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March 9, 2020

Attn: Lisa Helps  
#606 - 815 Hornby St.  
Vancouver, BC V6Z 2E6

Re: R. v. Patrick Henry Fox;  
Request for representation in legal matters

Dear Miss Helps:

I am writing to inquire whether you would be interested and willing to represent me in a number of legal matters. I shall also attempt to contact you by telephone, but I understand you're often busy.

The situation is very convoluted and tangled but I'll try to keep it as brief and sensible as possible.

There are currently 4 matters (1 sentencing; 1 appeal; 2 pre-trial) for which I am seeking representation. It all stems from a simple probation order, for a

criminal harassment conviction from 2017, related to a website I created about my ex-wife.

There are a total of 6 counts (on 3 separate informations/indictments) which are relevant/outstanding:

- 2 probation violations - which I was convicted of on March 6, 2020, and I am seeking representation for the sentencing and the appeal. I was self-represented prior to, and at trial. I believe the judge made a substantial error of law.
- 2 probation violations - which I was indicted on (yes, they are proceeding by indictment) in December 2019. These relate to putting the website back online ([www.DESICAPUANO.COM](http://www.DESICAPUANO.COM)). I have also been demanding, since April 2019, that they also prosecute me for criminal harassment based on the new/current website (if it was illegal in 2017 then it must still be illegal today, right?), but the BCPS refuses. On 2020-02-24 Ad Hoc Crown Counsel, Chris Johnson, stated in court that he "did not approve the charge of criminal harassment."
- 2 counts of disobeying a court order - this is related to an allegation by the BCPS that I "tampered

with "the laptop provided to me by the BCPS for accessing Crown disclosure. This allegedly occurred while I was in custody at NPTC."

I believe the BCPS is just being frivolous and vexatious to try to keep me in custody until I take down the website, but that's not going to happen. If I have to spend the rest of my life in jail, so be it. But that's another story.

I don't care how long it will take to fight/litigate these matters! I understand you probably have a full schedule, with much more interesting and lucrative cases. And if it takes a year, two years, 10 years, I don't care. I will not give in to government tyranny and the kind of misconduct and corruption I've been encountering so far.

I suppose I should also mention I would have to fund this through LSS. I've already made the applications to LSS.

I would have no objection to rescheduling any of the currently scheduled trial or hearing dates to accommodate your schedule. Again, I don't care how long I'll be in custody.

What follows is additional details regarding each of the 3 cases. If, at this point, you are uninterested or unable to take the cases then you needn't waste your time reading the following.

1. Sentencing and appeal of probation violations related to leaving BC/Canada (Court File 244069-5-BC).

### Background

From the criminal harassment conviction of 2017, there is a 3 year probation order, which includes 2 conditions in particular:

- that I not leave BC;
- that I not be within 100 meters of the US border.

This is regardless of the fact that I'm not a Canadian citizen; that I have no status in Canada; and I cannot legally work in Canada or receive any government benefit or assistance.

I had two hearings, in February and March 2019, to remove those conditions so I could return to the US. The judge (Heather Holmes) denied the requests. At the March 14, 2019 hearing, I told Holmes that regardless of her decision I would be turning myself in to CBSA within the next week, to be removed.

The following day, March 15, 2019, I made my way to the Douglas Border crossing; presented myself to a CBSA officer; explained that I have no status in Canada, have been convicted of an indictable offense, and for those reasons I am inadmissible; I showed the officer a report from ICC (which CBSA already had, anyway) which states I was born in the US, my citizenship is "Unknown", and I've never been granted any legal status in Canada. I told the officer about the probation conditions and that the reason I was presenting myself to her at a port of entry is so that I can be denied admission and leave Canada without violating the probation order. She investigated, then told me that yes, I am inadmissible. I then proceeded to the US CBP officer on the US side and turned myself in to them.

I did everything, that day, very deliberately so that there would be a record of the fact that it was all done within the constraints of the probation order and all applicable laws.

