

paragraphs in *Meyers* that I think are relevant.

MR. KARIMJEE: Thank you, and I don't have any problem with my friend saying so, but just so it's clear that I'm not done on my submissions.

MR. HALE: Oh, I know.

MR. KARIMJEE: But he can obviously...

MR. HALE: I'm not making submissions and I know the court staff have been here beyond their time. Paragraph 1 and 25 talk about detention being the exception rather than the rule. There's a very strong presumption of release. Paragraph 49 talks about at a detention review, the court can take into account material change, including a stronger release plan, which is what we have, and finally, paragraph 51 talks about how one -- one of the reasons for release is when the accused has served more time than what they would have realistically received from being found guilty. So I think those -- those paragraphs, those principles that come out of *Meyers* apply directly to this case.

THE COURT: I'll keep that in mind, Mr. Hale, thank you, and thank you for your contribution this morning. As I said, it was very much of assistance. We're going to resume at 2:15.

MR. KARIMJEE: Thank you.

DEIRDRE MOORE: Thank Your Honour.

THE COURT: Thank you very much. And you are excused, Mr. Hale, you go ahead.

MR. HALE: All right, thank you, Your Honour.

R E C E S S

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

...UNRELATED PROCEEDING DISCUSSED

MR. KARIMJEE: Yes, good afternoon, Your Honour.

THE COURT: Yes.

MR. KARIMJEE: Moiz Karimjee for the Crown. So I know that Your Honour had permitted Ms. Moore to sit at the counsel table, but that was with Mr. Hale present. I think that if that is still Ms. Moore's intention and Your Honour's ordered that security might have to get somebody else up. So whatever Your Honour's preference.

THE COURT: Why don't we just finish up where we are now, okay.

MR. KARIMJEE: Okay.

THE COURT: I think....

MR. KARIMJEE: Thank you, very much.

THE COURT: Yeah, thanks. So whenever you are ready Mr. Karimjee.

MR. KARIMJEE: Thank you very much, Your Honour. So -- so I refer to the case of *Al Safi* and we look at the underlining facts taking form of the future risk, and now in terms of this is a 90-day detention review, so what is the onus on a 90-day detention review and what is the nature of the -- of the hearing. If Your Honour goes to please, Tab 7, and does Madam have Tab 7?

DEIRDRE MOORE: I'll listen thank you.

MR. KARIMJEE: Okay, it's the *Meyers* decision.

THE COURT: Yes.

MR. KARIMJEE: At paragraph 47. The review under section 525, at paragraph 47, page 15.

THE COURT: Yes.

MR. KARIMJEE: I'll read the highlighted part at paragraph 47;

"(...)a review under s. 525 is more properly characterized as a review of the detention itself. Yet there is no indication that Parliament intended the judge presiding a s. 525 detention review hearing to reconduct the original bail hearing in its entirety simply because 90 days have elapsed. (...) This means that the judge at the 525 hearing should in his or her analysis show respect [to] any findings of fact made by the first-level decision maker if there is no cause to interfere with them. Similarly, any balancing exercise or weighing of factors conducted by the initial bail judge must be reviewed in light of the time that has already elapsed and any other relevant considerations, as will be discussed below."

So one of the things that -- that I would like to address, Your Honour, is the passage of time. If Your Honour looks at the next page under -- under the subheading 7, it deals with the impact of the passage of time and unreasonable delay, and it makes an important point that if Your Honour looks at paragraph 54 -- courts indulgence, please.

Okay, it says paragraph 50 actually;

"In determining whether the detention remains justified...the judge should also consider whether the time that has already elapsed has had -- or the anticipated passage of time will have -- an impact on the appropriateness or

proportionality of the detention."

So now this is one of those unique cases where I'm respectfully submitting that the further detention would not have an impact on the proportionality of -- of the detention, because in fact, what the Crown is ultimately seeking is -- is a finding, if there was a finding of guilt, we are seeking a not criminal responsible finding, and that she should then be subject to the Ontario Review Board and be treated for a condition, so that she can be appropriately released into the community under the guidance of appropriate medical professionals. So we are seeking to address the risk responsibly and humanely. We're not -- this is a not situation whereby we -- we expect Ms. Moore to languish in prison. The trial is supposed to start, I think it's December 2nd. We already have a trial judge that's assigned. We have an *amicus* that's -- that's ready to go and so this is not a case of Ms. Moore languishing in prison for indeterminate period of time. In fact, we're talking about until the trial. I think four to five weeks of -- of delay at least until the trial, and of course, at the conclusion of the trial, the trial judge already we have the jurisdiction to make a decision pertaining to release as well at that point in time, when he would have had the benefit of hearing all the evidence and the input from the victims. So on the issue of the onus, at Tab 11, please, the *Denesevich* case. It's a decision of your sister or brother Justice Grace of -- of your level of court and it -- the onus is described at paragraph 50 and

