Information No. 0411-998-19-18130-00

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

DEIDRE A. MOORE

P R O C E E D I N G S

REMOTELY BEFORE THE HONOURABLE JUSTICE N. D. BOXALL
on March 11th, 2021, for a OTTAWA, Ontario proceeding

APPEARANCES:

M. Savage	Counsel for the Crown
M. McMahon	Amicus
Deidre Moore	In Person

ONTARIO COURT OF JUSTICE

T A B L E O F C O N T E N T S

W I T N E S S E S

WITNESS:	Exam. in-Chief	Cr-examination	Re-examination

E X H I B I T S

EXHIBIT NUMBER	ENTERED ON PAGE

LEGEND

[sic] - indicates preceding word has been reproduced verbatim and is not a transcription error.

(ph) - indicates preceding word has been spelled phonetically.

Transcript Ordered:	March 29, 2021
Transcript Completed:	April 7, 2021
Ordering Party Notified:	April 7, 2021

THURSDAY, MARCH 11, 2021

THE COURT: Ms. Moore, and, Mr. Savage?

MR. SAVAGE: Yes, Your Honour.

THE COURT: What I propose to do to try and use the time efficiently for everyone is I will start with your matter, Ms. Moore. However, I'm not saying I'm going to continue to its completion. The other gentlemen are in custody. Some of the lawyers have other obligations, have other trials that I don't want to disrupt. So I will start and see which of the issues I can deal with, with the Moore matter first. And as soon as we get word, Madam Clerk, that the other two accused are able to come up, have them brought up. And as soon as they get here, we will interrupt the Moore matter at the first reasonable opportunity, not mid-sentence, but we'll interrupt that, and deal with the matter involving Mr. Cipriano and Defence Counsel, and proceed in that fashion. All right?

DEIDRE MOORE: Thank you, Your Honour. I've been informed that I am able to record this just for my own notetaking purposes as long as I ask the Court in advance. So I was just going to let you know I intend to record it. There is so much information provided, it's difficult for me to capture it all just by taking handwritten notes.

THE COURT: Now, you're recording audio?

DEIDRE MOORE: Yes.

THE COURT: Audio only?

DEIDRE MOORE: Yes.

THE COURT: And only for the purpose of your own

notes?

DEIDRE MOORE: Correct.

THE COURT: And you know you can't circulate it?

DEIDRE MOORE: Correct.

THE COURT: Mr. Savage, any comments?

MR. SAVAGE: I have some concerns. Ms. Moore does keep a website in which she does post material, which she is aware she is not permitted to post. I have concerns that any material recorded by her may be posted in a public forum regardless of her representation to this court.

THE COURT: Okay. Ms. McMahon, anything you have to assist me?

MS. MCMAHON: Yes, if I can just pull it up, Your Honour. This is something that Ms. Moore and I had discussed.

THE COURT: Madam Clerk, I'm going to give you this Information. Yes, Ms. McMahon?

MS. MCMAHON: One second, my computer is just starting. One moment.

THE COURT: No problem.

MS. MCMAHON: Okay, yes. So what Ms. Moore and I had discussed which the Court may find to be of assistance is that Section 136 of the *Courts of Justice Act* does provide that persons can make an audio recording if it is to assist specifically for supplementing or replacing handwritten notes. And that section does make it very clear that an individual can be liable for a fine of up to $25,000 and to imprisonment for a term of up to six months for violating such an order, which would include disseminating it. So with being

made aware of those penalties, despite the fact that Ms. Moore does post numerous items on her website, because she is a self-represented individual, because as she's indicated we do cover a lot of material on these judicial pre-trials. Because of the cost of obtaining a transcript, if she wanted to get a verbatim account of what's discussed today, I would submit that it would be in her best interest in representing herself to be able to audio record the proceedings and met with a stern warning from the Court, that should be sufficient for warning her about the penalty she would be facing if she were to violate that section of the *Courts of Justice Act*.

THE COURT: Mr. Savage?

MR. SAVAGE: I have nothing further to add.

THE COURT: Okay. Ms. Moore, I'm going to permit it.

DEIDRE MOORE: Thank you, Your Honour.

THE COURT: Now, I want you to understand that's audio, not video. It's not to be disseminated. It's for your own personal use. You obviously can use it with Ms. McMahon, but it's not to be disseminated. It's not to be put on websites. It's not to be circulated and produced in any fashion. There are criminal consequences if you are to violate that order. Do you understand?

DEIDRE MOORE: I fully understand. Thank you, Your Honour.

THE COURT: All right. We've got enough proceeding, so, all right. So, I have a little

bit of material here. Maybe you can see or not. Mr. Savage, this is to speak to which matter today first, from your point of view, Mr. Savage?
MR. SAVAGE: This judicial pre-trial was set by Your Honour after the last judicial pre-trial to discuss any issues that may arise. The issues that have arisen stem from the applications that Ms. Moore has filed that have raised some issues that can't simply be dismissed. I think that they are issues that if she's raised the legal issues such as third-party records, that needs to be addressed by the Court in terms of how to proceed with that in terms of setting dates and whatnot, because if she wants to make the application, it must be permitted to be made. And so, we would need, I think, some discussion of what motion dates are going to be required. We have the April 22nd motion date. It isn't clear at this point what that date will be for. And so, I think there needs to be a discussion of whether or not there is an 11(b) application heard on that date. And if not, whether or not that date can be used for a third-party records application or any other type of application. But I see the two principal issues for Ms. Moore's material that she's filed that need to be addressed are the third-party records application and the issue of her witness list.
THE COURT: Okay. Now, but you had also matters here today, right, 486?
MR. SAVAGE: Yes. And I had also filed a 486.3 application that either Your Honour can hear

today. I've drawn up the materials if it would be heard today. I would accept if Your Honour declines to hear that application today and defers that to the trial judge.

THE COURT: Your application is a 486.3 application to have counsel appointed to cross-examine Mr. Kiska.

MR. SAVAGE: That's correct, yes.

THE COURT: And solely Mr. Kiska?

MR. SAVAGE: Yes.

THE COURT: And the basis of it is that - the statutory basis for bringing the application is that it's a criminal harassment count. And the starting point for the court is to make that appointment subject to an exception.

MR. SAVAGE: That's correct, yes.

THE COURT: All right. And, Ms. Moore, I understand that you're opposed to that application for cross-examination of that one witness?

DEIDRE MOORE: Yes, Your Honour.

THE COURT: Okay. I'll hear you, Ms. Moore.

