

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

DEIRDRE MOORE *et al*

R U L I N G

BEFORE THE HONOURABLE JUSTICE J. BRUNET,
on May 24, 2022, at OTTAWA, Ontario

APPEARANCES:

M. Boyce

M. Cahill

Counsel for the Crown

Counsel for Deirdre Moore

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

<u>WITNESSES</u>	<u>Examination in-Chief</u>	<u>Cross- Examination</u>	<u>Re- Examination</u>
-	-	-	-

E X H I B I T S

<u>EXHIBIT NUMBER</u>	<u>ENTERED ON PAGE:</u>
-	-

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:	August 17, 2022
Transcript Completed:	August 29, 2022
Ordering Party Notified:	August 31, 2022

TUESDAY, MAY 24, 2022

5 THE COURT: Good morning once again, my apologies.
I apologize again for my delay. Try the justice
chair. Forget about the chair. I'm not this, this
short, but I'll leave it like that.

So the - it - the matter is here today for a
sentence, obviously. Correct?

MR. BOYCE: Yes, that's right.

10 THE COURT: And I see nobody else was wearing a
mask but me. I guess I'll join the club. Okay.

MS. CAHILL: Good morning, Your Honour.

15 THE COURT: Sorry, it was a bit of a frantic
morning with no power and no water at home. And
trying to get on Zoom in the last five minutes or
so upstairs in my office. Okay.

So are we ready to proceed? Or is there - are
there any preliminary matters before we get to the
sentencing proper?

20 MR. BOYCE: No, I'm ready to proceed, Your Honour.

MS. CAHILL: Yeah.

THE COURT: Okay.

MS. CAHILL: No, I'm ready to proceed as well, Your
Honour.

25 THE COURT: Okay, great.

MS. CAHILL: I think...

THE COURT: Go ahead.

MR. BOYCE: So - go ahead.

MS. CAHILL: I think it would...

30 MR. BOYCE: Sure.

MS. CAHILL: ...because you did enter a plea on...

THE COURT: Yeah...

MS. CAHILL: ...the last occasion...

THE COURT: ...normally you would go...

MS. CAHILL: ...Your Honour.

THE COURT: ...first.

5 MS. CAHILL: Yeah, I guess it's me and - and so, Your Honour, this has had a long history, to say the least, and I'm, I'm happy that I could assist Ms. Moore in ending this chapter of her various legal experiences. I, I can say I, I wish that - considering the fact that I've been her lawyer from the start, because I think maybe we might have been having this conversation earlier or perhaps even having a different conversation altogether.

10 I think this is one of the things, like, I, I see too often where family matters end up in the criminal court for one reason or another. And Ms. Moore had a right to a trial, and she was - it - we were all but ready to proceed on her exercising that right, Your Honour. What she has accepted responsibility for is what she can accept responsibility for. And I expect that she would like to tell Your Honour a few things herself at the end.

15 It's clear to me, she violated an order of the court. She knew that order was in place. She knew that order said that she couldn't go into the house that she, you know, still to this day, half owns, technically, and she went anyway.

20 Whether or not she felt that that was a good choice to make in the moment, it was a choice that was criminal. And so she's here to accept responsibility for that criminal act.

5 To the extent that it is a criminal act, we have to think about what the appropriate endgame here is. And certainly, she willingly violated that action - or, or that order, rather, and she willingly committed that act, but for what reason and in what circumstances.

10 Certainly, Ms. Moore has been trying to divorce her, hopefully, soon-to-be ex-husband, since 2013. And that is a legal proceeding that is still ongoing. I don't do family law for a reason, Your Honour, because if my cases go over a certain ceiling, I have a nice little application I can bring.

15 Divorce proceedings are not easy ever, and certainly, when they span almost ten years. I can imagine that that would be even harder on everyone involved. And to have gone from where she was, to where she is now, in and of itself has been a very difficult process for Ms. Moore.

20 In 2013, she had a very nice house and a very nice life and two children that she loved and cared for very much. And she had a career, and she was a CFA, and she was doing all kinds of things. She had all kinds of plans for herself and her family and, unfortunately, those plans did not include continuing her relationship with her, soon-to-be ex.

25 And in the process of trying to end that relationship, Ms. Moore is no longer with a nice house. She lives, actually, currently at a - I think it's a supervised bail housing situation, from what I can tell from the release order. She

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doesn't get to see her children, she doesn't work in the same field as she worked in, she - [audio issue] or currently in at all. She struggles to find that work. And, certainly, there's a lot of things she's going to have rebuild. She has plans for herself again, and I can say that I can't speak to what happened before I became Ms. Moore's lawyer, but in the time that I have been her lawyer, I've seen a lot of growth in her. I think she has started to be hopeful again for a future. She understands that there, there will be some times when her kids do want to speak to her again, when they do want to have a relationship with her, and that she is going to be ready and happy to take them back in with open arms, to have that relationship again.

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She is here to accept responsibility for what she can accept responsibility for because now she can start to actually move on with her life and, and start to pursue those plans.

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She wants to move out of the province, which I don't necessarily with - agree with. She's thinking of Newfoundland, at this point.

THE COURT: That's a nice place.

MS. CAHILL: It is...

THE COURT: Yeah...

MS. CAHILL: ...very much so.

THE COURT: ...good people too.

MS. CAHILL: Good people and [indiscernible].

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And she wants to start to rebuild a new life for herself so that when her children are ready to avail themselves of the relationship that she's so

excited to have, that she's going to have an awesome place and an awesome life for them to come and be involved with.

5 The family proceedings will be ongoing, Your Honour, both the divorce and otherwise. And I certainly can't speak to what that's going to look like moving forward, but I can say that I think Ms. Moore has nothing but the best intentions for a future relationship with her children. And I think that she is here, in part, today, accepting responsibility to demonstrate what it means to own up to the things that you can own up to, to accept responsibility where you can, to agree to certain conditions that maybe you might not otherwise agree to; insofar as, you're looking for closure, Your Honour.

