision to stay the charges the applicant sought to advance and that is all you need. There is no evidence beyond that of the type of flagrant impropriety, much less compelling evidence, that would warrant judicial review of that decision. I do, however, want to go through this evidence in to some extent to address some of the points that the applicant....

THE COURT: You don't need to.

MR. SINNADURAI: Okay. So, I'll just address your two points, Your Honour. First is the question of whether the Crown fairly engaged the evidence provided by the applicant, and I'll say again, the evidence in this proceeding is that Mr. Nathanson reviewed everything that was provided. So, we have - it's obviously quite fulsome. You can see that

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 from the applicant's application record here. He
went through it. He considered all of it. He came
to a conclusion, based on that consideration. The
applicant, and I won't go through this in detail,
as Your Honour has said I don't need to, but the
applicant has provided a great deal of speculation,
implication, reference to extraneous things that
are and are not in the record about why this
10 consideration wasn't adequate, why more should have
been done, why they should have come to a different
decision. I'll only say that they came to this
decision based on their expertise and experience,
Mr. Nathanson did. The evidence available
15 supported - supports that conclusion. The evidence
from the applicant, I would submit, does not and is
not - it's not a consideration of it I don't think
would be appropriate in this case. It is - largely
it is hearsay. It is provided in submissions. It
isn't corroborated or reflected in the record. I -
20 you know, I want to say here that this is - my
submissions here, as Mr. Nathanson's position in
the criminal proceeding, aren't based on any
opinion or assessment of whether or not the -
whether the applicant's allegations are in fact -
25 whether she believes them or they're - or they're
in fact true. I have no reason to doubt them
because I wasn't involved, and this isn't a comment
on that. This is simply a comment on the evidence
available to the Crown to making the decision and
30 that evidence is clear, and they came to a
conclusion based on that clear evidence. The sort
of speculation and, you know, the rest of this -

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 the - the sort of submissions my - the applicant
made this morning aren't material to that
assessment and aren't material to this court's
decision on that assessment. The second point,
Your Honour, - and so my submissions again, that
10 first question of whether the Crown fairly engaged
is that they did. There is no indication that they
did not. There are only the applicant's
submissions about what they should have done
instead, and I will submit that that's not a fair
basis on which to review the Crown's decision. The
second point Your Honour asked was about the
Crown's inquiries with other courts, and so the
evidence there again is that the Crown,
15 Mr. Nathanson, inquired about the status of those
proceedings, and I think - I don't know that there
is any basis for....

20 THE COURT: Pretend for a minute that I had an
affidavit in front of me by Mr. Kayfetz, saying the
Crown arguing the forgery case was told by the
Crown downtown not to - not to withdraw because
that - we're relying on the forgery as part of the
reason not to proceed with the sexual assault.

25 MR. SINNADURAI: If we had that affidavit, we would
respond, and we would cross-examine Mr. Kayfetz.
We would rebut that, I guess, in more detail in
Mr. Nathanson's affidavit, but we don't. We have
aspersions being cast by lawyers who are not in
court about Crown attorneys, and, you know, I was
30 going to address this in closing, but these aren't
sort of throw away allegations. There are a number
of very serious allegations of Crown misconduct...

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

THE COURT: Mm-hmm.

MR. SINNADURAI: ...being made here against people who work in these courts every day. They are completely uncorroborated in the record. They are completely unparticularized. They're baseless. Beyond the fact that they don't meet the standard required to warrant review, this court shouldn't engage with them in any serious way. You know, beyond the serious allegations of, you know, interference with other prosecutions, there are more minor sort of comments being made about the character or the demeanour of Crown attorneys.

THE COURT: And judges.

MR. SINNADURAI: And judges. And I will only say that, you know, there isn't evidence on those issues in this application by the Crown because those aren't relevant to this application, but there are a number of different reasons people can act and look the way they look. We don't have any evidence of that, and I would only ask Your Honour to - to - to appreciate that there is - we have the applicant's comments and experience, but we don't have the other side here, but that's because it's not relevant to this - what's before the court today. But to your question about...

THE COURT: Right.