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51 at Tab 11, and it's again;

"Again, the fundamental question [the court notes] is whether the continued detention of the accused in custody is justified within the meaning of s. 515(10) of the Criminal Code. In light of the foregoing I suggest that the onus depends on what, if anything, has happened before. If, for example, a bail hearing was not conducted, the Crown should bear the onus as s. 515(5) mandates, unless shifted to the defendant by virtue of s. 515(6).

In this case, a detention order was made at first instance because Mr. Denesevich was not able to adequately mitigate secondary and tertiary ground concerns. Absent cause to interfere with the earlier findings, I am of the view the accused must demonstrate that continued detention on those grounds is no longer justified based on new evidence, a material change of circumstances, the elapsed and anticipated passage of time and/or unreasonable delay for which the Crown bears responsibility."

And I think this becomes really central and important because when we speak of the benefit of the doubt, I think this is one of those sad cases, where if there is a doubt it inures to the benefit of the community. Inures to the benefit of the complainants because the onus is on the accused to show that -- to demonstrate on a balance of

probabilities that continued detention on secondary grounds is no longer justified. And Your Honour will note that *St. Cloud* is a decision which also addressed tertiary grounds and so Ms. -- Ms. Moore has to demonstrate, it's her onus to demonstrate that there are no secondary or tertiary grounds of concern. And if we look at *St. Cloud*, it's at Tab 8, paragraph 88. *St. Cloud* makes it clear that the tertiary ground is not only applicable to murders and firearms offences, it's applicable to any class of offence. And at paragraph 88, the Supreme Court says that;

"In conclusion, if the crime is serious or very violent, if there is overwhelming evidence against the accused and if the victim or victims were vulnerable, pre-trial detention will usually be ordered."

And this is not a very violent crime.

THE COURT: No, it's not.

MR. KARIMJEE: It's not.

THE COURT: I don't think that...

MR. KARIMJEE: No.

THE COURT: ...observation has got anything to do with our case.

MR. KARIMJEE: No but it's not. And it's -- but it is a serious crime only in the sense of the impact that it is having on, we saw from an 11-year-old child crying. Of -- it's basically -- it's they are faced with -- criminal harassment has been -- has been described as a crime which -- which sort of effects the complainant because they feel trapped, unable to -- to know if the other person

5 will respect the order or will they'll be subject to the other person. But it's only in that sense that it is serious and there is overwhelming evidence, I respectfully submit, and the victim or victims in this case, I think at least the child is vulnerable and therefore pre-trial detention should also, like, she has to meet that onus to show that there aren't any secondary or tertiary grounds concerns. And I think it's particularly important because had there been a treatment element, and if we look at my book has *Antic* missing. So I don't know if Your Honour has Tab 9 missing as well or not?

15 THE COURT: Yes, I do. It's missing, yeah.

MR. KARIMJEE: Oh, I apologize. I'll make sure Your Honour get's a complete copy, because Your Honour wanted to keep one. So I'll make sure Your Honour gets a copy of materials with all the cases in it. But *Antic* at one point says that, you know, like the judges should be particularly sensitive. That if some treatment plan is offered than they should consider release, especially if it's a residential treatment facility because then you are sort of rehabilitating the person and along to protecting the community as well, it's doing good everywhere. So the -- the Supreme Court is recognizing also treatment in fashioning a release. And over here we don't just have that, we have no assurance of any sort of treatment whatsoever. What's being proposed is a person with significant mental health issues whose worldview and behaviour has been affected by mental illness should simply

5 be released on her basically saying so. Because
the program is not going to supervise -- the John
Howard Program is not going to supervise what she
does outside in the community. So basically, we're
asked to rely on just her word and if -- if there
was a -- there's no other assurance provided. So,
Your Honour, for all those reasons the Crown is
basically submitting that Ms. Moore has not met her
onus on the 90-day detention review in the context
10 of her prior bail hearing to show that she ought to
be released, especially given the fact that the
trial date is approaching and it's not like she's
going to be languishing in prison without trial day
in sight. Subject to any questions you may have,
15 Your Honour, those are the submissions of the
Crown, and I apologize for the book not containing
the...