10 I anticipate my friend and I will be joining each other on all but one suggestion today, Your Honour. That we will be asking to impose a conditional discharge.

15 When I say if I'd been here earlier or if we'd been having this conversation earlier, I might have asked Your Honour for an absolute discharge. At an earlier point in time it might have been an appropriate sentence in the circumstances.

20 I, certainly, do understand, however, that a discharge has to be both in Ms. Moore's best interest and in the interest of the public. And I understand that the ongoing nature of the family and divorce proceedings, and the lengthy - and stories matter, that conditions are likely most appropriate in the circumstances.

5 My friend and I would be suggesting that those conditions be fairly minimal, that Ms. Moore not communicate with Mr. Kiska or with her children, but with exceptions for her children and I believe Your Honour should have....

THE COURT: Yes, I just started to look at that. I, I take it this is a draft and, and a copy of it, correct?

MS. CAHILL: Yes.

10 THE COURT: All right. Thank you.

MS. CAHILL: My suggestion to Your Honour and where I differ from my friend in the interest of gravity is that there's a term. Term number 13 on the release order, which deals with a website, pfi.rocks.

15 I have had the opportunity to discuss with Ms. Moore what, you know, issues may have originated with regard to things that were posted on that site, and I understand how that condition came to be; however, she pays for the actual domain, pfi.rocks, and the - she just paid three hundred dollars to renew that domain name. And so, I would simply be asking Your Honour to amend that term if you were satisfied that the [indiscernible] could be done, so that she can, at least, have the domain name and have a website at that domain name, but, obviously, leaving in place that she cannot post disclosure and cannot post the names of persons at all.

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30 Simply, it's - we're suggesting to Your Honour a conditional discharge and suggesting a lengthy period of conditional discharge. Had she not just

5 paid it, had it, you know, been a situation where it was about to expire, I might not ask Your Honour to even bother amending that term, but insofar as it is a domain name and that the, the information contained at that domain name need not necessarily be what was once at that domain name.

10 THE COURT: So the wording you are suggesting then for condition thirteen would be, make inaccessible at any electronic or other means - and then to see, except to yourself of any [indiscernible] or 46.3 counsel appointed by the court - and is it that next part that you were suggesting goes out and then the rest of it stays, do not post on the internet, et cetera.

15 MS. CAHILL: Yes, so....

THE COURT: I just want to make sure that I understand what you are suggesting.

20 MS. CAHILL: Yes, Your Honour. I would, essentially, be suggesting that but for any person appointed to assist her and with the proceedings moving forward, and who need, need electronic access to documents she may have. As long as the balance of that condition were to remain, wherein she can't post any of the specific things outlined. She could still have the actual pfi.rocks domain name and simply not have any of the content on there that was in issue.

25 THE COURT: Okay. I get the idea. The, the wording - if, if I end up agreeing with you at the end, the wording will need a little bit of work, but I'm sure we can sort that out.

30 MS. CAHILL: Yeah.

THE COURT: Okay.

MS. CAHILL: And, certainly, Your Honour, Ms. Moore, I think would like to give you some kind of background on her own, just a little bit, and she will be [indiscernible].

THE COURT: Okay.

MS. CAHILL: My long story short is that this is something that I would hope had remained in the family law realm and made its way into the criminal law realm. I think there are lots of cases that can be seen as far back as 2008, *Shaw and Shaw* (ph), where the - these two realms intersect, and problems arise. The word of one person is not necessarily true, and the word of another is not as well. There is usually two sides to every single story and that's why our burden is as high as it is in this particular realm.

I, I certainly - and in support of Ms. Moore accepting responsibility for having breached that court order, I would submit that she's accepted responsibility for what she can and she's looking to move forward having done so, but I hope that the balance remains in the family court system because I think it would be great for everyone to be able to move on.

THE COURT: I agree. Yeah.

MS. CAHILL: Yeah.

THE COURT: Okay. So Ms. Moore, you wanted to say something at this point, or did you want your - should I hear from Mr. Boyce first? I - technically I should - sorry.

MS. CAHILL: It's okay.

5 THE COURT: Normally I would hear from the Crown and then I would ask if, if Ms. Moore's counsel had a reply and then see if Ms. Moore had anything to say. That's the normal order. Should we stick with that?

MR. BOYCE: That's fine...

THE COURT: Okay.

MR. BOYCE: ...with me.

THE COURT: All right.

10 MR. BOYCE: Thank you.

So I'll start by indicating that it is a joint position for Your Honour's recommendations for a conditional discharge and three years probation. And the Crown's recommendation is that the order be a non-reporting, but that the conditions as worded on the more recent bail order that is before Your Honour, including conditions six, and seven, which deal with no contact and communication with Jon, Sean, and Cate Kiska with certain exceptions. Condition eight, not to attend within 500 meters of the, the family residence. Condition ten, dealing with communication with individuals at the children's school. Condition eleven, not to attend at the children's school or schools. Condition 15 twelve was the condition not to possess weapons as defined in the *Criminal Code*. And condition 20 thirteen, we all - my friend is proposing an amendment and I'll come to that in a moment, but first, just by way of, explaining how we arrived at the joint position, Your Honour.

25 Ms. Moore is convicted of, at least, one count of being unlawfully in a dwelling at the former family 30

5 home, that she has no criminal record, there is a lengthy history as, as my friend noted. And it is very much in the public interest that this matter come to a conclusion for, for the sake of everyone including the, the complainants in this matter. This position has been canvassed with Mr. Kiska as well.

10 And [indiscernible], the suggestion of a conditional discharge is appropriate, in my submission, Your Honour, in light of the [indiscernible] and by the fact Ms. Moore has no criminal record.