MR. SINNADURAI: ...the Crown's engagement with other prosecutions, Mr. Nathanson was aware of these other prosecutions that related in nature to this one. It was - it's obviously vital to know what's happening with those prosecutions. If, for example, those charges are withdrawn, it would

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 impact his decision. If they are continuing, it
would, in the same way, impact his decision. You
know, by the same token, if there was a conviction,
he would need to know that. If the Crowns had
intended to wrong pursue a prosecution, we would
need to know that. All to say there is no reason
that such inquiry would be inappropriate or
improper. The only evidence we have of it's - of,
10 you know, again these allegations that there was
interferences, hearsay from the applicant. We
obviously reject that, but again, it's not in the
record, so we haven't been given the opportunity to
rebut it fulsomely because frankly we don't believe
we should have to. The applicant again made a
15 number of sort of comments on a number of other
matters involving conspiracy between the Crown and
police, the conduct of the probation officer at
issue here and his current role, and, I guess, an
invitation that he committed some misconduct in his
20 role. I'm sorry. I did set out a list, and I
don't - I know Your Honour probably wouldn't want
me to go through each of them in turn, but all of
that is speculation unsupported by any evidence and
unrelated to anything at issue before this court.
25 Beyond the fact that it - I'm saying it's not
relevant because it didn't have to do with the
decision at issue here, it's also not relevant
because it doesn't have anything to do with
anything to do with this prosecution. They are
30 just allegations about other things that are going
on that are out there. They don't have any bearing
here, and so we would ask Your Honour not to

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

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consider them in the course of considering this application, and I apologize. I've been trying to organize my thoughts as the applicant spoke, and I'm just reviewing my notes to see if there is anything else I - that needs to be addressed. So, I think that's it, Your Honour, beyond the general points about the speculation and sort of other comments made by the applicant, which I think you appreciate our position in this application is simply that it should be dismissed. There is no doubt that the applicant disagrees with the Crown decision. The Crown doesn't take issue with her right to disagree with the decision. The Crown takes issue with the assertion that there is any reason for the court to review that decision. Our submission is that there is no indication here that the court should review the decision and the application should consequently be dismissed. Subject to any question from Your Honour, those are my submissions.

25
THE COURT: All right. Now, while I'm hearing this in criminal court, in fact, arguably, application for *mandamus*, even though it's under the *Criminal Code* is - could potentially be civil. Do I take it you're not seeking any costs?

MR. SINNADURAI: We haven't seeking costs.

30
THE COURT: Okay. I'll ask Ms. Naraine the same thing in her reply. All right. Now, Ms. Naraine, you have a chance to reply, but I'm going to ask you, please, the way this works, what you're supposed to be doing now is replying to things he has said...

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

JADE NARAINÉ: Okay.

THE COURT: ...rather than you - I promise I have taken copious notes. You don't have to repeat what you told me before.

JADE NARAINÉ: Okay. Thank you.

THE COURT: If you can just try to confine yourself to replying to things that you have heard Mr. Sinnadurai say.

JADE NARAINÉ: Okay. Thank you, Your Honour. So, Mr. Sinnadurai - I'll just - my friend here says that the probation officer's presentencing report or his alleged misconduct is not - is irrelevant to this matter, however, it is not. As he stated, Richard Nathanson did use in his reasoning that he believed that I had given false information to the probation officer in his report. So, clearly, this presentencing report was part of this decision, and this is why I did bring evidence to show that the probation officer was dishonest in his motivations, and I - I believe that a notarized statement is evidence. It's a sworn statement from an individual who provided a statement to the probation officer, which turned out to not be accurate. So, we don't know from that what else is not accurate in his report. So, he is not - his report - it clearly lacks credibility because of this - these statements that have been proven to be false on his report. Furthermore, the - my friend says that the - he reads some cases where the Crown stayed a prosecution for someone after the - the original party had already had them charged with harassment. That would be understandable, and I

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 would agree in that case because the person who was
charged with harassment is being the same - is the
same person who is now trying to bring a charge of
a prosecution against the same person who had them
charged for harassment, meaning that there would be
some speculation as to if this would be a revenge
or - or if there is another motive for bringing
this private prosecution. However, in my case, I
was not charged with anything when I was - when I
brought my private - or when I was pursuing my
sexual assault case, when I reported it to the
police in relation to my perpetrator. So,
therefore, there was no need for - there was no
idea of revenging. I was not charged second. In
15 fact, I was charged for forgery after I reported my
sexual assault. So, if Richard Nathanson was
willing to consider possible motive for bringing
charges, he should have considered that my
perpetrator had had me charged falsely - well, in
20 my opinion, falsely after I had reported a sexual
assault, which is a huge indication, potentially,
that the charge is not genuine, especially because
of the context of the charge. It's a meaningless
character reference letter with no monetary value,
25 which the Crown stated as part of the reason why
they wanted to withdraw it, and it was clear
indication that the perpetrator had other
reasonings for - for - for filing this report, and
it was only to deter the police and the Crowns from
30 - from the sexual assault and focus all of the
attention and eyes on me. Further, the - my
friend says that I've been convicted of criminal

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

harassment. I only pled guilty. There was no conviction registered. I find it very, very degrading and shocking that he would say that I'm convicted of criminal harassment.