THE COURT: Oh, no. That's fine.

MR. KARIMJEE: ...full materials.

20 DEIRDRE MOORE: Your Honour, I believe I can meet
the onus on the secondary and the third.

COURT REPORTER: I'm sorry, Your Honour.

THE COURT: Would you like to, it's important that
we pick up what you have to say, Ma'am, so how
25 about...

DEIRDRE MOORE: Certainly, Your Honour.

THE COURT: ...how about if you do come down and
you sit down where you were before and you can talk
into that microphone so we can all hear you, okay?

30 DEIRDRE MOORE: Thank you very much, Your Honour.

THE COURT: Sure.

MR. KARIMJEE: Your Honour, I'm sorry, I should

have added one point is that Your Honour, and Ms. Moore has the thing, there's a psychiatric report in French, Tab 4.

THE COURT: I've read it, thank you.

MR. KARIMJEE: Perfect, thank you.

DEIRDRE MOORE: I'm making a special note that that psychiatric report, it was based entirely on the hearsay of the ex-husband, and I have already provided the Crown with a more current independent report from Doctor Iris Jackson. I provided those on Monday. They have been ignored. We can talk about that later, if you like. Thank you, Your Honour. The allegations are false, I've been surviving these -- this character assassination of being severely mental ill since 2013. But first I'll speak to the false or -- or hopefully comfort Your Honour that I have no interest in violating the court order. It's interesting they want to claim NCR. I wrote an article, including video links called "Preparation of my Defence for Violating a CAS Constructed Restraining Order". The Children's Aid Society illegally obtained an order using perjury, defamatory liable, false information, and it was with that naïve confidence that after being denied the ability to communicate with my children -- this is another problem. People are viewing the restraining part of the court order and ignoring the rest of the order, which said that the mother and father shall cooperate to do what's best for the children. I did my best to cooperate and stay away from the house. My ex-husband changed his phone number,

5 refused gifts. My kids didn't hear my voice for six months. I actually went to the US for my own safety and also to try to rebuild my career. My professional reputation has been destroyed in this town. Anyway, so upon my return, I took a better look at the court order. I read the legislation. I thought, it was illegally obtained, therefore, in my mind, it was not lawful, and I was checking my children. So I went there purposefully. I wrote an email to the police saying;

10 This restraining order was illegally obtained through false statement of fact, omissions, errors, and malicious obfuscation. If this is the best that you can do, then my being arrested may well be the fastest route to justice.

15 This is reference to the Family Court proceedings that I've been enduring for four years. I wrote to the CAS saying;

20 I would be intentionally violating your illegally attained restraining order tomorrow or Wednesday. It's because I was denied access to my children, which was part of the order.

25 Now since I have been arrested and remanded for three months, you know, I think it will come out at trial whether or not I actually have committed the crime. Maybe I am guilty but I believe that the mitigating factors will be so overwhelming, I'm not worried about any sort of criminal record and if it happens, then something needs to be done because
30 these CAS people are getting away with far too

much. All that to say, I have no interest in violating any court order. I have four weeks left only to prepare a defence. I've been trying to find a lawyer for two months, but it's very difficult to do from the confines of a jail cell. You don't have access to a telephone. I have amassed six years of evidence against the man I started trying to leave in 2013. Evidence of emotional abuse, financial abuse, criminal defamation. I can provide the list it's all available on canlii.org, I won a motion in 2017 to seek significant damages from the complainant, who I will not call the victim, under *Kiska v. Moore* 2017 ONSC 6872. There's significant issues there that we can address. The impact of this remand prevents me from subpoenaing witnesses that will prove that the complainant is in fact a pathological liar. That's easy to prove. Whether I can prove he is truly a narcissist or a psychopath, I was hoping to bring in an expert witness for that. Also -- so being stuck in remand prevents me from subpoenaing witnesses. It prevents me from organizing the evidence that is right now stored at Swansea (ph) Facility. It was uphanded upon my arrest. There's also some at Diamond Storage. There's also some at the Weston Hotel. The remand also prevents me from moving forward with my complaint to the Law Society against paralegal Diego Stoll Fernandez, who according to the complainant was partially responsible for the emptying of my home of approximately \$500,000 worth of furniture and