15 THE COURT: Just so you get - you don't have to convince me of the conditional discharge. That's what I was thinking of myself. So, I, I am satisfied that it is definitely in Ms. Moore's interest, that it's not contrary to the public interest. That's what I would have...

20 MR. BOYCE: Yes.

THE COURT: ...done regardless of what you guys would have said to me. So you don't have to convince me on that part.

25 MR. BOYCE: No. The, the duration of the order is meant to ensure the longest possible period of protection for Mr. Kiska and the children. And I could even ask Your Honour to enclose the duration suggested.

30 With respect to the condition number thirteen, Your Honour, my submission to Your Honour is that the condition ought to be left as is. That was, initially, the joint position that was going to be advanced for the court. That was the condition on

5 which the Crown knew to submit a joint position for
a conditional discharge. And the issue with
amending it, as I see it, and as I understand my
friend's proposal, is that the amendment would
allow Ms. Moore to continue with the domain name
pfi.rocks. And that domain name would necessarily
then be accessible to individuals other than
herself and *amicus curiae*. That's what I
10 understand my friend to be proposing. So in other
words, there would be conditions not opposed to
certain material on the internet at paragraphs two
and three of that condition, that paragraph one
would essentially be - would be removed so that Ms.
Moore could continue to have that domain name and
15 continue to post material on that or under that
domain.

So the reason that I'm opposed to that, first of
all, is that - and again, the Crown's
20 recommendation for a joint submission was premised
by the fact that that condition would be worded as
it currently reads on the bail order.

The second, just because Ms. Moore will have
conditions not to post certain things on the
internet, I don't know - we don't know exactly what
25 is on that domain site now. That domain site,
pfi.rocks, is associated with a large amount of
content that we consider to be - that you would
consider to be harassing by the complainant. And
that's the reason why that particular domain name
was required to become inaccessible to members of
30 the public.

So, in other words, if that domain continues,

members of the public who once may have attended that site to observe certain material would still, sort of, have that link or that connection. And it's, it's difficult to know exactly what is on that site at this point time. But as I say that domain name is associated with, with the complainant and we consider to be a large amount of harassing content. And that was the justification behind that condition. And in my respectful submission, keeping that condition worded as is, is consistent with the overall spirit of this - of this joint position and certainly from the Crown's perspective which is to ensure that here's no further content - contact or anything that could be deemed to be harassing toward the complainant. It's unfortunate that Ms. Moore paid three hundred dollars to renew the domain name, but in my respectful submission, in the grand scheme of things, it's [indiscernible] and the public interest mandates that condition remaining as is. It is a three-year probation order, so, if, down the road, there's some justification for re-obtaining that domain name that goes beyond merely the fact that Miss Moore paid money for it, and something more rooted in, in principles when it comes to the protection of the public and public interest. And that could always be considered in the future, but for the time being, I would ask Your Honour to impose the condition as, as worded. Subject to any questions, Your Honour, those are the submissions I have.

THE COURT: Thank you. Reply?

5 MS. CAHILL: Yes, please. So I, I - just to clarify, I, I would be suggesting that any information already on that website, which would violate the balance of that order, to be removed. Second, I believe that the non-communication order with Mr. Kiska, which is absolute in terms of the suggestion on probation. There are no exceptions [indiscernible] separate and having to go to court. If she were to be posting information about Mr. 10 Kiska that would be indirect communication and that would be a violation of that portion of the order. I'm simply asking that she get a domain name back that she owns. It's her own property and she didn't plead guilty to criminally harassing 15 Jonathan Kiska, so I don't understand that a specific condition with regard to his feelings of harassment is related to the pleas she entered to be unlawfully in a dwelling house. I certainly respect that I'm saying she paid three 20 hundred dollars for it and to give the website back, but I'm simply suggesting that there is a way to crack that term wherein she can have her own intellectual property returned to her because she did accept responsibility for what she can accept 25 responsibility for in these circumstances. And that she doesn't have to be further detrimented (ph) and have her intellectual property taken for another three years when she did not plead guilty to anything to do with criminal harassment. And, 30 and certainly, I am suggesting that any information that would violate or, or - well, sorry, which would violate the - as worded, which, in essence,

5 any information that might be harassing to Jonathan Kiska or even identify Jonathan Kiska or Sean Kiska or Cate Kiska, it would have to be removed and should be removed because if it were there it would be violating that term. I'm just asking that we get the actual domain back. That, that website as it existed when that term was crafted may not exist anymore.

10 THE COURT: So the - the website, as it stands - as it stands now, does it have information regarding the complainant and the children?

MS. CAHILL: As it stands, it doesn't. It doesn't have...

15 THE COURT: It does not?

MS. CAHILL: ...anything on it.

THE COURT: And what's - what will the website be used for in the future?

MS. CAHILL: I believe...

20 THE COURT: What's the purpose?

25 MS. CAHILL: ...she would use it as a personal blog. I can tell Your Honour that I've had significant discussions with Ms. Moore about the general, kind of, courtesies of any sort of internet presence when one is involved in court dealings. And certainly, about intellectual property and, specifically, not using the names of private members of the public. And so that would not be something that would be on her websites moving forward.

30 THE COURT: And she'd have to be clear about that. That there is not be anything with respect to the complainant or the children on the blog or the

website or whatever it is going to be used for.

MS. CAHILL: No identifying....

THE COURT: Do, do we have that - do we have that understanding?

MS. CAHILL: Yes.

THE COURT: Yes, is, is that...

MS. CAHILL: No identifying information.

THE COURT: ...miss - is that right, Ms. Moore?

DEIRDRE MOORE: Yes, Your Honour, I think it was actually *[indiscernible]*, I was a multi - I, I was trying to rebuild my career after a significant smear campaign. And so, I was a professional writer and journalist for ten years. So part of what I was trying to do was re-establish myself as such - a writer with an online magazine. It was multi-faceted and had a good section - a travel section. There was also a section where I was building a legal template for others who may not be able afford a lawyer, and may not be comfortable with legislation, be it Family Court, see what I'm saying - criminal, civil, small claims. I've been forced to endure every level of court as I go through this divorce. And so, I was attempted to assist others who may have found themselves in a similar situation to mine.