DEIDRE MOORE: As I explained in my submissions, I have been attempting to divorce Mr. Kiska since 2013. I am aware of dates, times, names, consequences, events that would be very difficult for some third-party to *[indiscernible]* that knowledge and have total recall of all of the events. Now, as I put in my submissions, Mr. Kiska is demonstrably a pathological liar. And the definition of a pathological liar is basically they can't help themselves. And in a

lot of the divorce proceedings and CAS proceeding he has submitted clearly contradictory information. For example, she was admitted to the Royal Ottawa for six weeks. When in fact here I knew I had a letter from the Royal Ottawa stating that I've never been admitted to the Royal Ottawa. So a third-party will not be able to a) identify when he's lying, and b) have a proper follow-up questions. Whereas, if I cross-examine him, not only will I know instantly when he is not being truthful, I will be able to ask the appropriate follow-up questions, and I will have the evidence available to support the fact that he is lying. So the credibility of Mr. Kiska is a massive factor in the criminal harassment charge and I would like to remind the court that I was not arrested for criminal harassment. I was arrested for disobeying a court order and unlawfully in a dwelling, and one count of mischief. That's what I was arrested for. That's what I was charged with. The following morning all of a sudden now I'm also charged with criminal harassment, and then a second charge was added that dates back earlier in July. So it just seems to me a little - this is what I'll end up proving in court. That if I were in fact criminally harassing Mr. Kiska, then a charge would have been laid. I would have been arrested long before the date I chose to intentionally violate that unlawful *[indiscernible]* court order. So I don't see how justice can properly be served if I can't

properly cross-examine the complainant who is demonstrably a pathological liar, and I included that in my materials, Your Honour. Just a couple of examples. And *[indiscernible]* evidence weekly. I am in court against him - six different levels of court. You know, I'm about to start a civil action to get my possessions back. He participated in an eviction scam in 2019 and stole everything I had. And I was on the phone with the Landlord and Tenant Bureau yesterday and they said, you know. I said the police wouldn't help. They said they would investigate and then they just closed the file, and the Landlord and Tenant Board people said you should call the - was it SIU - Special Investigations Unit. So I have a Small Claims against him because he has refused to pay eight months....

THE COURT: Okay, we're dealing with the 486 application.

DEIDRE MOORE: Okay, so again, he is a pathological liar. I have all of the information and I have the evidence available, and I will have more evidence available after the third-party records motion that will basically prove to the court that he is not remotely a credible witness and can't possibly be fearful for my children, our children, and I will be able to show that as well. And so, the whole charge of criminal harassment is proving beyond a reasonable doubt that I was harassing the man I've been trying to divorce for eight years. I

will be able to do that.

THE COURT: I understand. Ms. McMahon? Thank you, Ms. Moore. Ms. McMahon, is there anything you have that could be of assistance to add to the court?

MS. MCMAHON: Yes, Your Honour. So as Ms. Moore has set out in her written reply as well as say in her oral submissions, her position is that because of her history of her relationship with Mr. Kiska, it would be too difficult for 486 counsel to adequately prepare for, and from her position, she is the only one who could confidently conduct the cross-examination. So if the Court agrees with her on that point, it would, in my submission, satisfy the proper administration of justice requirement to allow Ms. Moore to conduct the cross-examination herself. However, this court does have to presume that 486 counsel would do their job competently and would adequately prepare for the cross-examination by studying and becoming aware and having relevant knowledge of the fact that would be required to conduct the cross-examination confidently. And I would also flag for the Court that there is case law where the Court may find - be in a similar situation to Ms. Moore where the Court can make a determination that it would actually be counterproductive to the orderly progress of the trial to permit a self-represented accused to cross-examine the particular witness because of the comments that the accused has made in court about the witness

or the accused's prior relationship with the witness. I have a citation that I can provide if required. So based on statutory presumption as it is under Section 486.3(2), unless the court is satisfied that Ms. Moore's reason falls within that proper administration of justice requirement, the order is going to have to be issued.

THE COURT: All right. This is an application by the Crown under 486.3(2) to appoint counsel to cross-examine. And to be clear, this is not to appoint counsel for Ms. Moore. It's to appoint counsel to cross-examine one witness. And the statutory test is that because there is a charge of criminal harassment, the judge or justice shall on application of the prosecutor in respect to a witness who was a victim, or an application of such a witness, order the accused not personally cross-examine the witness unless the judge or justice is of the opinion that the proper administration of justice requires the accused to personally conduct the cross-examination. In my view, the Canadian jurisprudence, and I've read your materials, Ms. Moore. I've got mountains of materials and I've read it. In my view, the Canadian jurisprudence maybe different than the American jurisprudence you cite. In my view, it starts with the presumption that I shall make this application for cross-examination of the victim. I agree with your materials that it's not mandatory in that sense. That the court has to

look at all the circumstances and has to determine if the court is satisfied that the proper administration of justice requires the accused to personally conduct a cross-examination. In my view, I accept that this case has a number of complications and a lengthy history. That's not abnormal in cases of criminal harassment. By their nature, they include persons frequently who are in relationships with long histories, detailed circumstances. Counsel in the large percentage of cases has greater skills and ability to conduct cross-examination. I'm starting with the presumption that you are well aware, Ms. Moore, of the facts and circumstances, and you can reduce that in various portions to writing. You can sit down with this counsel and you can prepare that, Counsel. And if things come up in the course of it, then you will be present in court, and you will have the opportunity to communicate with your counsel during the course of that to advise the counsel. The counsel can take appropriate breaks, if necessary, to consult and to refresh. But, in my view, the proper administration of justice is - not only am I not satisfied that it's necessary for you to - I think the reverse. It's a strongly held case. You are almost certainly to be a witness on the proceedings. And persons that are witnesses it's often very difficult for them to conduct cross-examination without inserting comments and evidence. And so, I am not satisfied that the

proper administration of justice requires you to personally *[indiscernible]*. In fact, I'm satisfied, the reverse, that the proper administration of justice will be met by counsel conducting the cross-examination. I will say this, that of course this is based on the statutory presumption in favour of the order. And it's also based of course on the understanding that counsel will be able to do it and able to prepare. Counsel appointed will be an officer of the court. If circumstances occur during that trial that the counsel is of the view that they are unable to do the job, then counsel would have a responsibility to speak to the court. And although I'm not encouraging re-litigation of matters, a trial judge, of course, would be observing the circumstances as they occur, and would be in a position to revisit it in the unlikely and unfortunate circumstance if counsel was unable to conduct the cross-examination in the course of the proper administration of justice. So I'm going to make the order appointing counsel for cross-examination of Mr. Kiska. Has there been - is there a list of potential counsel, Mr. Savage?

MR. SAVAGE: There is not. I am mindful of Ms. Moore's position towards me and towards the Crown in terms of being part of their conspiracy. I doubt very much that an effective relationship could be developed between 486 counsel and Ms. Moore if this lawyer was chosen by myself or by the Crown. So my hope was that Amicus could

assist Ms. Moore in choosing a lawyer. And failing that, then the court could reach out and find a lawyer. I doubt very highly that Ms. Moore would ever communicate with a lawyer chosen by myself.

THE COURT: Well, I'm not asking you to choose, but I understand that. Ms. McMahon, would you be able to acquire a list from the appropriate members of the law association or Law Society or Legal Aid that would give a list of perspective counsel that might be prepared to take it and supply such a list to Ms. Moore?

MS. MCMAHON: Yes, Your Honour. So the Defence Counsel Association of Ottawa maintains that list. It's not an endorsement of any counsel on the list. It's just counsel who are prepared in theory to accept a 486 appointment. So I will email that list to Ms. Moore along with just the general list of counsel in Ottawa.

THE COURT: Okay. And that's a list that's maintained independently of the Crown and judiciary and police, I take it?

MS. MCMAHON: That's correct, Your Honour.

THE COURT: Okay, Ms. Moore, so that's what I'm going to have Ms. McMahon provide a list. If you're able to find someone on the list that - well, I know you're opposed to the order in the first place, but given I'm making it, if you can find someone that you would prefer over the others. I'm not asking you to agree that you think the person is better than you or anything, but I'm making the order, so I'm going to give

you a chance to find someone that's least unsatisfactory to you, if I phrase it that way. And we'll give you an opportunity to do that. Failing which, I will ask the list to be supplied to me, and I don't know how I will choose off the list, and I may choose randomly. I may just assign them a number and have all the numbers put in something, and just pull a number out of a hat. So if you would like some input so that you have a say in it, then I am prepared to have it go over a reasonable time for that.