After I was returned to Canada based on a warrant for these charges, I tried to obtain the security footage of me at the Douglas port of entry (POE), from CBSA. They ignored the requests. I expected my

defense would rely substantially on the video footage. Then, literally, the day before the trial was scheduled to start (August 12, 2019) Crown Counsel, Bernie Wolfe, tells me and the court that CBSA has destroyed the video of me at the border. Leading up to that, I had repeatedly informed the court I was not ready for trial because I was still pursuing evidence. The court didn't care; the trial would proceed as scheduled.

The Crown presented its case, which did not include any evidence or testimony from CBSA. At the close of the Crown's case I told the court I'm not ready to proceed - I'm still pursuing evidence, particularly in light of the recent news that CBSA destroyed the video of me at the border - which was going to be the most significant piece of evidence for my defense.

What followed was a number of adjournments, from August 2019 through February 2020, while I pursued evidence through freedom of information (FOI or ATIP) requests and direct, written correspondence, with CBSA, the RCMP, RCC, the BCTF, et cetera. CBSA consistently insisted, to me directly, and through the Crown, that there is absolutely no record of me presenting myself or interacting with CBSA on 2019-03-15. And the Crown argued that the absence of any record can only mean that it simply didn't happen; obviously I must be

lying.

Then, at a status conference on 2020-01-28, I stated, in open court, in front of all the lawyers in the gallery, and on the D42 system, that if Mr. Wolfe actually believes what he's been arguing and claiming for the past 5 months then he would WANT CBSA to testify - to prove I'm lying. And the fact that he has done absolutely nothing in that respect, not even one request to CBSA for the names of the officers who were working in secondary inspection when I say I presented myself, proves that he knows I'm telling the truth and that HE is the one that is lying.

Then, miraculously, out of the blue, a few days later (2020-02-04) CBSA suddenly admits that, in fact, I DID present myself to them on ~~2019~~<sup>2018</sup>-03-15 and there have been case notes about it in the Global Case Management System (GCMS) all along.

So, the folks at the Douglas crossing had been lying about it all along, as have the Intelligence Analysts and Superintendents at the Vancouver CBSA office, AND the CBSA ATIR department in Ottawa!

And finally, on 2020-03-04, CBSA Officer Meagan Paluszak testified. She lied about a number of critical

points (most of which will be easy to prove) but mostly she claimed she couldn't remember when asked about anything that would be in my favor. Most significantly, Polisak testified:

- that she did not tell me I was inadmissible;
- that when she checked my record in the GCMS she saw my FOSS record, but she ONLY had access to the "Remarks" field (which I later proved on cross was a ~~lie~~ lie, she, in fact, had access to other fields of the FOSS record) of the NCBE and that she absolutely DID NOT have access to the "Country of Birth" field, which stated "United States of America".
- that when she checked my GCMS record, the "Country of Birth" field, which stated "United States of America" "wasn't there" - even though the "Created Date" field stated "2019-01-18".
- that even at a port of entry the burden is on CBSA to prove a person is not a Canadian citizen and if CBSA fails to prove that they must allow the person to enter Canada.

On 2020-03-06 I testified. Essentially consistent with what I've stated above, but particularly:

- that Polisak DID inform me that I was inadmissible and that based on that the only legal option I had from the port of entry was to

- proceed south, out of Canada;
- that I also showed Polisak a copy of my FOS report on my phone, and that I explicitly pointed out the "Country of Birth" field which stated "United States of America", so even if Polisak DIDN'T see it when she looked me up in the computer, she saw it in the paper version;
  - that I presented myself at a port of entry rather than at a much closer CBSA office (e.g. in Vancouver) specifically because at a port of entry the burden of proof shifts from CBSA to me

I forgot to mention above that Polisak also falsely testified that when I presented myself, she did not see any evidence that I'm NOT a Canadian citizen.

## Legal Arguments

My position, based on my knowledge and understanding of Canadian immigration law, is as follows, and I did argue these points to the court.

A "port of entry" is a special, designated area within the context of immigration law. And although a port of entry exists within the physical borders of Canada, once a person enters the designated area of a port of entry it is,

in the context of immigration law, as though they were outside the borders of Canada. For that reason, every person who is physically present at a port of entry is presumed to be an "immigrant" or a "foreign national". And the burden is on that person to prove they are a Canadian citizen or otherwise entitled to "enter Canada" - or more specifically that they are entitled to leave the area designated as a "port of entry" and enter the rest of Canada. This is in contrast to when a person is encountered "within Canada OTHER THAN at a port of entry", in which case the burden is on CBSA (or "the government") to prove the person is not a Canadian citizen and is, therefore, inadmissible or removable. Moreover, once a person enters the space designated as a port of entry they are presumed to be an immigrant or a foreign national regardless of whether they entered the space from within Canada or from the US.