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possessions while I was in the states. Prevents me from paying my Diamond storage fees and making sure that the evidence stays where it is and it is not, you know, tossed out before I get to either the criminal trial or the divorce trial or the CAS trial, who interestingly, since I've been arrested now have circumvented a four month investigation done by the Office of the Children's Lawyer. I've remitted you a copy of that report too, Mr. Crown Attorney, where the decision was, after four months to award sole custody to the mother. So since I've been arrested, CAS has swooped in and tried to give sole custody and access to the complainant, the father, with a restraining order, which basically they have already started to use, again, perjury, defamatory liable, false information, forgeries to obtain yet another court order -- illegally obtained court order -- keeping me from my children. I have a three-million-dollar civil action against a lawyer who basically set me up for failure against the complainant and as I've said the, sorry, I already mentioned, I can hardly defend myself against the Children's Aid Society and their slanderous application. I could defend myself, but I require access to my evidence to combat the -- the ongoing attacks against my mental health. When I was speaking to social worker, Ashley Dicintio at OCDC, yesterday about the possibility of obtaining bail today, she said, well what would you do? And I said, well one of the first things I will do is update my network of support. The people who know what I've been

5 enduring and how I've been trying to protect my
children from the complainant, and that would be
the psychologists who's followed me since 2015,
Doctor Iris Jackson and Jessica Peloso (ph) of the
Eastern Ottawa Resource Council. She has provided
letters of support. Ottawa Victim Services, who
are also familiar with this file. OCTEVAW, which
is the Ottawa Coalition to End Violence Against
10 Women, supportive of my pursuing a non-for-profit
initiative to help raise awareness of the fragility
of mental health when in an abusive relationship.
It was my goal also to visit the Ottawa Hospital
Psychiatric Department, where they also know the
true nature of my mental breakdowns over the past
15 five years, specifically to find out if there's a
medication more appropriate that might have been
developed over the last year for my disorder, which
is situational. And again, I have provided the
Crown with all of this documentation. It's called
20 brief psychotic disorder with marked stressors.
Specifically, I can handle everyday stress very
well but when I'm being emotionally abused, or
forced to watch my children being emotionally and
psychologically abused -- gaslighting is a form of
25 psychological abuse by the way -- I -- I can't
handle it, and so I slip into a delusional state,
mild psychosis, and if I don't get the right
medication or go to a place of safety right away,
it goes into full blown psychosis. What the Crown
30 failed to mention, and it was -- what was
adequately disclosed in the materials I provided on
Monday, I'm quite good at recognizing, it's

happened so many times because of the complainant and a four year dragged out divorce, I'm fairly good at recognizing when I go into a delusional state and drive myself, every time, to the Ottawa Hospital, for help, treatment and safety. I would like to be able to present these facts at my trial, not only to combat -- combat the character assignation by Mr. Savage, which has been ongoing despite have -- him having evidence to the contrary and address the true charges. Gees, non-violent, no. I went, because I was deprived from seeing my children when I got back from the US, I would deliver gifts, teddy bears, some summer clothing. When I realized they hadn't heard my voice, yes, I went to the house. They wouldn't answer the door. I kicked in the window of the house that I own, I admit that, for the purpose of communication. And I read section 430(7) that says, one is not guilty of mischief if the purpose is communication. I said, "Sean, Cate I love you. I miss you so much, your dad's a liar and a very bad man," and the reason I did that is because I had read that he was telling them I had abandoned them. I'm so mentally ill I don't want to be a mommy anymore. I have moved to Texas. All those are completely false. Your Honour, I was an exhibitor at the San Francisco, the American Psychiatric Association had there 2019 annual meeting in San Francisco. I was accepted as an exhibitor, networking with psychiatrists in the US who are more familiar with the widespread, you know, problem of domestic violence with narcissism. Intentionally, I have