DEIDRE MOORE: I'm sorry, the audio just cut out. What were the last few words?

THE COURT: Okay, Ms. Moore, would you like the - I know you don't want the order being made, but it is being made. Would you like the opportunity...

DEIDRE MOORE: No, that's fine.

THE COURT: ...to review the list with Ms. McMahon and see if you can find a name that's the least unsatisfactory to you?

DEIDRE MOORE: Yes, I'm actually - we discussed this and I'm going to see if I can find a defence attorney who is familiar with cluster B personality disorders such as malignant narcissism. So if I can find one that recognizes, you know, abuse *[indiscernible]* psychosis *[indiscernible]* and recognizes the traits of someone like Mr. Kiska, that would be ideal. I have a question though. Am I limited to this list or can choose anyone from Canada or the US to do this cross-examination?

THE COURT: Well, there are funding issues, all right.

DEIDRE MOORE: Let's say I was in a position to fund it myself hypothetically.

THE COURT: Well, we can discuss that, but they would have to be licenced to practice law in the Province of Ontario.

DEIDRE MOORE: Okay. Thank you, Your Honour.

THE COURT: And then if you had some names, we'll cross that bridge when we come to it, but they have to be licenced to practice law in the Province of Ontario.

DEIDRE MOORE: The liklihood that I would find someone who is experienced with this type of cross-examination from either Waterloo or Toronto is significant.

THE COURT: Okay. In any event, the other thing I'm going to tell you is that skilled barristers come up to speed on issues. Often lawyers will not have experience in a particular type of syndrome or issue, and the skill and training of a good litigator is their ability to take the material from experts and other things, read it, become familiar and able to do it. So skilled litigators cross-examine experts in all kinds of fields whether they have a previous history in them or not. But I understand if there is some prior background it can be helpful. So we will have that go over. When we discuss later when we're coming back at the end of this pre-trial today when we're fixing a date we will hopefully talk about when we come back for that. Okay?

DEIDRE MOORE: The other thing is I intend to call Mr. Kiska as a witness for my non-criminal harassment charges.

THE COURT: Well, you don't need to call him. The Crown will be. The charges - unless there is a motion all those charges will be dealt with at the same time. So the Crown will be calling him as a witness.

DEIDRE MOORE: And I will be cross-examining him on the non-criminal harassment charges.

THE COURT: I don't believe you will because it's a joint trial. You won't be cross-examining him on those non-criminal harassment charges because they are apart of the same trial. I don't believe you will. You'll have to discuss with the 486 counsel, do some research, or discuss with Ms. McMahon if there are any other remedies available for you. But you should start with on this trial you will not be cross-examining him. Okay?

DEIDRE MOORE: Okay, but Mr. Savage did not bring a 486.3(3) application, so that's why I assumed then he was not going to call Mr. Kiska for the non-criminal harassment charges.

THE COURT: You know, this is why I would far prefer you to have counsel, because as well versed in the facts of the case as you are, there are legal issues. And when there is more than one charge put together, they are put on a common information, and it's a trial where they are tried jointly, absent an order of the court separating the separate trial. So there would be

a single trial. So his application isn't based on cross-examination on that count. His application is based on cross-examining at this trial. The grounds for his application is that one of the charges fits within the statutory criteria. So the Crown will be presenting Mr. Kiska as a Crown witness at trial that I would anticipate give evidence on all counts. If he doesn't, of course, then that has other consequences, which may be more favourable to you. But I expect that he would give evidence on all counts. And because he's called by the Crown, the 486 counsel would cross-examine on all counts. And so, you wouldn't in the normal course of events be calling and need to be called by the Crown, and then the 486 counsel would be cross-examining, which is a far better position to be in than calling a witness. But, in any event, that's the one issue. I'm going to return to this pre-trial following the completion on my other matter this morning. I'm not quite sure how long it's going to take. I'm optimistic. I'm going to optimistically say 45 minutes, but I could be wrong.

...WHEREUPON ANOTHER MATTER IS SPOKEN TO

...UPON RESUMING

THE COURT: All right, Mr. Savage, Ms. Moore, Ms. McMahon, we're back. All right, so looking down our sort of list of things to attend to today, Ms. McMahon, have you had a chance to speak with Ms. Moore about Section 11(b) and have any idea whether it could be in play in this particular

case?

MS. MCMAHON: Yes, so Ms. Moore and I have spoken about it. I'll let her advise the court whether she wants to pursue that avenue or not.

DEIDRE MOORE: Your Honor, I have given this a lot of thought, and just a tiny bit of background. When I intentionally violated the unlawful order on July 26, 2019, I did it knowing that there could be some consequences. Now, I've been, as I've already stated, officially tried to divorce Mr. Kiska since 2013, and have been denied the right to do so. And so, when I went to the house so that the kids could hear my voice for the first time in six months, I had with me two double bags of evidence. And I thought, well, you know best case scenario is, if I get arrested, I get to actually finally get through to a legitimate detective and explain what's going on. And worst case scenario is I get charged and I go through the process of defending myself on why I violated the unlawful order, and generate some case law that other victims of CAS and abusive spouses can use my case law to defend themselves when they violate a legally obtained CAS court order which is unlawful. And so, for that reason, I am not really interested in pursuing 11(b). I feel very strongly about this. And, you know, the Crown had so far, I think....

THE COURT: Okay, fine. I don't need more, Ms. Moore.

DEIDRE MOORE: Okay. Well, I don't want them to drop that charge. They can drop any other

charges they want but I really don't want them to drop the disobey a court order charge.

THE COURT: All right, you know, just as long as you're aware of your rights. You don't have to seek remedies. They may not have even violate any of them. If they were, you don't have to seek a remedy. That's your option. But you've been advised of it. I do hope you understand that in a criminal trial the verdicts available for a trial judge are guilty and not guilty. There is no verdict of innocent. There's no - verdicts are it's either been proven beyond a reasonable doubt or it has not been proven beyond a reasonable doubt in a criminal case. Criminal judges are unlikely - your case will be decided on the facts. I wouldn't be counting on creating a body of case law or other matters. All right?

DEIDRE MOORE: Well, Your Honour, someone has to, and I have already two other pieces of case law to help other victims, and I would like to get a third.

THE COURT: Whatever. And the only other thing I'm going to advise you too is that you should investigate and perhaps ask Ms. McMahon about - even in the event that an order is unlawful, what is required. Whether you can just violate an unlawful order, whether you could still be subject to prosecution, and whether you have to seek to set aside the order as opposed to just violate it. So it's a....

DEIDRE MOORE: Your Honour....

THE COURT: I'm just saying it's tricky. We're

not going to argue the issue this morning. Anyhow, 11(b) is not on the table.

DEIDRE MOORE: Okay.

THE COURT: That's what you're saying.

DEIDRE MOORE: Thank you.

THE COURT: You've made an informed and careful decision. You know it's a potential remedy and you do not wish it.

DEIDRE MOORE: Correct.

THE COURT: Okay.