5 THE COURT: Can you point to the record where you say that? Is there somewhere in the record that shows the conviction?

MR. SINNADURAI: Sorry, Your Honour. You mean in her - in my friend's....

10 THE COURT: Yes. Somewhere in the admissible evidence before me indicating whether there is a conviction or not.

MR. SINNADURAI: I believe it's in Mr. Nathanson's affidavit...

15 THE COURT: Okay.

MR. SINNADURAI: ...but let me just find the paragraph. So, it's at paragraph 32. It says that the applicant pleaded guilty to one charge of criminal harassment and was awaiting sentencing at the time of the stay decision.

20 THE COURT: Okay. Thank you. So, he says you pleaded guilty, which is what you said before. You said there was no conviction though.

JADE NARAINÉ: Yes. From my understanding, it's not...

25 THE COURT: I understand.

JADE NARAINÉ: ...the same thing because we don't know. The judge was he - or the judge and the Crown were even just looking at a discharge. I thought that a conviction was a registered conviction.

30 THE COURT: Yeah.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

JADE NARAIN: Yeah. So, I find it very degrading that the Crowns would make such a harsh statement that I'm convicted. It's kind of tarnishing my reputation quite a bit, and I would have never been convicted for that, and I was going to fight for the overturning of it and try to get it dismissed. Furthermore, the forgery, no evidence was - no evidence - there was no evidence to support the forgery charge. So, it's difficult for Richard Nathanson to image that Richard Nathanson is saying that because she's been charged for forgery, we can't put it through because - but, just like in this case, it's all hearsay. Someone says they didn't sign a letter, but it looks like his signature, and you can't just say that because someone - an ex-boyfriend just charged for sexual assault goes and says I didn't sign this letter that that means that now she's definitely guilty. We have to wait and see, and there is a lot - there is a *Charter* right that I am supposed to be deemed innocent until guilt and it wasn't fair for Richard Nathanson to already decide that there is guilt here, and furthermore, they say that Sean Doyle didn't make any decisions and it was Richard Nathanson from the start. However, Sean Doyle, clearly from his statements coming to court that day, it was clearly a whim decision, and he was prepared to stop the prosecution from going through. He told Raj Napal that I'm not going to be letting this go through today. But it was only because my lawyer had fought and said that no you have to give us time and there was a heated

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

argument - that was the only reason why it moved forward...

THE COURT: Mm-hmm.

JADE NARAINÉ: ...and if Richard Nathanson was really....

THE COURT: So, he was determined in bad faith to not let it go through, why did he agree to the adjournment to give your counsel time to submit more material?

JADE NARAINÉ: That was after my lawyer had gotten into the...

THE COURT: Right.

JADE NARAINÉ: ...heated argument. So, he was in bad faith, but I think what....

THE COURT: Well, but sorry. That's two things aren't consistent.

JADE NARAINÉ: Mm-hmm.

THE COURT: If he's in bad faith, that means he's made a decision that a truth doesn't matter, what you say doesn't matter. He's going to stay the charge because he's going to exercise his power...

JADE NARAINÉ: And that was his....

THE COURT: ...and it's - that may have been his position coming in, but he listened to your lawyer...

JADE NARAINÉ: Mm-hmm.

THE COURT: ...and ended up adjourning.

JADE NARAINÉ: Mm-hmm. But that was his last word that I had heard him tell the...

THE COURT: Right.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

JADE NARAINÉ: ...the lawyer, which - which was that like he was so upset, and he said well, it's not going to go through, and like he....

THE COURT: Okay.

JADE NARAINÉ: He had made his decision, but obviously, my lawyer was saying if you don't do this, we're going to review your decision. We're going to fight this because she's...

THE COURT: Right.

JADE NARAINÉ: ...credible, and so I guess he just gave in, and also, if Richard Nathanson was behind this from the beginning, why was there a Christine Jenkins in the middle. Sean Doyle told me in an email that I am transferring carriage of this file to Christine Jenkins.

THE COURT: Mm-hmm. Now, Mr. Nathanson was only brought in after you laid the private charge, I think you said.