evidence that I could provide to the court on my being there. What is being said about me is that I'm travelling the world, I'm in jail, I'm all these horrible things. I've never hurt anyone. The allegation that my daughter's always crying is a little suspect. That's coming from the mouth of the complainant who is, I also have permission to seek damages for something called, parental alienation. I was only seeking damages for attempted parental alienation, but I have not seen my children in nine months, so now it's full blown parental alienation that he is guilty of. I -- I would not go anywhere near that house or near my children. The trial is only four and a half weeks away. I do hope to expose, one way or another, what I've been forced to endure in court and suffer whatever criminal consequences I may have to do that. The thought of me being declared NCR is ridiculous, especially in light of the fact that I had started email -- emailing the CAS and the Ottawa police in June. My being arrested may well be the fastest route to justice and -- and stating quite specifically I was going to violate it. Now, the -- violate -- I'm not going to violate an order of the court, a non-communication order. It's not illegal and it's not unlawful. My -- I take issue with what the CAS has done, and I will still abide by that. Obviously, if the -- if the trials four weeks away, why would -- in the world would I jeopardize -- jeopardize that knowing what I know now. I still think I -- I will be found not guilty or else mitigate -- mitigating circumstances will

be massive.

THE COURT: I think...

DEIRDRE MOORE: But there's no...

THE COURT: ...I think...

DEIRDRE MOORE: ...intention...

THE COURT: ...I think you're right to capture that point that if you were to go over to the house now and violate the order, right on the eve of trial, essentially, people would say, she's truly out of control.

DEIRDRE MOORE: Yeah, it....

THE COURT: And it would provide evidence to the Crown, wouldn't it? So -- so we hear you saying why, I certainly wouldn't do that if that's what you're saying to me, that's what I'm hearing you say. You're right about that, you know. You don't want to do that because it would -- it would really imperil your legal position.

DEIRDRE MOORE: Absolutely, Your Honour, and the other thing too is a fall-back plan. If the Crown is so concerned about the community, which I think is a pretty much the most ridiculous thing the Crown could say, as I said, I'm not sure what -- the only victim in this really is the \$400 -- it's not even -- the \$350 window that I kicked in on my own house so my son could hear my voice. Nothing else has ever been hurt by me. However, if the Crown is so concerned, then perhaps I could get a section 21(1) assessment done at the Ottawa Hospital. I've been there, I know all the psychiatrists there. I can use a telephone. I can have someone -- I can get a day pass perhaps and go

5 pick up my evidence and work there with my laptop.
I can use resources. The problem with trying to
prepare my own defence at OCDC is my resources are
a lined piece of paper and a two-inch pencil. I
have no access -- access to legislation. I have no
access to canlii.org with case law. I can cite
case law, that's how I won the motion in 2017, Mr.
Crown Attorney. By using the *Courts of Justice Act*
21.9, which is why I was able to bring in damages
10 for violations of civil law and the *Criminal Code*
in a Family Court setting.

THE COURT: Ms. Moore, you are -- you are suing
judges, are you?

DEIRDRE MOORE: Oh, I'm sorry.

15 THE COURT: Sorry, you were saying?

DEIRDRE MOORE: No, I'm not suing judge, no.

THE COURT: Oh you are subpoenaing judges, then?

DEIRDRE MOORE: Well here's the thing. If I was --
I was stuck in remand without access to evidence.
20 Now I have evidence that, for example, the CAS
order was illegally obtained. But if I could not
go to my -- if I can't use my USB key and have a
printer and organize materials, then I thought,
okay, well I'll figure out how to subpoena the
25 judge, because the judge can bring the materials.
Same thing with a lawyer. If a lawyer has helped
the -- the complainant commit fraud, which is what
happened in 2018, so that he got his spousal
support award to be \$14,000 a year when he makes
30 over 200 and child support to be \$345 a month. If
I can't access my copy of the continuing record of
the 2000 -- the file that started in 2015 that

5 shows all of the -- the perjury and the fraud, then I have to subpoena the lawyer so that he can bring that in and speak to it. And it was with that in mind that I was subpoenaing judges. So those who have been involved in both the CAS case, which is basically circumventing the 11 volumes of evidence in the divorce case, and the divorce case. I had no other option being in remand.

10 THE COURT: All right, Ms. Moore. I think that I've heard enough. I've heard your submissions; I've heard Mr. Hale's comments. I've heard Mr. Karimjee's comments.

MR. KARIMJEE: Am I allowed to say something, Your Honour?

15 THE COURT: What?

MR. KARIMJEE: The -- the -- she mentioned being happy to be at the Royal Ottawa Hospital.

DEIRDRE MOORE: Excuse me, so the Ottawa Hospital. The psychiatrists there are familiar.