MS. MCMAHON: So, Your Honour, just before we move on from that, just so that it's clear from my perspective, because the Amicus order that you signed last month did provide me with a specific direction to pursue that application. So in light of Ms. Moore's position, I take it that I am no longer to prepare such an application, or does the Court still wish me to pursue that?

THE COURT: If she doesn't wish it and she's fit, my view would be not, you know.

MS. MCMAHON: Thank you, Your Honour.

THE COURT: You know, a trial judge could have a different view, I suppose. Mr. Savage?

MR. SAVAGE: I would agree. I think there is *Charter* remedy that needs to be sought by the defence or by the accused, and if they don't seek it, I don't think it's for Amicus to pursue a relief that is not sought by the accused.

THE COURT: Well, I think it could depend on the type of remedy and the type of breach, but 11(b) is a little bit different than an illegal search or seizure or something, and it's a remedy there

for the delay. And in Ms. Moore's case, she wants this trial. So it would be an interesting case for sure. But if she doesn't wish it argued, I'm not directing that it has to be and certainly at a pre-trial stage. I just thought that if it was going to be argued, I didn't want it to show up at the last minute and derail things.

MR. SAVAGE: Yes.

THE COURT: All right.

MR. SAVAGE: Your Honour, Ms. Moore does raise an issue with the Section 127 Count. I have looked into this count. It is in relation to a breach of a Family Court order under Section 127 of the *Child, Youth and Family Act*. So Your Honour will be familiar with Section 127 of the *Code*. It permits for prosecution of violation of court orders where no other such remedy is available. In other words, the section holds that if a breach of a court order can be prosecuted under another section of the law, *[indiscernible]* statute provide for the prosecution of breach of that, then it cannot be prosecuted under Section 127.

THE COURT: All right.

MR. SAVAGE: Review of the statute would reveal that a breach of the Section 137 order is contemplated within that statute in a different section. There is a punishment provision within that statute.

THE COURT: Okay.

MR. SAVAGE: A breach of that court order would

have to be prosecuted under that statute in Provincial Offences Court.

DEIDRE MOORE: That's incorrect. Mr. Savage, that's incorrect.

THE COURT: Just let him finish.

DEIDRE MOORE: Okay, I'm sorry.

THE COURT: So, Mr. Savage, where are you going on this then?

MR. SAVAGE: I feel that I am forced to withdraw that charge. There's a lack of a prospect of conviction because we're legally barred from prosecuting it under that section. Now, for Ms. Moore's benefit, the existence of that court order will still very much be at play at your trial. It's still open to her to argue that it's unlawfully ordered because it will be a relevant factor in terms of the unlawful dwelling count and in the criminal harassment count. So not prosecuting under Section 127 does not remove that court order from the equation of a trial. But I do feel compelled to withdraw that count as we cannot legally prosecute it under that section.

THE COURT: All right.

DEIDRE MOORE: Incorrect.

THE COURT: Ms. Moore, the Crown is indicating they intend to withdraw the Section 127 Count.

DEIDRE MOORE: Yes. I'm just trying to put up the legislature right now, Your Honour. Section 137 deals with - wait a second, I'll try to pull it up. I've been through this. It applies to employees of the CAS. It doesn't apply to me.

There is nothing in the *Child, Youth and Family Services Act* that provides for a punishment of violation of 137. In fact, the whole section doesn't apply to me. The whole section was drafted to punish CAS employees. It has nothing to do with me. And so, Mr. Savage dropping the charge claiming that *[indiscernible]*, it's entirely false.

THE COURT: Okay. Well, you agree that there is a punishment section, whether it applies to you, you agree there is another punishment section for that type of court order?

DEIDRE MOORE: But only if I were a director or an employee of the CAS.

THE COURT: Okay. In any event, you certainly agree that there is no reasonable prospect you could be found guilty of that charge.

DEIDRE MOORE: I don't think I'm going to be found guilty of any charge, but I would like to argue it in court.

THE COURT: Well, you don't get that luxury all the time.

DEIDRE MOORE: Well....

THE COURT: Ms. McMahon, do you have anything to say about the Crown's discretion to withdraw a charge before a trial commences?

MS. MCMAHON: I don't. The only thing I would add, Your Honour, is that I've reviewed the relevant sections of this *CYFSA*, and I've reached the same conclusion as Mr. Savage. And as Your Honour indicated this is an active Crown discretion.

THE COURT: Yes, certain types of Crown discretion are not subject to review by this court. And if the trial had commenced, there might be a different situation as whether the Crown could withdraw as of right. There may be some conflicting jurisprudence. But before the commencement of the trial, the Crown has the complete jurisdiction, and I have no power to fetter. And you're asking that charge be withdrawn, Mr. Savage?

MR. SAVAGE: Yes. And I've indicated that it is Section 142 of the *Child, Youth and Family Services Act*, which I saw constitutes the punishment provision for a breach of court order under Section *[indiscernible]*. So, yes, I ask that the charge be withdrawn.

DEIDRE MOORE: Well....

THE COURT: So, Madam Clerk, can you note on the Information that the section....

CLERK REGISTRAR: *[Indiscernible]*.

THE COURT: I only brought down the only Information I have. Oh, that's not true. I do have....

DEIDRE MOORE: Well, that changes my previous decision. And Mr. Savage *[indiscernible]* aware of Section 137 since the Summer of 2019, because I provided him with two articles which he used as evidence against me showing why exactly I was going to violate it. I was arrested under that and I went to a hearing in Municipal Court for that charge of violating Section 137(a) and that's what I provided to *[indiscernible]*....

THE COURT: Ms. Moore, Ms. Moore.
DEIDRE MOORE: *[Indiscernible]*.
THE COURT: The charge is withdrawn now. Maybe it should have been withdrawn sooner. I'm not dealing with that. It's withdrawn now. Apparently, you could be prosecuted provincially, but the order is there and there maybe other means of you being prosecuted or going to court for violation of that order. But a *Criminal Code* charge under Section 127 is not one of them in view of the Crown. He's exercised his discretion. The charge is withdrawn.
DEIDRE MOORE: Well, then may I reverse my previous decision not to proceed with the - what's the number? - Section 11(b).
THE COURT: 11(b).
DEIDRE MOORE: Because then all of this has been for nothing. You know, I'm trying to raise awareness on the corruption of the CAS. Unlawful orders that abuse loving parents and children. And so, if that charge is withdrawn, then yeah, I would like to argue 11(b), because this has become a ridiculous exercise. Thirteen charges, and now of those thirteen, how many have you dropped so far, Mr. Savage?
THE COURT: We only need to discuss - this isn't for the two of you. You talk to me, you don't talk to Mr. Savage.
DEIDRE MOORE: I'm sorry, Your Honour. I'm sorry, Your Honour. When this whole thing turned south on me *[indiscernible]* is being able to argue the 127, and now that's been removed.