I was also, at the time, using it as a platform to raise awareness on my personal experience in attempting to divorce the complainant. And so I think this is what the complainant had gleaned as harassing, itself - actual. The reason, I think, I was never accused of *[indiscernible]* of libel is 'cause everything is truthful and backed up with

5 evidence. And so, this is what they don't want to have up in the public domain because it's incriminating. And so I agree to not post disclosure, and the CYFSA documents, and other evidence that shows what's actually been done to my children.

THE COURT: So the website, P-F - is it PFI or PFL?

DEIRDRE MOORE: Yes, pfi dot rocks. So when I was re-arrested in....

10 THE COURT: Sorry, sorry, I just had a question about the - what is that? What does it mean? What does PFI stand for and rocks?

15 DEIRDRE MOORE: I was in intent - I was hoping to - for social benefit or non-profit organization. I have the company as code [indiscernible]. So this was going to be a new non for profit. Basically, a victim services company, not only to help with - well, all sorts of things, shelters, and education as well as legal support. It was an idea I was pursuing. I'm a - I was a chartered financial analyst, and I had a very successful career for 20 twenty years but chose to leave that industry back in 2015 and wanted to go more into health services, mental health - victim services, basically. I've 25 been trying to do that for - since 2015, but one thing after another has, basically, shut it down. So when I was re-arrested in April of 2019, after, you know, fresh allegations of criminal harassment, I was denied bail unless I removed pfi.rocks from public view. So - and then I was released. So I 30 agreed to take it down in 48 hours and my - so my website provider and I worked very hard. And

5 basically what I did is I moved all of the content,
which took me thousands of hours to build out. I
moved all that content over to something called - a
new site called TWB - something so I had back up -
which is gonna be teaching without borders. So I
moved it all over to twb.rocks. So all of that
content sits there right now. All of the
disclosure I was posting, all the C-F - C-F - CAS
documents, that's all been put on twb.rocks and
10 it's password protected. No one has that password,
as per my conditions, except *amicus* and one of....
THE COURT: Forty-six point three [*indiscernible*].
DEIRDRE MOORE: ...one other person. I'm not - it
- so nobody is really looking at that. Meanwhile,
15 I set up a pfc.rocks, People First Corporation, to
attempt to, again, try to rebuild my career,
establish some credibility by posting or re-posting
articles I had written. So if I get pfi.rocks back
- and the reason I would like it back is I had
20 already done, you know, four years' worth of work
on it including, you know, ordering - like, I had
marketing materials done up. I was scheduled to
attend a domestic violence conference in Halifax in
2020 before COVID, you know, broke out and
25 everything. And so, I got media made up, I had
[indiscernible] made up, I had matchbooks made up,
and - basically, to drive traffic to my website
where I was also developing sections on raising
awareness on narcissistic abuse and, you know, all
30 sorts of safety issues because of what my personal
experience has been since 2013. I've learned a
lot.

5 THE COURT: I'm sorry - I'm sorry to interrupt you, but my question was really what is - what does pfi stand for, what's that acronym stand for?

DEIRDRE MOORE: People First Incorporated.

THE COURT: Okay.

DEIRDRE MOORE: And my intention was to incorporate a non-for-profit.

10 THE COURT: Okay. And the rocks, it just means, what, colloquially that it - that it rocks? It's a....

DEIRDRE MOORE: Well, kind of.

THE COURT: Yeah. I just...

DEIRDRE MOORE: It's just, you know...

THE COURT: Okay.

15 DEIRDRE MOORE: ...it's not just dot com anymore because I was trying - my goal was - and again, this was all pre-COVID, and I've been a professional speaker for many years as well. So my intention was to start reaching out to high schools, colleges, universities, and - because I never had been aware of this, and I had no idea what narcissism meant or cycled with any of that stuff. And so, my goal was to speak to younger kids before they fall - before they marry the wrong person, before they fall in the same trap I did. So I was speaking with psychologists, you know, I had someone who agreed to co-author a book with me. I intended to go on a speaking circuit, I attended a conference in the U.S. before my arrest to try to, you know, reconnect with professionals in the field, psychiatrists, psychologists. 'Cause, you know, there's a market for it in the U.S. So I

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5 was, basically, building out my new business, my new victim service model and I, again, I paid for marketing materials with the pfi.rocks on it. This is one of my buttons that I happened to bring today. And....

THE COURT: And you are agreeing not to post anything about the complainant or your children on that website, is the correct?

10 DEIRDRE MOORE: I will not post the disclosure 'cause that is not allowed...

THE COURT: Right.

DEIRDRE MOORE: ...apparently.

THE COURT: Right.

15 DEIRDRE MOORE: And not to post CAS documents. Is that right? Oh, and the names. And no names. So my lawyer was running me through this this morning. So then I'm still, sort of, raising awareness on issues, but not name people individually.

20 THE COURT: It's - the way it's worded right now, it says, included - okay - accordance - do not post court documents, included but not limited to, court rulings, court filings such as *facta*, affidavits or other supporting material, the names Jonathan Kiska, Cate Kiska, or Sean Kiska. Are you able to keep away from that?

25 DEIRDRE MOORE: Yeah, like I'm - I can comply with that.

30 THE COURT: And you understand that if you were to put any of that information on there it would be a breach of the probation order and you would get arrested again?

DEIRDRE MOORE: Yeah.

THE COURT: And charged with breach of probation?

DEIRDRE MOORE: Yeah, well, I mean I've already served over a hundred days for this.

THE COURT: I guess what I'm saying is that I just want you to understand that the jeopardy if you do decide to put those names or those documents on that website or otherwise make them available, you are going to get arrested probably...