Also, the area designated as a port of entry includes not only where the primary inspection booths are, but also the building where the secondary inspection area/office is located, and the land immediately surrounding those. And, it makes no difference whether the person was instructed to go to the secondary inspection area by an officer at the primary inspection booth or they did so of their own volition. Either way, once they enter the designated area they are presumed to be a foreign

national until they prove otherwise.

I had testified that although Polisak told me I was inadmissible, she did not explicitly order me to leave Canada. But, I argued that such an explicit order was unnecessary because if a duly authorized law enforcement officer tells you you are not legally permitted to enter an area they are charged with securing, an area you already know you are not legally permitted to enter, then a reasonable person would accept that as an implied order NOT to enter that area.

And finally, the immigration laws (e.g. the IRPA) use the term "a person seeking admission" to refer to a person who is physically present at a port of entry and who presents himself to CBSA. It is merely a presumption, and a very reasonable one at that, that a person who would travel to a port of entry and present themselves to a border official is very likely someone who is actually seeking admission to Canada. However, the term is not intended to limit who the laws at a port of entry may apply to - the laws apply to all people who are physically present at the port of entry, regardless of whether they are, literally, seeking admission to Canada.

Therefore, when I presented myself to officer Polisak at

the secondary inspection area, CBSA was required to presume I was a foreign national until I had proven otherwise, and since I told Polisah I had no status in Canada, I was a US citizen, born in the US, and both the FOSS and GCMR records stated I was born in the US and did NOT state I am a Canadian citizen; AND I had told Polisah I had been convicted of criminal harassment in Canada, an indictable offense; Polisah had no evidence or reason to believe I was admissible, and significant reason to believe I was inadmissible. In order for me to leave the port of entry and return to Canada the burden was on me to prove I was admissible - which I am not! And for CBSA to allow me to enter Canada, knowing I have no status and I've been convicted of criminal harassment would be an egregious violation of CBSA's duties and of the immigration laws.

I told the court I would like to be able to provide it the legal authorities to support my position and arguments but he declined.

The Crown's position, and that adopted by the court, was that because I entered the Dorval port of entry from within Canada then the burden was on CBSA to prove I was not a Canadian citizen or that I was otherwise

inadmissible/removable, just as if it had been found "within Canada" - regardless of the fact that it occurred at a port of entry. And, because it was not, literally, "seeking admission to Canada", but rather was seeking to LEAVE Canada, it was not a "person seeking admission to Canada" as referenced in the immigration laws - regardless of the fact that it was a person within the space designated as a port of entry. The Crown also argued that the "port of entry" referred only to the area around the primary inspection booths - NOT the secondary inspection area where I interacted with Palisak. And finally, the Crown argued that because Palisak did not explicitly order me to leave Canada that I had a choice and that I chose to leave, voluntarily.

The Crown did not provide ANY legal authority to support the arguments stated above - nor did he even offer to.

The judge agreed with each of the Crown's arguments, above. Every single one of which was wrong.

Since it was not a jury trial, the sentencing hasn't yet occurred, and since there are very clear errors of (immigration) law, it is my understanding we may be able to submit a motion for reconsideration or

mistrial or some such thing based on the court's substantial error - I mean, rather than having to go through the appeal process.

Between you and I, I believe Wolfe was fully aware that his position and arguments on the immigration laws was completely wrong. I believe Wolfe has known all along that CBTA was lying about there being no record I presented my self. And I believe Wolfe has known all along that I'm innocent. I believe Wolfe, like Mark Myhre, is a despicable weasel who doesn't give a crap about innocence or guilt or truth or who's life he ruins. And just like with Myhre and the criminal harassment case I intend to seek out and publish every piece of evidence to prove that he is a lying, despicable weasel. But that has nothing to do with you - I'm just mentioning, in passing.