THE COURT: That's been removed so that may change your thoughts on a whole bunch of things here. Can I see that Information?
CLERK REGISTRAR: Mm-hmm.
THE COURT: So we now - this Information now has remaining unlawfully in a dwelling, damage to the window, the criminal harassment, damaging a wall, and another count of criminal harassment.
DEIDRE MOORE: And, Your Honour, just so you can be aware, damaging a wall is false. I wrote a note to my children in erasable marker. It's in the Crown's own disclosure. And by virtue of Section 430(7) breaking a window so I can tell my kids I love them and writing I love you on a wall, I'm not guilty of mischief. No chance of success on those either.
THE COURT: Those are trial issues. You're now saying you are interested in trying to argue 11(b) on the remaining charges?
DEIDRE MOORE: Might as well, I guess.
THE COURT: Well, no, I'm not....
DEIDRE MOORE: There really isn't no other point to this trial anymore for me.
THE COURT: Well, then maybe we should consider whether there should be a trial and whether you should look at trying to advance the issues that you have, and I don't know all of the circumstances. I've got mountains of material. You may decide that a Criminal Court isn't serving the function that you thought it might. And if you've got issues that you think should be brought to the public's attention about what goes

on in Family Court, there may be other more appropriate ways than a Criminal Court and putting yourself at risk of criminal consequences. So that may be something you should think about. We're not going to decide that right now.

DEIDRE MOORE: Well, I've started a media company to raise awareness. I'm already doing that. I also have marketing materials. I send out postcards with evidence. So I'm doing everything I can. But the reality is, my children were placed in the care of the abusive father over two years ago, and I'm doing everything I can to get them back and raise awareness on the syndicate of "white collar" criminals that he has plugged into.

THE COURT: Oh, okay.

DEIDRE MOORE: So I'm not sure what my other options are in Criminal Court.

THE COURT: Criminal Court is unlikely to *[indiscernible]*.

DEIDRE MOORE: There was no criminal harassment. That's what dragged me into prison for 100 days was allegations of criminal harassment.

THE COURT: Okay. All right.

DEIDRE MOORE: I have no idea.

THE COURT: So, Ms. McMahon, 11(b) may or may not be waived. So we're going to be back again some time soon. So you may want to revisit those discussions. Maybe her position changes. I view 11(b) as a special type of section in the *Code*. And there could be valid reasons why persons

would not want an 11(b) remedy. They might not seek it. And persons that are fit could choose or not choose that remedy. Other remedies would be hard to - other *Charter* violations are a little bit more difficult, see why persons may not choose, but there could be. But 11(b) is in a special category.

DEIDRE MOORE: You know what, sorry, I don't want to delay this any further. I've just realized I've got case law on unlawfully in a dwelling and mischief. And you know what, at least I will get something out of it. I know I'm flipflopping here, but I had no expectation that Mr. Savage was going to withdraw the most important charge. And so, yeah, I'll scrap the 11(b). Let's just get this over with and get to the third-party records motion scheduled. That would be great. And let's get to the rest of the items, Your Honour. I'm not trying to take over your court, obviously, but I'm a little frustrated, I apologize.

THE COURT: Well, before we get the third-party records, I want to talk about - there are two trials coming up. Before the April 22nd motion date, we have two trial dates for breach charges. Do we not?

MR. SAVAGE: Yes.

THE COURT: And those trials are set for?

MR. SAVAGE: I believe April 6th and April 8th.

THE COURT: Okay. Is the Crown ready to go?

MR. SAVAGE: Yes. There is some disclosure I'm hoping to get from the John Howard Society

supervisor in the form of email *[indiscernible]* notify Ms. Moore about. I haven't gotten those yet, but I'm hoping to provide those. But, again, it is the Crown's desire that these trials occur after the substantive trial. And so, if there is a desire to adjourn these, the Crown would consent. But Ms. Moore is entitled to insist on her trial and those trial dates are set, and we would be prepared to proceed on those dates.

THE COURT: Ms. Moore, what do you want to do with those two trials?

DEIDRE MOORE: Well, again, I can't actually believe the Crown is pursuing those. Of the multiple I think six breach charges, they've dropped four of them. So these are the two that are left. So actually decided to go through with these ones. I've decided I'm going to follow *[indiscernible]* person. And to do that, I need to show the force and threat of force that's being used against me, that was used against me, and why I fear for the safety of my children. So that's going to require a motion - a third party records motion as well. So I was hoping we could perhaps, if the timing makes sense, to convert those dates to records motion.

THE COURT: I'm not sure that does, but the April 6th and April 8th trial dates, do you want those trials to proceed then or not?

DEIDRE MOORE: No. I can't prepare my defence, my full defence in time, and I don't have the materials. It's great that the Crown is

consenting because I can't possibly prepare a full defence by then.

THE COURT: I'm not convinced that you can't at all, but that's a different story.

DEIDRE MOORE: Well, it depends on whether or not I can get the third-party records. I'm requesting the records from Elizabeth Fry, John Howard Society.

THE COURT: I don't think they're relevant, I don't think they're relevant. I mean, I'm not the trial judge but I question how those records are - you know - a breach that alleges you weren't at your residence, I question how they are relevant.

DEIDRE MOORE: It's the credibility. So, for example, the E-Fry one, the credibility of the witness. So in one of the breach allegations....

THE COURT: Anyhow, you want an adjournment?

DEIDRE MOORE: Yes, please.

THE COURT: And, Mr. Savage, you think it's in the greater public interest that there be an adjournment and the Crown is consent to that?

MR. SAVAGE: Yes, and I can put the reasons down on the record.

THE COURT: Please.

MR. SAVAGE: Yeah, so it's the Crown's belief and intention on the substantive charges to pursue a finding of not criminally responsible. I don't believe that if Ms. Moore is not criminally responsible of these charges that it would be in the public interest to pursue the breach charges. But until that determination is made, I can't

make that determination on the public interest.
THE COURT: Okay.
MR. SAVAGE: Ms. Moore's adherence to bail conditions in her current state were quite serious, and therefore, I would not want to withdraw them. *[Indiscernible]* the Crown is not taking her breaches of court orders seriously in her mind.
THE COURT: All right.
MR. SAVAGE: However, I do think that the Crown's decision on public interest will depend on the outcome of her substantive trial.
THE COURT: Okay. But you're consenting and you've actually from the Crown's point of view prefer that they follow?
MR. SAVAGE: Correct, yes.
THE COURT: Ms. McMahon, anything you can say that would assist me?
MS. MCMAHON: I'm not technically involved in the breach charge file.
THE COURT: *[Indiscernible].*
CLERK REGISTRAR: Can I get those Information numbers so we can have them brought down?
THE COURT: All right, so Ms. McMahon, it's your request to adjourn those two trials?
MS. MCMAHON: I think you mean Ms. Moore.
THE COURT: Ms. Moore.
DEIDRE MOORE: Yes. And also, another issue that I think the Crown has skipped over, is that I was hoping to have Ms. McMahon appointed for Amicus on my breach files as well. So if we can get that out of the way on consent, then she could

perhaps assist with this current issue is the question of order.

THE COURT: Mr. Savage, what do you think about an Amicus on the breach charges?

MR. SAVAGE: I'm not opposed.

THE COURT: Ms. McMahon, would you be willing to do that?

MS. MCMAHON: I am willing to do that, Your Honour?

THE COURT: All right. All right, so I'll need some type of order. Can you Ms. McMahon or Mr. Savage, can you send me an order? Assuming that the order is granted as of now, Ms. McMahon, is it too quick to ask you if you have anything to say that could assist me in whether I should agree with both counsel and adjourn it?

MS. MCMAHON: I don't have anything to add that hasn't already been said, Your Honour.

THE COURT: Okay. So I'm going to adjourn both of those trials, Ms. Moore.

DEIDRE MOORE: Thank you, Your Honour.

THE COURT: I'll get the Informations brought down.

MR. SAVAGE: I can provide the Information numbers, Your Honour.