DEIRDRE MOORE: Well...

THE COURT: ...and...

DEIRDRE MOORE: ...and that's....

THE COURT: ...charged with breach of probation and you are back at...

DEIRDRE MOORE: No, I....

THE COURT: ...ground zero.

DEIRDRE MOORE: Yes, I understand that. So that's one of the benefits of actually keeping, believe it or not, pfi.rocks, 'cause there's nothing on it.

All the content was moved from pfi.rocks over to TWB, and if I had access to TWB that would be arduous task for me to go through, you know, literally, hundreds and hundreds of pages with links to evidence. I would have to make sure that all those links were now dysfunctional. So by me having P-F - a blank URL back, I can rebuild it and make sure that anything I do upload is redacted or is not up - it's not re-uploaded. I make sure none of this CAS documents are up there. I can, basically, start with a clean slate.

THE COURT: You are not going to be using TWB to do - to be posting...

DEIRDRE MOORE: No TWB, 'cause they...

THE COURT: ...any of that information?

DEIRDRE MOORE: ...'cause they where in until I - again, it's gonna take me a while to find a page, delete any links, move it over to pfi.rocks. I could rebuild - I could rebuild it.

THE COURT: But you, you understand my, my concern is...

DEIRDRE MOORE: Absolutely.

THE COURT: ...it's obvious, I think, but I just want to make sure that it's clear on the record. You are not going to use TWB either for the purpose of posting on Facebook or otherwise...

DEIRDRE MOORE: Correct.

THE COURT: ...of the court documents and the names and so on.

DEIRDRE MOORE: Correct. I have no interest in being re-arrested.

THE COURT: Sorry? You have no....

DEIRDRE MOORE: I have no interest in being re-arrested.

THE COURT: Okay. Good answer. Okay. All right. I just wanted to make - make sure that was really clear because that's, that's really the, the risk for you.

DEIRDRE MOORE: Right. No, I won't do that. I think I've received some good advice on that, so....

THE COURT: Okay.

DEIRDRE MOORE: Thank you.

THE COURT: All right.

DEIRDRE MOORE: Oh, was there any - this - no, if I, I have key points, if I might...

THE COURT: Sure.

DEIRDRE MOORE: ...just to add to that.

THE COURT: Sure, yeah. That's one of the reasons why they gave us - it's a little bit more time. We have another matter after this one, but you, you have some time if you want to say some things before I issue the sentence.

DEIRDRE MOORE: Sure.

THE COURT: Keeping in mind that I do agree with the joint position and the terms of the conditional discharge but go ahead.

DEIRDRE MOORE: Okay. I guess - well, I'll just go back to - this all started in July 2019. Perhaps Your Honour probably isn't aware that our divorce was scheduled for September of 2019. And I had received a favourable recommendation from the Office of the Children's Lawyer that I receive sole custody of my children. There was four-month investigation and that was received in July of 2017. So that's just a little bit of history. Now, while I was detained in Quebec, acquitted, I didn't commit any crime, but while I was detained a court order was issued by CYNOSA order was issued giving the complainant sole custody and access temporarily and my access was at his discretion. That was in April of 2019. I wasn't able to prepare for the hearing and the hearing wasn't adjourned at my request. I had not materials [indiscernible] but - but - so after five months of me calling and trying to speak to my children, well, no one would, would answer the phone. And then at one point, I found out that the complainant

5 told my, my kids that I had moved to Texas because I didn't want to be their mom anymore. Now this is evidence not only in the police disclosure, but also in the CAS materials. Nothing could have been further from the truth [*indiscernible*]. So when I realized that my kids were being told this, in this trial, and were quite close, so I then alerted the complainant and the CAS that I would be violating this order that they were in contempt of for five months but - 'cause I wanted to prevent further emotional harm to my kids.

10 And so, I was in the States, again trying to rebuild my career at this point, and shortly after I alerted them that I was going to intentionally violate these orders so I could speak to my kids, then the complainant filed criminal harassment charges. I believe it was July 26th, 2019. And he went so far as to tell the police that I was schizophrenic. This is documented in the trial - transcript of his victim impact - impact statement. And he feared for the safety of him and his children. I am not schizophrenic, I've never been schizophrenic, I've never been diagnosed schizophrenic, and I've never hurt anyone in my life. However, I did violate that court order to try to tell my kids the truth that night, and coincidentally, the same day he complained about criminal harassment. So when I was - I was arrested that day and the following morning - so my initial charges were disobeying an order and unlawfully in a dwelling and [*indiscernible*]. And by the following morning, I was accused of criminal

5 harassment. [Indiscernible]. And not only was I
charged with criminal harassment, but I'm
interviewed by the police. But Mr. Boyce argued
that I've been denied bail. I had not criminal
10 record or history of violence and [indiscernible]
weapons or anything else. Not only was I denied
bail, but a non-communication order was put in
place that I wasn't permitted to speak, contact
directly or indirectly, my two children. And so,
what happened over the next couple of years as we
went through this, is the CAS brought a summary
judgment against me to give the complainant sole
15 custody and access of my kids. And one of the
arguments they made in their - in their submissions
was that the mother has not bothered to try to see
her children for two years. Well, I couldn't try
to see them because that, that had been
criminalized by the non-communication order. So
20 this, this is - this experience is referred to in
Family Court - I don't know about in Canada, but in
the U.S., this is referred to as a retaliatory
maneuver when you're going through a divorce. And
it's really looked down upon.
Anyway, so that's, sort of, the backstory to this
25 whole [indiscernible] time. So here I am now, the
only reason [indiscernible] the children will need
to learn the truth at some point, so it's not like
if everything was dropped today, I'd show up at the
house and say, your dad has been lying for three
30 years. I never moved to Texas. I never stopped
loving you. And so, I'm not sure who is gonna -
so, essentially, denied my expression of love for

5 three years. I'm not sure who is gonna eventually
tell them the truth or how they will find out. I
would prefer if whatever probation is - I mean,
they already have - they've been denied my love for
three years. And I've already served over 100
days, and one included a random beating by a cell
mate coming down off of fentanyl, apparently.
10 And, and in, in closing, Mr. Boyce argued that the
duration - they want the longest duration for the
longest possible period of protection for Kiska and
our children. I have to admit, respectfully, they
were never in any danger [*indiscernible*] and thank
you for listening.