JADE NARAINÉ: No. No. No. My friend says that Richard Nathanson was from - in from the beginning.

THE COURT: No. In early December 2017 is when Mr. Nathanson became involved.

JADE NARAINÉ: Exactly.

THE COURT: And that's....

JADE NARAINÉ: That's what....

THE COURT: That's paragraph nine of his affidavit.

JADE NARAINÉ: And my pre-enquete hearing was....

THE COURT: Just after. Started December 24th and then went into January.

JADE NARAINÉ: Yes. So, that's what I mean that he's stating that Richard Nathanson was there from the beginning.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 THE COURT: I don't think he said that. I heard
him say Mr. Nathanson was appointed after the
charges - after you laid the private prosecution
charge.

JADE NARAINÉ: Yes. That's what I mean.

THE COURT: So, before that was Doyle and then
Jenkins.

10 JADE NARAINÉ: No. I laid the private prosecution
before Sean Doyle was - so I laid the private
prosecution with a justice of the peace...

THE COURT: Mm-hmm.

JADE NARAINÉ: ...and then on the first court
date...

THE COURT: Right.

15 JADE NARAINÉ: ...was the pre-enquete hearing was
when Sean Doyle was there.

THE COURT: Right.

20 JADE NARAINÉ: But I believe, and correct me if I'm
wrong, but he's saying that even though Sean Doyle
attended that date...

THE COURT: Mm-hmm.

JADE NARAINÉ: ...he was not the Crown attorney in
charge of the - my file.

THE COURT: That's Mr. Nathanson's evidence.

25 JADE NARAINÉ: Yes. Now, I'm just disputing that
evidence...

THE COURT: Mm-hmm.

30 JADE NARAINÉ: ...because Sean Doyle sent me an
email saying that I'm no longer the Crown attorney
in charge of your case.

THE COURT: Right.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

JADE NARAINÉ: I'm transferring the - the case to
Christine Jenkins.

THE COURT: Right.

JADE NARAINÉ: Never did he say in any email that
just to let you know Richard Nathanson is actually
the - the Crown attorney. I'm - I'm just here for
- for...

THE COURT: Mm-hmm.

JADE NARAINÉ: ...because he's unavailable. There
was no evidence of this, and I believe what's going
on now is Richard Nathanson is trying to make this
appear that he was in there from the - the start,
but he was - he only sent Sean Doyle there, and he
had thoroughly reviewed my file, but that's not the
case. Sean Doyle came in at the very, very end,
and it was only because Christine and Sean had
tried everything they could to make me go away and
tried to tell me that there is no reasonable
prospect of conviction. So, they said, okay, let's
bring in the expert, and let's just - let's just
have the expert say it, and then that way she'll go
away for good, and Sean Doyle did not fairly review
the evidence, as we confirmed now. I was not
convicted and that's - of course, that's a harsh
thing, and there were other issues like the
presentencing report which was fraudulent. There
were a lot of issues that Sean Doyle did not
thoroughly investigate when he was going to make
his decision, and up to this date, I don't believe
that Richard Nathanson has fairly investigated it
because I provided so much evidence to prove my
honesty and my charges, my credibility, and it's

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

5 just - it would be impossible. I've shown so many
lawyers and - of the same and it's just impossible
that after reading all of this someone would think
that I'm not credible. It's just - but that's his
opinion, and, as far as the - the evidence of Danny
Kayfetz not being here, I tried to include as much
as I could to signify, in terms of emails and my -
my testimony, that there was pressure from the -
the College Park Crowns.

10 THE COURT: Mm-hmm.

JADE NARAINÉ: The email where he tells me to keep
it quiet. There is also the email, as you have
read, where it says he's under pressure, under
attack. There is also the email - there is also a
15 text message where he states that Alannah Grady,
he's having difficulty communicating with her
because she - he believes that she is trying to
impress Sean Doyle. They're going hard on me and
then there was clear evidence and my producer is
20 here - he was there on the court date where the
young Crown told Danny Kayfetz that I'm sorry. I'm
- I've been given instructions by the Crown - by
the senior Crown here to have her detained. I'm
sorry. And because my lawyer was trying to say why
25 are we going so hard on this. She didn't breach.
Let's just let her out, and there was clear
indication from the judge, and when you leave here
today you can go look in the transcripts. The
honourable judge at that court date, can't remember
30 his name offhand, but he told the Crown that there
is just - they're lacking their evidence. It's
just such an indication that that hearing for a