CLERK REGISTRAR: Yes, please.

MR. SAVAGE: So the Information numbers are 20-89910 and 20-A10006.

CLERK REGISTRAR: Okay, thank you.

THE COURT: And what I'm proposing, in fact, Mr. Savage, is I'm not only going to adjourn those trials, but we're not going to set a new date.

I'm going to adjourn them to a date following the scheduled completion of the substantive matter.
MR. SAVAGE: I would agree with that, Your Honour.
THE COURT: And, Ms. Moore, I would be adjourning the trials until after the completion of the other matter, and the dust may have settled. We may have different records. May see where any of them are ever going to go. All right?
DEIDRE MOORE: Thank you, Your Honour.
THE COURT: Okay. So that then leads us now back to the substantive matter, and we have a trial date set, and we also have April 22nd for motion dates set. What motions are you proposing? There's a third-party motion - third-party records motion, Ms. Moore?
DEIDRE MOORE: Yes, Your Honour.
THE COURT: And the materials for that, are they already filed or is there more to come?
DEIDRE MOORE: I haven't filed anything yet.
THE COURT: Okay. When do you think you could file them?
DEIDRE MOORE: One sec. March is action packed so I would like to say I can probably have them filed by the 11th, or is that too late, April 11th?
THE COURT: Any chance you can get them in by April 5th?
DEIDRE MOORE: April 5th, yeah.
THE COURT: I'll say the 6th.
DEIDRE MOORE: Yeah, April 6th I should be able to do that.

THE COURT: Ms. McMahon, I can't recall the extent of it, but does the appointment include any advice at least on the procedures of these motions?

MS. MCMAHON: Yes. Just to clarify before I get into that. This would be a third-party records motion with respect to the substantive matters that are set for trial.

THE COURT: Only. Nothing with respect to the breaches. The breaches are adjourned. We've got enough work to do. This is third-party records, Ms. Moore, only on the substantive matters.

DEIDRE MOORE: Yes, I'll need the third-party on the breaches as well. But I appreciate that April 6th would only be on what we're calling substantive.

THE COURT: We've got a lot of work to do, and you've got a lot of work to do. We want to keep it manageable so we can proceed it. Some charges are more important and need to go first.

MS. MCMAHON: Your Honour, with respect to the order as it is worded for the substantive charges, it would allow me to provide Ms. Moore with some information and to give her perhaps precedent material and some cases that would deal with like what an application and what a factum would look like on third-party records motion. If the court wanted me to actually like assist her in preparing the application, I would require an amendment to the order just to include that as a specific application, like we had done with the 11(b) application. And by help, I mean, if you

would like me to actually write something.
THE COURT: At this stage, I'm not sure that I'm asking for that.
MS. MCMAHON: Okay, understood.
THE COURT: I would like to see the - I think there's a very live issue as to how far some of these motions can go. Mr. Savage, do you want to comment on that?
MS. MCMAHON: *[Indiscernible].*
THE COURT: Okay. Mr. Savage, I take it if you've got the written materials for April 6th on third parties, you could do your best to respond. I realize there are a lot of issues because the third parties may need counsel but some of this may resolve itself.
MR. SAVAGE: It would be my preference that the Crown would be able to argue a summary dismissal of this application without Ms. Moore having to give notice to a third-party records holder that she's identified. I think requiring her to provide notice to the record holder that she's identified would very much delay the proceeding in terms of her having to serve or subpoena them. *[Indiscernible]* objective sense that this be argued without that requirement. She's only required to comply with that *[indiscernible]* summary dismissal application.
THE COURT: Who are the third-parties, Ms. Moore?
DEIDRE MOORE: Well, there are many. So, for example, police records, that's one example. It's relevant because it will show the threat of force that has been used against me since 2013

where they ignored every single complaint I've made.

THE COURT: I'm not asking for the merits. Just tell me the names.

DEIDRE MOORE: That's one example, that's one example. The NCR that was issued back in 2019 at *[indiscernible]* hospital. I actually have that one already from the CAS files, but I need to I guess re-ask for it. It shows there are absolutely zero notes in their file. All it is, is an NCR based on a conversation with the complainant. So hospital records is another one. So police records, hospital records, CAS records, Bell Canada phone records. I mean, a big part of it is the credibility of the complainant. And so, I can demonstrate with these records the amount of harassment and abuse I've endured, and the likelihood of me being found guilty of criminally harassing him when I'm having gifts delivered for my gifts, so they know I haven't abandoned them as he's told them. I mean, they are very relevant. I don't have a full list. The list that I have done is not complete yet because I need time, because I'm also in Family Court and in Appellant Court, Civil Court and Small Claims Court against him. I haven't had a chance to fully complete my list. It is 75 percent done. Bell Canada, business records. I've been operating a *[indiscernible]* company since 2016. And so, I have a lot of material.

THE COURT: Okay. Ms. McMahon, what do you think? Can you assist me as to how much of the

procedure should be done before we should do an interim stage?

MS. MCMAHON: Perhaps, what we could do is if Ms. Moore files her materials as she would for the first step to determine whether the records should actually be provided to the court, but without providing notice to the record holders, just so that there is a preliminary argument that could actually be heard by the trial judge, or the motion judge to the actual merit of the application. At which point, the Crown could argue for summary dismissal, and then the record holders wouldn't have to be involved unless the judge determined that we should proceed to the next step.

THE COURT: And it would allow things to not lose dates that we've already got.

MS. MCMAHON: Correct.

THE COURT: Mr. Savage, work for you?

MR. SAVAGE: Yes, it does.

THE COURT: Do you need any - do you need any variations to the order, Ms. McMahon, to at least assist her in understanding what that all means?

MS. MCMAHON: Not at all, Your Honour.

THE COURT: All right. All right, so the Information has come down. So April 6th and April 8th breach charges, so both those trials are adjourned. What is the scheduled completion date of the substantive matter at the moment, Mr. Savage?

MR. SAVAGE: The scheduled completion date at the moment is June 21st.

THE COURT: I'm suggesting that the two breach charges will be put into the Remand Court on the appropriate day the first or second week of August.

MR. SAVAGE: I would agree.

THE COURT: Ms. Moore?

DEIDRE MOORE: *[Indiscernible]* August.

THE COURT: This wouldn't be for trial. This would just be to reassess whether the Crown is proceeding with them, how much time would be needed for trial. And if the Crown is proceeding, what motions you would have. This is just - we're just putting them off because they are not the main event if I call it here, Ms. Moore. Are you in agreement with that?

DEIDRE MOORE: I don't disagree. But, I mean, they are not the main event either as the court will learn.

THE COURT: That's what I said, they are not the main event, right?

DEIDRE MOORE: Right.

THE COURT: The other one may not be a main event. But the other one - whatever the other one, you're telling me was something you intentionally did. These breaches, you're not saying that these breaches were part of an intentional thing. It seems to me the breaches are quite different from the other charges and how you wish them to proceed and how important they are.

DEIDRE MOORE: Well, I mean....

THE COURT: Do you want them back sooner, Ms.

Moore? All I'm really trying to say is I'm adjourning to August. That's a long ways away. If you want them back sooner - if you want your trial sooner, you get it, you get it.

DEIDRE MOORE: It doesn't matter to me. It doesn't matter to me when they occur. You know, I'm happy to have them occur. I attempted to get out of that bail house. I did everything I could to get out.