15 THE COURT: Thank you. Everything okay? Yes?

MS. CAHILL: Perfect, yes.

THE COURT: Oh, okay. I just - all right. So
again, thank you for setting that out for me.

R U L I N G

20 BRUNET, J. (Orally):

25 I can indicate that I'm very aware of that - when
criminal law and family law intersect, and we do
see it, unfortunately, not infrequently in this
court. It's, it's difficult for everybody. It's
difficult for everyone who is involved, the
children, the parents, the grandparents. And the
Court really struggles with those because there are
30 so many competing issues. And as counsel pointed
out, in criminal matters the standard of proof is
beyond a reasonable doubt.

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Fortunately, in this particular case, there was no physical violence that ensued and a - that's something that we do see a lot in these courts. So that's good. But the most positive thing I can say there, in the sense that, no one was harmed physically because that's where the cross-over gets really difficult and the effects of this Court's orders can really effect everything else.

In this particular case, Ms. Moore pled guilty to being unlawfully in a dwelling house, which is a less serious charge, which she accepted responsibility for those actions and in the face of the court order, as her counsel pointed out, she knew was in existence. She had her own reasons that she has explained at some length and that was I aware of from her earlier appearances. She had her own reasons for doing so and I understand that. And I understand that family court proceedings, divorce proceedings, can be extremely emotional, difficult, confounding at times, and can seem too lengthy, and they can take a long time to resolve. There's no doubt about that.

So 20/20 hindsight, maybe things could have been different, but the reality is Ms. Moore has taken responsibility. She pled guilty to one particular count. She did spend some time in custody. She appears to understand that if she continues with this type of contact that she would be arrested, she really wants to avoid that. I think everybody in this courtroom wants her to avoid that.

So it comes back to zero. And she wants to move on with her life and get herself into a position where

5 she can have more pro-social, positive, good, and
nurturing contact with her children. Those are all
good goals. She wants to get back to work. All
the goals. She's a very articulate person. And I
noted that from the first time when I dealt with
this matter, and, obviously, a quick learner. And
just, colloquially, she had read the same textbook
that I was quoting with - regarding third party
documents and so on. So there's no question that
10 she has the ability to put this all together and
that's not the case for everyone. Ms. Moore, it's
up to you to do it. I get the sense that you can
do it. I'm just trying to make sure you stay
within the boundaries of where you need to be, and
it sounds like you do get that. And you stated
15 yourself that you won't agree breaching the order,
particularly with respect to putting any documents
names, *et cetera*, on any website and aren't making
them accessible.

20 So I think that at the outset, as I stated while
Mr. Boyce was talking, to me, this was a
conditional discharge. Regardless of the number of
charges and so on and so forth. That's, kind of,
what it boiled out to for all the circumstances
25 that we talked about. It's certainly in Ms.
Moore's interest. She will not have a criminal
record; she can say she has not been given a
criminal record by the court. It's the - and it's
the reasonable person in the community would
30 understand that it's not a contrary to the public
interest. So that's the easy part.

The conditions are agreed upon except for one and

5 so - and I commend counsel for and Ms. Moore for
agreeing to this, basically, because I know that's
not an easy exercise, but there will be a period of
probation for three years as per the joint
submission, by way of conditional discharge. I,
generally, put the statutory conditions on. Is
there any concern about that? Those statutory
conditions such as we mentioned, keep the peace and
be of good behavior, which means to not commit any
10 further offences, and appear before the court when
required to do so. That's rare that that would
happen. That usually if somebody's really gone
errant and needs to be brought back in. I've never
had to use that, but it's a condition there. So
15 keep the peace and be of good behavior, appear
before the court when required to do so. It's a
non reporting order, but I would ask if there's a
change of address that that they reported to the
court or probation office just so that people know
20 where you are. Do you understand? Okay.

In terms of the conditions that have been agreed
upon, and I understood them to be - Mr. Boyce
because you were talking a little quicker than I
could type. They were condition six, seven, eight,
25 ten, eleven, and twelve, and then the debate is on
condition thirteen.

MR. BOYCE: Correct.

THE COURT: And those are the existing conditions
from the bail order of the 9th of April 2021, at
30 least on the copy that I've been given.

So those conditions are - and I take it Madam
Clerk, you have a copy of these as well.

CLERK REGISTRAR: Yes, Your Honour.

THE COURT: You are not to communicate in any way, either directly or indirectly by any physical, electronic, or other means with following persons: Jonathan Kiska, Sean Kiska, and Cate Kiska, except to only with Sean Kiska and Cate Kiska, and with the written and revocable consent of the Children's Aid Society or pursuant to a Family court order or an order under the *Child Youth and Family Services Act*. You're not to be within five hundred meters of any place where you know any of those persons named above to live, work, go to school, frequent, or any place you know them to be, except for required court appearances. And another exception is only with Sean Kiska and Cate Kiska with the written consent of the Children's Aid Society or pursuant to a Family court order or an order under the *Child Youth and Family Services Act*. You are not to attend within five hundred meters of one 1244 Lampman Crescent in Ottawa. You are not to communicate in any way, either directly or indirectly, by any physical, electronic, or other means with the following persons: staff at Sean and Cate Kiska's schools or with any students at these schools. You were not to attend Sean and Cate Kiska's schools, and you are not to possess any weapons is defined by the *Criminal Code*, for example, but not restricted to a pellet gun firearm, imitation firearm, crossbow, prohibited or restricted weapon or device, ammunition, or explosive substance, or anything designed to be used or intended to be used to cause death or

injury, to threaten or intimidate any person.
Then we get to the somewhat controversial condition
thirteen, and I am satisfied, based on what I have
heard from counsel and Ms. Moore, that we can amend
the condition as it - as set out in the April 9th,
2021, order, but I'm going to need some assistance
to make it clearer. It looks like the second part
would apply, do not post on the internet or social
media or any other means except your website
identified above. Yes, help me - help me, yes.
How can we write this?