20 MR. KARIMJEE: Oh, not the Royal Ottawa?

DEIRDRE MOORE: No, the Ottawa Hospital, the psychiatrists -- that was the, in 2013...

MR. KARIMJEE: Sorry, I misunderstood.

25 DEIRDRE MOORE: ...no, no, but just a second. The reason it's important...

MR. KARIMJEE: Oh, I need to speak to the judge.

COURT REGISTRAR: Please direct your comments to the court.

30 DEIRDRE MOORE: ...oh, I'm sorry. Your Honour, the reason the Ottawa Hospital is so important is because when I had my very first nervous breakdown ever in 2013, doctors saw I was -- the complainant,

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5 instead of talking about the fact that we were
having a massive fight about finances and
lifestyle, that's when he told the psychiatrist, he
-- he made up a whole other story and that is where
the first diagnosis of bipolar came in, because of
all of the false information provided by the
complainant. And so that's why me returning to the
Ottawa Hospital, where the physicians have the
history of the five years of when it all started
being labelled bipolar and then...

10 THE COURT: Well that...

DEIRDRE MOORE: ...finally they realized that
wasn't it.

15 THE COURT: ...and that is exactly what you should
do, is go to Ottawa Hospital and explain your
situation and ask if you could speak to a
psychiatrist.

DEIRDRE MOORE: And that was my plan if I got out
today.

20 THE COURT: If you got out.

DEIRDRE MOORE: I was going to...

THE COURT: Well you know, it's a very good idea to
do that if you get out.

DEIRDRE MOORE: ...I would love to do that.

25 THE COURT: They don't have a, you know, an
emergency room at the Royal Ottawa Hospital. They
don't have...

MR. KARIMJEE: No, but I was...

30 THE COURT: ...the Ottawa Hospital is a place to
go.

MR. KARIMJEE: ...if he -- if -- because I
understood Madam correctly, I think she was saying

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5 that she would consent to section 21 assessment order, but I had heard the Royal Ottawa Hospital, because we can -- I can try to contact Ms. Sherry Seabrook of the Royal Ottawa Hospital to see if a bed is available for an in-custody section 21 mental health assessment order.

10 DEIRDRE MOORE: Yes, Your Honour, and that wouldn't obviously be my first choice. My choice would be to have the liberties to, you know, collect my evidence, use my laptop, use a printer, photocopy, go speak to the victim services people that know the story, and build a witness list. But if -- if my only -- if my only other option -- if I can't have that, my only other option is 15 being in a jail cell with two inch pencils and lined paper, then, you know, a medium option would be to, you know, go to the Ottawa Hospital under ideally a voluntary. I would have to request day passes. I've done this before for safety, request 20 day passes to go to let's say, the court and pick up documents, or Staples to photocopy. Obviously if I wasn't mentally well, they're not going to give me a day pass to go out and -- and do the banking or do the work I need to do. So I think, you know, suggesting a 21(1), I'm just -- 25 anything's better than lined paper and a two-inch pencil and jail cell. I cannot prepare any defence in a...

30 MR. KARIMJEE: I have said...

DEIRDRE MOORE: ...a jail cell.

MR. KARIMJEE: ...everything I need to, Your Honour, and Your Honour has heard everything.

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THE COURT: Thank you.

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

5 HACKLAND, J. (Orally):

10 All right. I have heard the evidence this morning
of Mr. Brian Monaghan, who coordinates from the
courthouse the John Howard Society's Supervision
Program, and they liaise closely with the
Elizabeth Fry Society, who run -- who run the
particular Bail Bed Program at the particular
house in question, I have a note about -- yes,
Lotus House, which is on Russell Road. That is a
15 facility which I am familiar with from this, and
other cases, where people are offered a bed and a
level of supervision and a place to cook their
meals, and a home in other words, pending trials.
They are however, during the day, they are allowed
to be out in the community interacting with people
20 and preparing their cases or visiting their
lawyers or visiting the Ottawa Hospital, whatever
it takes.

25 I would characterize this evidence as evidence of
a change of circumstances from what occurred the
last time, or what the status quo was the last
time when the -- when the accused was confined in
custody by order of a justice of the peace. That
was on July 27th, 2019.

30 So it appears that Ms. Moore has been in custody
for about four months now and it has been pointed

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out that her trial is in about another month's time, the trial date is December 2nd.