THE COURT: Ms. Moore, Ms. Moore, do you want them adjourned to August? Do you want the trial in April, or do you want them just adjourned and stay until July? You tell me. You'll get whatever you want.

DEIDRE MOORE: I'm indifferent. You know, it would be nice to have a month off, for sure. August is great. Then I don't have to worry about this, because of all these other legal things I need to deal with. So August is fine for me. If you want July, that's fine.

THE COURT: What day of week does these go on, Mr. Savage?

CLERK REGISTRAR: Thursday.

THE COURT: Thursday? So give me a Thursday in August, Madam Clerk?

CLERK REGISTRAR: Let me just have a peek here, Your Honour. So there is the 5th, 19th, or 26th.

THE COURT: How about August 12th, 8:30, Number 5 Court?

MR. SAVAGE: That works for the Crown.

THE COURT: All right.

DEIDRE MOORE: That works for me.

THE COURT: Very good. So we're moving along. So the dates of April 6th and April 8th are vacated. They are too soon to do any motion work on either of them, Ms. Moore. And also, those dates were not scheduled for the trial judge. And these motions, I think the third-party records may have to be heard by the trial judge. And April 6th and April 8th were breaches. So it's unlikely that, that would have been the same judicial officer in any event. So I'm just vacating those dates. I'm keeping the date for April 22nd for motions. Ms. Moore is to file her materials so that we know what's being sought and the basis of what is being sought by April close of business day on April 6th. The Crown is to file its response by - what's Friday of the following week?

CLERK REGISTRAR: Of April, Your Honour?

THE COURT: Yeah.

CLERK REGISTRAR: So the following Friday from the 6th is the 16th.

THE COURT: Can you have your reply in by the 16th, Mr. Savage?

MR. SAVAGE: Yes.

THE COURT: And the Crown is to have their materials filed by the 16th. Close of business on the 16th. I'm still available if persons wish to come back and see me before. All right. And subject to any other input from you, Ms. Moore, or Mr. Savage, or Ms. McMahon, my belief is that those motions should be heard by the trial judge and not by someone who is not the

trial judge such as myself. Mr. Savage?
MR. SAVAGE: I'm in agreement, yes.
THE COURT: Ms. McMahon, can you assist there?
MS. MCMAHON: Yes, the third-party record motions are heard by the trial judge.
THE COURT: All right. So we will at least have to have the trial judge sign. Does it assist anyone to come back and see me in the latter part of March or early April? Anyway, would it assist you, Ms. Moore, at all?
DEIDRE MOORE: Well, it depends on what else we're going to accomplish today.
THE COURT: Well, is there anything else left to accomplish today?
DEIDRE MOORE: Yes, I had hoped - I had listed seven items.
THE COURT: And what are they? What haven't we covered?
DEIDRE MOORE: Well, one is very important especially if I have to prepare my third-party record motion materials. I would like to know specifically which charges Mr. Savage intends to pursue an NCR on if I am found guilty, and he has refused to answer that question.
THE COURT: Mr. Savage, on the substantive charges if there was a finding, are you pursuing the NCR potentially on all of them?
MR. SAVAGE: Yes, on everything on that Information, yes.
THE COURT: On the Information that's set for trial, if there is a finding of guilt, the Crown is then going to at least potentially pursue a

not criminally responsible decision?
MR. SAVAGE: That's correct.
THE COURT: Okay. So it's all of the counts on the substantive Informations, Ms. Moore. There's the answer to that.
DEIDRE MOORE: Thank you.
THE COURT: Next?
DEIDRE MOORE: And also, *[indiscernible]* it's really important for my defence, is getting a copy of all of the disclosure including the charges that were dropped. And Mr. Savage has taken the position that I am not entitled to see that. So either on consent he should just provide that disclosure, or I have to add it to the third-party records request to get the Crown's records. And it's important because, you know, if he is accusing me of breach for March....
THE COURT: MS. Moore.
DEIDRE MOORE: Sorry.
THE COURT: *[Indiscernible].* We're not arguing it. So here's what I'm telling you, you ask for disclosure, you ask in writing. If it's denied, it's denied. Then your remedy then is a motion. You should have that motion. It should be added to your motion list to be filed for April the 6th. All right?
DEIDRE MOORE: So my application for the motion for....
THE COURT: If it's a third-party record, it will be added with the third-party records. It may not be a third-party, it may be a more

Stinchcombe basis. It may be records in possession of the Crown, not third-party. I don't know. I am not familiar with the details but the way it works is you ask for disclosure. If disclosure is denied, then you have to pursue a remedy and that remedy would be a motion before the trial judge. And April 6th you can have that motion filed.

DEIDRE MOORE: You said *Stinchcombe*, what was that word?

THE COURT: It's the name of a case.

DEIDRE MOORE: Can you spell it for me, please?

THE COURT: *S-T-I-N-C-H-C-O-M-B-E*, I think.

DEIDRE MOORE: Thank you, Your Honour. The other order I was seeking was costs.

THE COURT: I don't have the ability, I don't have the ability to make that order. Cost orders are rare. I'm not going to say they are impossibly. Cost orders are rare. They would have to be made by either the trial court or potentially a Superior Court with jurisdiction on some type of *Charter* remedy. I can't deal with that today, nor is it likely the trial judge would deal with that in an interim stage. But that's not a motion I have any power to deal with today.

DEIDRE MOORE: So another Superior Court of Justice application?

THE COURT: Or it could be potentially the trial judge, but it's a very complicated procedure. I'm not here to give you legal advice. Costs in criminal cases can occur. They are rare. There

is no jurisdiction in me sitting in this court to do it. The trial judge may or may not have jurisdiction to order cost in certain circumstances. If you're looking for cost for charges that were dealt with previously, that would definitely not be something you could deal with here. You have to go to Superior Court.

DEIDRE MOORE: No, Your Honour, it's very simple. If I'm arrested and then the Crown argues for three and a half hours that I should be denied bail, and then I get out anyway. And now I need to change my bail conditions, because I need to move and I need to be able to earn an income, because the complainant is refusing to pay spousal support. So I have to get my bail conditions changed so I can earn a living and move somewhere, and the Crown refuses to consent. Well, you see, now I have to order about a three-and a half hour transcript which is $700.00. So I get arrested, I get separated from my evidence and my computers, and then the charges are dropped. And so, that whole event where there are actually no charges from this event cost me $4,000.

THE COURT: That would be - if there is a remedy, I'm not saying there is - if there is a remedy, that remedy is not available. At least not apparently available initially to me in the Ontario Court of Justice criminal division. Whether it's available in Superior Court or in Small Claims Court, I don't know. But the jurisdiction of a criminal court is to deal with

criminal matters.

DEIDRE MOORE: *[Indiscernible].* They've already received notice that there will be an action of some sort, but it would be nice if I could get it *[indiscernible].*

THE COURT: Next on your list for today?

DEIDRE MOORE: Oh, the witness issue. He stated in his memo that he believed none of my witnesses are relevant. Well, he said that, but they indeed are. And so, he is claiming that they need to be vetting through the court, and it's my understanding that I simply need a Justice of the Peace and vet my witness list with them before I *[indiscernible].* So I'm not sure. It seems like a bit of a duplication if she is going to attempt to say I have to vet it in front of, I'm not sure who. So I just wanted to clarify because I'm ready to start subpoenaing witnesses as soon as I get through March. The next thing on my to do list was to prepare materials. It won't be much different from my motions record. They are very tied together.

