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2022-08-12

Attn: David Layton
BC Prosecution Service
865 Hornby St, 6th Floor
Vancouver, BC V6Z 2G3

Re: R. v. Patrick Fox;
Court of Appeal No. CA48145

Dear Mr. Layton:

Having reviewed the transcripts and RFG for 244069-8-13 / CA48145, and making my notes for them, I believe I have identified some additional grounds for appeal beyond those which were stated in the Notice of Appeal.

A number of the additional grounds relate to possible disclosure issues, but I'm not completely certain what the state of the law on the specific issues is. In particular,

Johnson relied on certain artefacts while cross-examining me. One of those artefacts was admitted, against my objection, as an exhibit. The artefacts in question were not disclosed to me in this case, prior to me taking the witness stand. But, where it gets fuzzy, given my lack of expertise on the topic of disclosure, is that the artefacts in question either had been disclosed to me in a previous case and/or were documents I had been known to possess previously (though I may not have had access to them from the time of my arrest until the trial). So, I was aware of their existence and, possibly, of their contents. But, I did not have any notice that the Crown (Johnson) had any intention of relying on those artefacts in the current case. And, had I known that Johnson might intend to rely on those artefacts at the trial, that may have affected my decision to call myself as a witness.

I assume the Crown is not required to notify a defense WITNESS of what artefacts it intends to use in its cross-examination of that witness, but the part I'm not certain about is whether the Crown is required to notify or disclose to THE DEFENSE the artefacts it might use in its cross-examination of the defense's witnesses.

So, the questions I need to research are:

1. Is the Crown required to disclose to the defense (or at least to notify the defense of) the artefacts it intends to, or may, use against the defense's witnesses during the Crown's cross-examination of those witnesses at the trial?
2. Is the Crown required to disclose material it might use at trial, as part of the disclosure process for that given case:
 - a. even though the defense may have already received that same material as disclosure in another, unrelated case?
 - b. even though the defense may already have, or may already have received that material, previously, through other channels?
3. Is the purpose of disclosure merely to ensure the defense is aware of the given material? Or is it also to provide the defense notice that the Crown might use the given material at trial in the matter for which the material is being disclosed?

Do you know, without having to put excessive time into researching it, of any controlling cases which deal with

these issues?

If you have any questions please let me know.

Thank you.

Sincerely,

A stylized, cursive handwritten signature in black ink, appearing to read 'Petrnick Fox'.

Petrnick Fox