MS. CAHILL: My suggestion, just in typing up my
own *[Indiscernible]*, Your Honour, it will be to
have the first part and have, do not post on the
internet by social media or any other means, court
documents including but not limited to: court
rulings, court filings, such as facta, affidavits,
or other supporting material that names Jonathan,
Cate - Jonathan Kiska, Cate Kiska, or Sean Kiska,
or otherwise violate section 86 of the CYFSA and do
not post on the internet by social media or any
other means, disclosure received from the Crown
Attorney as any part of your - I guess we would ass
prior criminal proceedings.

THE COURT: Okay. So what - that was pretty quick
too. And I'm slow.

CLERK REGISTRAR: Yes, Your Honour.

THE COURT: I'm slow. And so what you're
suggesting is that condition thirteen, the second
hyphen would say, do not post on the internet by
any social media or any other means, and then take
out, except to your website?

MS. CAHILL: Yes.

THE COURT: *[Indiscernible]*

MS. CAHILL: Simply because it would just be by social media or any other means. So it's an absolute term. Do you not post these documents on the internet?

THE COURT: Right.

MS. CAHILL: And then the furthermore, do not post any disclosure on the internet.

THE COURT: Okay. So it was - if we can just stick with the wording that's there? So...

MS. CAHILL: Yes.

THE COURT: ...do not post on the internet by social media or any other means. And then it says, in accordance with the above condition. Does that have to come out too?

MS. CAHILL: Yes. As per my reading, that refers to the part where there's an exception for her website...

THE COURT: Right.

MS. CAHILL: ...and only an exception for her appointed counsel. So my suggestion is, essentially, that the, the term with regard to her posting becomes an absolute term. She cannot...

THE COURT: Right.

MS. CAHILL: ...post *[Indiscernible]* .

THE COURT: No, I get that. I just want to - I just want to work on the wording...

MS. CAHILL: Yes.

THE COURT: ...so we can all save it.

MS. CAHILL: I think that....

THE COURT: I know - I know what the intention is,

5 I just want to make sure that we get the wording right. So what you're suggesting - I'm just gonna try again here. You're suggesting, do not post on the internet by social media or any other means: court documents, and starting at that part of the condition, right?

MS. CAHILL: Yes.

10 THE COURT: So the rest is verbatim and including, but not limited to court rulings, court filings, such as facta, affidavits, or other supporting material that names Jonathan Kiska, Cate Kiska - I think it says, Kista there, but at any rate. Is - it is a T or a K? It is a K, right?

MS. CAHILL: It should be a K.

15 THE COURT: Yeah, it looks like there's a typo here. Cate Kiska or Sean Kiska or otherwise violates subsection 87(8) of the Child and Youth and Family Services Act 2017.

20 And then there's also the - a condition, do not post on the internet by social media or any other means: disclosure received from the Crown Attorney as part of any of your prior criminal proceedings. That's what you've got in there. Correct?

MS. CAHILL: Yes. Although, I don't know that the prior necessarily means anything.

25 THE COURT: Right. So just to be clear, that means she's no able to make accessible any documents that are described earlier. The well, it's basically the same documents, the affidavit, the same court records, and so on. Correct?

MS. CAHILL: Yes.

30 THE COURT: So, okay. And Mr. Boyce, do you have

any comments on that or anything that needs to be tweaked a bit. I know you disagreed, but in terms of what I'm deciding.

5 MR. BOYCE: No, and in my, my comments are noted. The only thing I would suggest is, as my friend submitted, with respect to pfi.rocks, and I heard Ms. Moore's comments that there's nothing on there at this point in time. But, obviously, these conditions that Your Honour is going to impose, the
10 wording with them, would presuppose that anything that is currently or could currently be on any of Ms. Moore's sites that would violate the wording that is proposed would have to be removed. So I don't know what's on pfi.rocks. And so I wonder if
15 there should be condition that follows that says, and any, any such material that would be in violation, violation of the above paragraphs must be removed from the any, any domain names that you possess currently.

20 THE COURT: Okay. I thought I had an understanding of that, but perhaps can you just confirm?

MS. CAHILL: Yeah, there's nothing on the
25 pfi.rocks, and at least to my other understanding of the word post, like, it - yes, there's the act of posting it, but if it's already on the internet, it's posted. So if she has something on the site that would violate the actual term, being number thirteen, with regard to the documents noted, then it would have to be removed or it would be posted
30 on the internet, which is a violation of the orders.

THE COURT: Right. So, that's part of the - part

5 of the problem is that once something gets on the internet, it's really hard to get it off of there. I know some people have sued and tried to get it off of there, and it's tricky, but it's - these things can be found for years and years. But, leaving that aside, I understood from Ms. Moore that there was nothing on pfi - sorry.

MS. CAHILL: Dot rocks. There is nothing on pfi.rocks.

10 THE COURT: There's nothing on there that deals with the court proceedings or the names and so on and so forth.

15 DEIRDRE MOORE: Your Honour, and it's maybe a bit technical, but I want to make sure - that means I'm being served with something else. So when this new condition was put in place in April I had only pfi.rocks with a ton of material and twb.rocks with nothing it.

THE COURT: Okay.

20 DEIRDRE MOORE: Because they - because of the stipulations in April, were that I had to remove pfi.rocks from public view with only limited access to the password. And it contained a ton of evidence to support my position. I moved all of the content from pfi.rocks over to the empty twb.rocks...

