

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: R. v. Brennan (CR-19-16-0000); R. v. McQuabbie (C-18011402); R. v. Hill (RM19074094); R. v. McGregor (4011-998-4221); R. v. Rogue (4011-998-193633); R. v. Nolan (0131-998-193170); and R. v. Wigmore (0131 998-193169)

BEFORE: Ellies R.S.J.

COUNSEL: *J. Plamondon, B. Bencze, A. Hauk, A. Francis*, Counsel for the Crown
M. Swinwood, Counsel for the Accused

HEARD: February 19, 2020

ENDORSEMENT

- [1] A further conference call was convened on February 19, 2020, pursuant to s. 551.7(2)(b) of the *Criminal Code*. The purpose of the call was to determine when Mr. Swinwood might be in a position to have his expert, Professor Haring, prepare a report in connection with the constitutional questions he has raised on behalf of his clients. As set out below, we also discussed the possibility of having counsel from the Ministry of the Attorney General ("AG") participate in the joint hearing with respect to the *Herbert* matter which is currently before the provincial offences court.
- [2] Mr. Swinwood provided details with respect to Professor Haring's current situation. He anticipates receiving a letter from Professor Haring's physician shortly that will provide information with respect to his condition. It is hoped that Professor Haring will be in a position to begin work on this matter in April.
- [3] The Public Prosecution Service ("PPSC") expressed concern that Notices of Constitutional Question ("NCQs") still have not been delivered with respect to the additional cases mentioned by Mr. Swinwood during the teleconference on January 14. However, Mr. Swinwood advises that NCQs have been served recently in connection with those matters.
- [4] The PPSC advised that the AG does not wish to delegate its authority to the PPSC in connection provincial matters. Mr. Swinwood has undertaken to speak again with the prosecutor and to encourage him to participate in our next conference call, which will be held on March 30, 2020 at 9:00 a.m.

- [5] On behalf of his clients in all of these related matters, Mr. Swinwood confirmed that he waives his clients' rights under s. 11(b) of the Charter.



Ellies R.S.J.

Date: February 24, 2019