THE COURT: Mr. Savage, would not the first stage be that she can apply for a subpoena so the Justice of the Peace, the Justice of the Peace can make a decision at the Justice of the Peace level. If the subpoena does issue then the recipient of the subpoena or the Crown could move to quash the subpoena, but I'm not sure that I can do it pre-emptively.

MR. SAVAGE: Well, I understand the Court's concerns with the proposal. What Ms. Moore has

provided to me in terms of her witness list, it's the same list that she's identified as potential third-party record holders which she refers to as *[indiscernible]* ticket or something to that effect. It includes members of the Superior Court of Justices, Justices of the Superior Court of Justice.

DEIDRE MOORE: No, it doesn't.

THE COURT: No, but the Justice of the Peace is well equipped to deal with this. They deal with it on a regular. In any event, let's get on the third-party records motion. It may determine a lot of this.

MR. SAVAGE: Okay.

THE COURT: And we're going with the third-party records motion in agreement by not having all the subpoenas out first and seeing if we can get there, so.

MR. SAVAGE: Okay.

THE COURT: All right, anything else on your list for today, Ms. Moore?

DEIDRE MOORE: Just double checking. No, that's everything. Thank you, Your Honour.

THE COURT: Would it be helpful to come back before April 6th?

MR. SAVAGE: I think it would be of assistance. Ms. Moore emailed me a fair amount with issues and requests and applications.

THE COURT: Ms. Moore, do you think it would be helpful to come back before April 6th?

DEIDRE MOORE: I think I have all the information I need now. I need to just hunker down and

prepare for April 6th. Mr. Savage likes to claim I email him all the time, but I was trying to get out of these charges for so long.

THE COURT: Ms. McMahon, from your point of view, would it be helpful to come back before April 6th possibly just for a check in?

MS. MCMAHON: I guess it would just be to make sure that everything is on track for April 6th. I'm going to try and have some precedent material and case law to Ms. Moore by the end of day today, so that she's got it right away on the third-party record or third-party records motion issue. So I guess it's really up to her if she thinks it would be valuable to come back ahead of that.

DEIDRE MOORE: I guess it wouldn't hurt to schedule something. It might be short.

THE COURT: Okay, all right. Give me several days so then, Mr. Savage, where you think it might be helpful.

MR. SAVAGE: Yes.

THE COURT: And then we'll check with the Trial Coordinator and see if we can get one of them.

CLERK REGISTRAR: And, Your Honour, for the breaches, we are confirmed cancelling the dates?

THE COURT: Confirmed cancelled.

CLERK REGISTRAR: And it's going August, was it the 12th?

THE COURT: Yes, please.

CLERK REGISTRAR: Thank you.

MR. SAVAGE: So March 30th in the morning or April 1st. April 1st would be an excellent date

for myself.

THE COURT: Ms. McMahon?

MS. MCMAHON: I'm not available April 1st, unfortunately, I'm booked.

MR. SAVAGE: Okay.

THE COURT: March 30th?

MS. MCMAHON: March 30th. Yeah, March 30th would be fine.

THE COURT: Ms. Moore, March 30th?

DEIDRE MOORE: Yes, thank you.

THE COURT: Could we see with the Trial Coordinator, Madam Clerk, if March 30th, if I can do something at nine o'clock?

DEIDRE MOORE: May I ask a question, Your Honour, of Mr. Savage while we're waiting?

THE COURT: What are they saying?

CLERK REGISTRAR: They said yes you are available. You are in a trial that day in Number 11.

THE COURT: So March 30th, 9:00, Number 11, we can do it, and let them know that I don't want anything else in that hour.

CLERK REGISTRAR: Okay.

THE COURT: Yes, you had a question for me, Ms. Moore?

DEIDRE MOORE: Yes, may I ask Mr. Savage a question and get his answer on the record?

THE COURT: Well, you can ask me.

DEIDRE MOORE: If I intentionally violate the current illegally obtained unlawful order that was issued under the *CYFSA*, am I going to be charged with disobey an order?

THE COURT: I'm not going to give you legal advice but there is an existing....
DEIDRE MOORE: 127. Will the charge be just dropped? They just dropped the 127.
THE COURT: Based on what he said, Ms. Moore, it might be unlikely you would be charged under that section of the *Code*, but there are other statutes that apply, and you could be prosecuted under another statute, or you could be found in contempt, or you could have your bail cancelled, or a lot of things could happen.
DEIDRE MOORE: I know. I just had to ask the question.
THE COURT: So what I'm going to tell you - what I would suggest that you might want to research or even ask Ms. McMahon to send over to you is the law dealing with what's known as the collateral attack on a court order, and generally speaking you will find that the law is not very much to your liking if you're charged criminally and you want to go and argue that the order you were alleged to violate was not lawful. You may find that people can be found guilty of court orders that are later set aside. And so, you might want to, if you have a court order to challenge in Superior Court, you might want to consider Superior Court challenge or Court of Appeal challenge as opposed to trying to get yourself in criminal jeopardy to make a scene.
DEIDRE MOORE: No, I understand, Your Honour. I'm already in Appellant Court to appeal it, so I am doing that. But it's just the reality is - if

Mr. Savage is saying the reason for him withdrawing the charge is because a punishment exists under *CYFSA*, that's incorrect. There is no remedy for me or punishment for me under *CYFSA*. So it's his choice to drop the charge not based on that.

THE COURT: Well, that's your opinion. In any event, anything else for today, Ms. Moore?

DEIDRE MOORE: No, Your Honour. Thank you for your time.

THE COURT: Anything else from you, Mr. Savage?

MR. SAVAGE: No, Your Honour. I hope Ms. Moore understands her bail conditions and would not violate those. It would be very concerning.

DEIDRE MOORE: No, it was a joke, Mr. Savage.

THE COURT: Because, Ms. Moore, whatever else, it's certainly not going to help you or your children and certainly not going to help the children if the mother ends up in jail, so.

DEIDRE MOORE: I'm not trying to go to jail. I'm trying to raise awareness of the level of corruption and the syndicate of white-collar crime that takes a mother from her children.

THE COURT: All right. Anything else for today, Ms. McMahon?

MS. MCMAHON: No, thank you, Your Honour.

THE COURT: Okay. We'll see you all again on - when is that date, Madam Clerk?

CLERK REGISTRAR: Oh, yes, March 30th.

THE COURT: March 30th at 9:00 we'll see you all again. And that's Courtroom 11, Ms. Moore.

DEIDRE MOORE: Thank you, Your Honour.

THE COURT: Ms. McMahon can help you with the coordinates. Thank you all.

MS. MCMAHON: Thank you.

DEIDRE MOORE: Good-bye.

...WHEREUPON THESE PROCEEDINGS WERE ADJOURNED

Certification

FORM 2

Certificate of Transcript

Evidence Act, *Subsection 5(2)*

I, Peta-Gaye Thomas, certify that this document is a true and accurate transcript of the recording of *R. v. Moore* in the Ontario Court of Justice held at, 161 Elgin Street, Ottawa, Ontario, taken from Recording(s) No. 0411_CR09_20210311_082852__6_BOXALLN.dcr, which has been certified in Form 1.

APR 0 7 2021

Date

(Signature of Authorized Person)

Peta-Gaye Thomas

ACT # 1116754711