2. Trial for the probation violations related to the new/current website (Court File 244069-6-13).

### Background

In 2017 I was convicted of criminal harassment based,

in large part, on the website I created about my ex-wife ([www.DESIREECAPUANO.COM](http://www.DESIREECAPUANO.COM)), Desiree Capuano. I made sure to get Justice Holmes to state, at the sentencing, that the website was a significant part of the criminal harassment. In January 2018, that website went offline while it was in custody, because the hosting plan was not renewed.

In early March 2019 a new version of that website ([www.DESICAPUANO.COM](http://www.DESICAPUANO.COM)) became publicly accessible on the internet. The new website had all references to Capuano's other son, Sage Capuano, removed but it also had a huge amount of evidence and material related to the 2017 criminal harassment case and trial - evidence which proved that the defense lawyer, Tony Lapemaa, colluded with Crown Counsel, Mark Myhre, to suppress a huge amount of critical evidence beneficial to the defense; and that both Myhre and Lapemaa knew Capuano had committed over 81 instances of perjury in her testimony and that both Myhre and Lapemaa REFUSED to confront her about it or to inform the court or the jury. Otherwise, it was essentially the same website.

The same probation order discussed above also contained two conditions relevant to this case

- that I not use the internet, other than for

- employment;
- that I not publish, disseminate, et cetera, any information about Capano, her family, friends, et cetera.

Those are the violations the Crown is alleging I committed by creating/publishing the new website.

I want to emphasize that from April 2019 until now I have been very publicly demanding that the Crown prosecute me for criminal harassment based on the new website. My position is if the website constituted criminal harassment in 2017, such that I was convicted of it and sentenced to 3 years in prison for it, then it absolutely MUST still be criminal harassment today! It's the same website! The Crown adamantly refuses to approve the criminal harassment charge. I even offered to plead guilty to these probation violations if they agreed to prosecute me for criminal harassment. They declined.

Anyway, I'm sure you see where I'm going with this. A new criminal harassment prosecution means a new trial, which means all of the proof of the corruption, misconduct, and perjury from the first trial would be presented to the jury, Capano would have no credibility, I'd be acquitted and it would raise the question of how could I have possibly been

convicted and sentenced to 3 years the first time but acquitted the second time, if both cases were based on the same conduct and evidence? Unless, of course, there is something extremely wrong with the process. And, in that way, I intend to bring the system into disrepute and expose the corruption.

At the same time, the Crown's decision to prosecute me for these 2 probation violations while refusing to prosecute me for criminal harassment proves (at least from a public relations perspective):

- they acknowledge my claims of collusion, misconduct, and perjury are true and for those reasons they realize they would not be able to get another conviction;
- they acknowledge Capuano is lying and would not be credible;
- they consider enforcing a petty probation condition more important than protecting a poor, helpless, tormented victim (I'm being facetious).

## Legal issues

The Crown cannot prove that the new website was made public AFTER the probation began (2018-12-30). It was not banned by the probation order until

2018-12-30.

The Crown cannot prove that I, personally, uploaded the content of the website or made it publicly accessible. The probation order only applies to ME - not to anyone acting on my behalf or in my interests. It does not say that I cannot do such and such "directly or indirectly"; it only says that I cannot do such and such.

### 3. Trial for disobeying a court order (Court File 103555-1)

This case is in the Port of Spain court. It's a pathetic attempt by the Crown to try to save face and to keep me in jail until I take the website down.

The allegation is that I removed the hard drive of the laptop provided to me by the BCPS and that by doing that I violated a court order prohibiting me from "tampering" with the laptop.

Clearly the BCPS has too much time and money on their hands.

The trial date for this is set for December 2020 - the Crown chose the date, I had nothing to do with it.

I've not yet applied for bail on cases 2 or 3. Since I have no status in Canada and can't work or support myself (legally), being released on bail but not able to leave BC puts me in a very uncomfortable position.

So, that's about it, I suppose. If you have any questions please let me know.

I thank you for your time and consideration.

Sincerely,

A stylized, cursive handwritten signature in dark ink, appearing to read 'Patrick Fox'. The signature is fluid and somewhat abstract, with a large loop at the end.

Patrick Fox