25 THE COURT: Right.

DEIRDRE MOORE: And I password protected it.

30 THE COURT: Okay. So you - nothing is gonna be posted on the internet that way, right?

DEIRDRE MOORE: Well it's still there. So what I need to do is basic within - so - and the other

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thing I did was I purchased pfc.rocks 'cause I had over 11,000 followers following the story. A lot of psychologists, academics, a whole bunch of people thanking me for my work, to be fully transparent. And so, I started rebuilding slowly, just keeping people up to date on what's going on - pfc.rocks. So right now, what I'm understanding is, I'm not permitted in - not permitted to post disclosure, got it. I'm not permitted to post any CYFSA documents that name my kids or all that stuff, got it. So what I will be doing going forward is this mountain of now password protected, no one can see it, except me and my amicus, all of this, these pages, which took me thousands of hours to create, I'll slowly move, one by one, over to pfi.rocks ensuring that there is no links to any court documents or things with my kids names in it, as well as the - basically, because of the gag order that they put on me, I now have nothing on pfi.rocks and I will slowly rebuild my corporate presence online with the current gag order in place.

THE COURT: So - and you're clear, I mean, I don't like to have you repeat things, but you - there won't be anything that is covered by this order. The court documents and the names and so on, that you're putting onto pfi, correct?

DEIRDRE MOORE: Correct.

THE COURT: Right. Okay. So it's the other stuff to move forward with your career, et cetera.

DEIRDRE MOORE: Correct.

THE COURT: Okay. So if I was clear on that, it

shouldn't be a problem. That's the - that's what I think...

DEIRDRE MOORE: Yes.

5 THE COURT: ...we're talking about here. Okay. Okay. Thank you. So I'm obviously putting my faith in you that you're not going to be breaching the order. I know you don't want to, and I know you have no interest to do so because there is some sort of unknown in the internet as we always know, 10 but I'm taking you out your word that that's not going to be a difficulty. Okay?

DEIRDRE MOORE: You know what I have again, I think the - because I own the URL, *[Indiscernible]* to 15 post to the Facebook or Twitter and things like that probably hard to delete content, but because I own the URL, I just delete it and it's gone.

THE COURT: And don't even - well, don't put it on, I guess is what it comes down to.

DEIRDRE MOORE: Oh, well, exactly - yeah, for sure. 20 I just...

THE COURT: Yeah.

DEIRDRE MOORE: ...I meant old...

THE COURT: Okay.

DEIRDRE MOORE: ...old stuff.

25 THE COURT: Okay. So those are the conditions that I am issuing pursuant to the conditional discharge. I'll waive the fine surcharge and Ms. Moore's financial situation.

The other counts, I know you spoke to them last time, Mr. Boyce, have they already been dealt with? 30

MR. BOYCE: Yes, the other counts will be marked withdrawn, please.

THE COURT: Thank you again. Thank you. Yes?

CLERK REGISTRAR: Can I just clarify? So the make inaccessible by any electronic or other means, is that to be deleted, that condition?

THE COURT: Sorry. You're at number thirteen? That condition 13, correct?

CLERK REGISTRAR: Yes, Your Honour.

THE COURT: Yeah, so my understanding is that that condition would not apply. Is that right?

Counsel, that's the one we were talking about?

MS. CAHILL: We just started to bullet point.

THE COURT: Yeah. Started the first little point.

CLERK REGISTRAR: So just starting at, do not post on the internet?

THE COURT: Correct. Yeah.

CLERK REGISTRAR: Okay.

THE COURT: Sorry about that.

CLERK REGISTRAR: And...

THE COURT: I should have...

CLERK REGISTRAR: ...Your Honour...

THE COURT: ...made that clearer.

CLERK REGISTRAR: ...thank you. And, Your Honour, I just wanted to know if you want the word prior before criminal...

THE COURT: I don't think it really adds anything.

CLERK REGISTRAR: *[Indiscernible]*.

THE COURT: I think we'll just say criminal - what does it say here? Criminal proceedings.

CLERK REGISTRAR: Okay. And do we have a current address?

MS. CAHILL: Whichever address.

DIERDRE MOORE: Currently it's - currently it's 215

Montreal Road - well, I mean, that's my mailing address and living at 251 Hannah Street, so I'm not sure which one you would like.

5 THE COURT: Probably the mailing address or sorry, it's probably where you're residing - sorry.

DIERDRE MOORE: Oh, okay. So residential address currently is 251 Hannah Street.

CLERK REGISTRAR: Okay. Is there a unit number or....

10 DIERDRE MOORE: Yeah, 235. And I'm afraid I don't have the postal code.

CLERK REGISTRAR: That's fine. Thank you.

DIERDRE MOORE: You're welcome.

15 CLERK REGISTRAR: Your Honour, I just squeezed it in there.

THE COURT: Thank you, everyone.

MR. BOYCE: Thank you.

MS. CAHILL: Thank you.

20 THE COURT: Appreciate all the work that went on in the background. I'm sure it was quite arduous, so thank you for that.

...WHEREUPON OTHER MATTERS ARE SPOKEN TO

THE COURT: Yes, Thank you for your assistance.

MS. CAHILL: Thank you very much.

25 THE COURT: Good luck, miss Moore.

...WHEREUPON THESE PROCEEDINGS WERE CONCLUDED

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FORM 2
CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))
Evidence Act

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I, Gillian Stagg, certify that this document is a true and accurate transcript of the recording of ***R. v. Deirdre Moore et al*** in the *Ontario Court of Justice* held at OTTAWA, Ontario, taken from Recording No. MOORE_MAY 24 2022_CR4.dcr, which has been certified in Form 1.

15

August 29, 2022

(Date)



(Signature of Authorized Person)

Gillian Stagg
ACT ID: 2455887006

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