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

bail hearing for a breach for - for something that
I didn't do took four hours of everyone's time
because the Crowns were trying to find anything
that they could to hold me, and there is something
bitter going on here. There is a conspiracy. My
lawyer stood up in court and [indiscernible] the
judge and said under all my years of representing
mafiosos, murderers, I've never ever seen this much
targeting for someone like her. It's - and you can
see from the police lawsuit, there is so much false
- false charges, so much mischief, and Danny
Kayfetz is a reputable and credible veteran lawyer.
He has told me multiple times that when he walks
into court he's respected. He would never email me
this lying about anything. He would never state to
me what Crowns are doing. He's confided in me so
much about what's really going on behind closed
doors because he really feels sorry for me. He - I
can't even like afford a lot of the legal fees that
they've piled on me from these - these charges and
these cases, and Danny Kayfetz has been working
free like for the past - for the past year, just
because he wants to help me to - he just sees -
sees that this is all a game and that they're
attacking me, and he's just saying basically to me
that I can't imagine what you're going through
every time you're charged and he has to attend
there free and miss his anniversary last weekend,
trying to tell this officer that it's a false
charge. He can't - it - and my - my producer here
is a witness to all of this, and Danny Kayfetz
could, as they stated, without a promise of - of

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

proof or - I mean I - I believe that I have
provided the emails which clearly indicate
something is going on and something flagrant.

THE COURT: Okay.

5 JADE NARAINÉ: But Danny Kayfetz is willing if you
- if he - if he was here or if you adjourned it or
anything, he would provide an affidavit saying
exactly what the Crowns have done and exactly his
10 opinion and what he's witnessed with the Crown's
attacking the Scarborough Crown and how the
pressure and Sean Doyle and all of his experience
about me and he - and it would convince one hundred
percent but - that these Crowns were doing this for
15 the wrong reasons. There was no reason. And
they're saying that - oh, sorry. They're saying
that none of my statements are supported by
evidence, but neither is Richard Nathanson's, the
forgery, the presentencing report that I gave false
20 information. None of this is supported with
evidence. None of this has been proven, and it's
all just speculation, and until things are proven,
it's - it's just hearsay. There was improper
motive and was bias, and it was an abuse of court
25 process because I just didn't get to have a proper
hearing, and - and I still stand by the
credibility, meaning that it's credibility in
relation to this context of this case, and I was
not - I was not allowed to have my hearing because
of some other things of part of my life, and I
30 didn't believe that this was fair and neither did
my lawyer, and that's - that's my final
submissions.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario

THE COURT: Okay. And...

JADE NARAINÉ: Thank you.

THE COURT: ...I just checked the - Mr. Sinnadurai
before. You're not seeking any costs for today.

JADE NARAINÉ: No.

THE COURT: All right. Excellent. Thank you.
Okay. I'm going to let you go eat lunch and we'll
be back at 2:15.

R E C E S S

U P O N R E S U M I N G :

THE COURT: Good afternoon. Madam Reporter, are we
on?

REGISTRAR OF THE COURT: Yes. We are.

THE COURT: Okay. So, I'm going to read you an
endorsement. It's a handwritten decision that you
will get a copy when I'm done from the staff and if
you want it typed up because you can't read my
handwriting, speak to the reporter, and she'll -
you can arrange to order, or she can tell you how
you go about arranging to order a transcript.
Okay?

R E A S O N S F O R R U L I N G

MYERS, J. (Orally):

So, these are my decisions in Jade Elizabeth
Thelwell, a.k.a. Jade Naraine v. the Attorney
General of Ontario, Divisional Court File 188-18.

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario
Reasons for Ruling - Myers, J.

I reserve the right to make minor changes to the transcript for diction or grammar in the event I stumble in my dictation.

5 On consent, this matter was heard as if brought before a single judge of the Superior Court under Rule 43 of the *Criminal Proceedings Rules* for the Superior Court of Justice (Ontario), SI/2012-7. (See *Harris v. Ontario Review Board*, [2006] O.J. No. 3900, (Divisional Court)).

10 All parties agreed that the test for granting of relief requires the applicant to establish that in staying her private prosecution the Crown engaged in a flagrant impropriety, so as to seriously compromise the integrity of the justice system. (*Lochner v. Ontario (Attorney General)*, [2017] ONSC 5293).

15 The nub of the complaint advanced by Ms. Naraine is that the Crown has improperly determined that there is no reasonable chance of conviction on her private charge because of a number of issues in Ms. Naraine's life. She has taken me through each issue in some detail.