5 So I think it is, in the mind of most people it is quite a shame, quite an unfortunate thing that largely because of her personal circumstances, and the mental health problems, which I think are present, you have found yourself in a custody for quite a lengthy period of time.

10 This is somewhat unconscionable, on the other hand, the protection of the public, which is recognized under the so-called secondary grounds in the *Criminal Code*, is equally important.

15 I have no doubt that the members of your -- your family were -- were very upset by your violating the order that prohibited you from coming over to their house. I know -- to your house, rather, your former house.

20 Now, I know that you feel that there was some justifications for doing that. What I am putting a lot of weight on though, is what you have told me repeatedly this morning in your evidence, which is that you would not violate that order again, that you would not go over there and attempt to communicate with the occupants of that house. And

25 I think you appreciate that that -- that would be wrong in law for you to do and it would make very little sense, it would be against your legal

30 interests with the trial pending, and I am

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prepared to accept your undertaking that you would not do that.

5 So I think there have been changes in circumstances here, and they are a) the release plan, which is quite relatively satisfactory. It is not perfect but where are you going to find perfection. So it is a reasonable release plan that was not there before.

10 We have your undertakings, Ms. Moore, that you will not violate that order again. That you will not go over the -- I'm talking about the section 516 no contact order. You told me solemnly that 15 you are not going to do that again. I accept your evidence in this regard.

20 I recognize Mr. Karimjee's point that due to some of your mental issues, it might turn out to be somewhat beyond your control and you might sort of find yourself over there involuntarily, but I think the chances of that, while there is a chance, I don't think there's a substantial likelihood that you would do that. Quite the 25 contrary, and there's a substantial likelihood that you would respect your legal obligations, Ma'am.

30 I do take as well, Ms. Moore's point that she is highly impaired in preparing for her trial when she is in custody, and if you are out of custody, I think you would devote yourself to that

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Reasons for Ruling - Hackland, J.

important activity without the restrictions that you are currently face.

Under all of the circumstances and with full regard to the concerns that the Crown has expressed, which are not frivolous, I quite acknowledge, I think what we are going to do, and I so order, we are going to release you, Ms. Moore, into the custody of...

COURT REGISTRAR: Oh, sorry, Your Honour.

THE COURT: ...Mr. Monaghan and his colleagues, through the John Howard Society, who are going to supervise your release and are going to report any breaches. We are going to do that and...

COURT REGISTRAR: Is this an undertaking or a recognizance, Your Honour?

THE COURT: ...yeah, well so, how we are actually going to word this, I am going to talk to Mr. Karimjee about that in just a moment, and the primary condition of your release of course, we always release people on the basis that they will keep the peace and be of good order. And I know you are going to do that, Ma'am, and that will be a requirement, and you are in particular going to have to respect the terms of the section 516 no contact order. That being the key point. Yes, did you want to say something?

COURT REGISTRAR: Yes, sorry Your Honour.

THE COURT: Oh, I'm sorry, it was the registrar I heard, excuse me. All right. That's right, Madam Registrar, so those would be the two points and I am going to ask Mr. Karimjee if he wants me to

consider additional provisions.

COURT REGISTRAR: Just to clarify, Your Honour.

THE COURT: Yes.

COURT REGISTRAR: The two points, so it would be the John Howard, the keep the peace, and the 516?

THE COURT: Yeah.

COURT REGISTRAR: The 516 turns into, is now cancelled and will turn into a do not contact or communicate in any way, either directly or indirectly by any physical, electronic, or other means.

THE COURT: That's it, Madam Registrar.

COURT REGISTRAR: Okay.

THE COURT: So we are going to roll that 516 -- section 516 no contact order, I am just going to put it into my court order this morning, okay.

DEIRDRE MOORE: May I ask a technical question?

THE COURT: Yes.

DEIRDRE MOORE: When I was reviewing the overall order, the restraining order is part of the overall order.

THE COURT: Right.

DEIRDRE MOORE: And numbers -- paragraphs, number 6 in particular of the overall court order, says that the parents shall cooperate with each other to do what's in the best interests of the children. We actually it's -- it's joint custody, and if, let's say one of the kids is hurt and needs to have an operation or whatever.

THE COURT: H'hmm.

DEIRDRE MOORE: Does -- does -- how would I deal with that. I mean, if some -- if I'm not