

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); R. v. Wigmore (0131 998-193169) and R. v. Herbert (Parry Sound Info. No. 3060-999-19-035-00)

BEFORE: Ellies R.S.J.

COUNSEL: *J. Plamondon, A. Francis, A. Hauk, B. Bencze, R. Pe, D. Tortell*, Counsel for the Crown

M. Swinwood, Counsel for the Accused

HEARD: August 24, 2020

ENDORSEMENT

- [1] A further teleconference was convened to discuss the progress of the defence expert report and to set a date for the hearing.
- [2] The report is not likely to be ready before the end of November. Once it is served, the prosecution will need time to determine if an expert report is necessary in reply. For that reason, it is too early to set a date for the hearing.
- [3] In an earlier conference, it was agreed that the defendants would file affidavits to ensure that the constitutional questions raised apply to each of them. Mr. Swinwood advises he can have affidavits from his clients in two to three weeks. He has also undertaken to provide a will-say statement from the lay witness, Dell Riley. He will have six weeks in which to provide these to the prosecution.
- [4] The prosecution has asked for an updated C.V. from the defence expert, which will assist it to choose its own expert, if necessary. Mr. Swinwood advises he can have that to the prosecution within two weeks and he should do so.
- [5] It is important that each defendant agrees that, unless he (I believe all of the defendants are males) is successful on one or more of the constitutional issues, he will be convicted, i.e. that the prosecution will have made out its case. This is important because, unless that concession is made in a particular case, it may not be necessary to answer any of the constitutional questions in that case. Accordingly, the prosecutors will draft agreed

statements of fact in the cases over which they have carriage and submit them to Mr. Swinwood so that he can obtain his clients' instructions. These should be provided within four weeks.

- [6] A further conference call will be held on October 14, 2020 at 9 a.m., using the same call-in information, unless otherwise advised.

A handwritten signature in cursive script, appearing to read "Ellies R.S.J.", positioned above a horizontal line.

Ellies R.S.J.

Date: August 26, 2020