20 I readily accept Ms. Naraine's honest belief in her assessment and characterization of each event. Moreover, the subject matter of the private prosecution is a charge of sexual assault.

25

30

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario
Reasons for Ruling - Myers, J.

5 I agree with Ms. Naraine that the proper
prosecution of such charges is important to the
victim and to society. The Crown is expected to
perform its role with special concern for the
wellbeing of victims of such charges, in
particular, or otherwise consistent with its duties
to the public, the accused and the administration
of justice.

10 I accept, as well, that Ms. Naraine feels that she
has been treated poorly and without due respect.
She points to people's body language, tone, emojis
and especially the staying of her prosecution as
insults to her dignity and a lack of fair
15 recognition of her mental state.

The Crown's evidence is that it engaged in
appropriate diligence in determining to stay the
charges.

20 Absent evidence of wrongdoing, it is not my role to
second guess the exercise of the Crown's
prerogatives. For each of the particulars relied
upon by Ms. Naraine, even if she is factually
25 correct, there remains a judgment call as to how a
trier of fact, whether a judge or a jury, would
likely respond.

30 She has written extensively as well about her own
mental health. While I understand this to be
encouraged by her psychologist, intended to be
truthful and therapeutic, it lays bare the Crown's

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario
Reasons for Ruling - Myers, J.

concerns about her reliability as a witness in a
"he said / she said" case.

5
Each time I enquired as to how Ms. Naraine's belief
in the innocence of her explanation of events
translates into alleged wrongdoing of the Crown,
Ms. Naraine either hypothesizes as to elicit
conspiracies for which she has no evidence, or she
relies on statements allegedly made to her lawyer,
10
though with no evidence from him to support the
hearsay or double hearsay alleged. That is not
admissible evidence.

15
Ms. Naraine says that it is wrongful for the Crown
to rely on charges levelled against her to assess
her likely believability as a witness. She says
she should be presumed innocent. Of course, in
those criminal cases, she is presumed innocent, but
that has nothing to do with the Crown's assessment
20
of how she will be perceived as a witness. None of
her corroborating evidence fixes the problem that
the issue of consent will almost completely turn on
Ms. Naraine's evidence. Mr. Nathanson, a most
experienced Crown, who is highly sensitive to the
25
desire to believe victims in this area of the law
in particular, testifies that:

30
1. He reviewed Ms. Naraine's evidence, as well as
ongoing material sent to the Crown by Ms. Naraine
and her supporters; and

Jade Elizabeth Thelwell (Naraine) -and-
Attorney General of Ontario
Reasons for Ruling - Myers, J.

5
2. The context of the allegations of harassment and
extortion, true or not, and Ms. Naraine's
admitted difficulty letting go of failed
relationships, as set out in paragraph 29 of his
affidavit, provides a clear picture explaining
the reasons for the stay.

10
I do not assess the reasonableness of
Mr. Nathanson's decision, but absent proof of
serious wrongdoing by the Crown, there is simply no
basis for the court to intervene.

15
Ms. Naraine argues that the frequent changes of
police and Crown attorneys on her file is evidence
of wrongdoing, yet she acknowledges that the
changes occur after she makes professional
complaints or sues the officers and lawyers. She
finds illicit motive in people recognizing
conflicts of interests that she causes by
20 exercising her rights to sue and complain. Her
lawyer has reprimanded her for making privileged
information public as it has harmed her case.

25
Ms. Naraine has the undoubted right to freedom of
expression, to sue, to complain and to pursue her
rights, but she ignores that her emails, postings,
letters and allegations have effects.

30
It is not wrongful for a Crown attorney to reach a
conclusion that a charge has no reasonable chance
of success, and without proof of wrongdoing, the
application must be dismissed, and it is so
ordered. Thank you very much. * * * * *

FORM 2

CERTIFICATE OF TRANSCRIPT (SUBSECTION 5 (2))

Evidence Act

I, **Joan MacPherson**

(Name of Authorized Person)

certify that this document is a true and accurate transcript of the recording of

**Jade Elizabeth Thelwell (a.k.a.
Naraine) -and- Attorney General of
Ontario** in the

Superior Court of Justice

(Name of Case)

(Name of Court)

held at **130 Queen Street West, Toronto, Ontario**

(Court Address)

taken from Recording **4899_3_20181018_092607__10_MY**
ERSF, which has been certified in Form 1.

January 11, 2019

(Date)

UNCERTIFIED ELECTRONIC COPY

(Signature of Authorized Person(s))

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