

This is the 1st declaration of Kevin A. McLean in this HRTO Proceeding and it was made and duly executed on November 5, 2024

HRTO File Number: 2024-58615-I

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

AND:

TORONTO POLICE SERVICES BOARD, ANTHONY ROMANO, MICHAEL KOLANKOWSKI, SERGEANT CASSIDY, GOLDVIEW PROPERTY MANAGEMENT LTD., LATOYA FERGUSON, AND APHRODITE ARTOPOULO

Declaration #1 of Mr. Kevin A. McLean

I, Kevin A. McLean, disabled, of Toronto, Ontario, declare the following under the penalty of perjury and knowing any statement here that is a false statement to be an offence:

Volume #1: Introduction

1. I declare the following facts to be true and to the best of my knowledge, memory and recall. Where I have declared information on belief, I expressly or implicitly state the source of my belief. I expressly adopt all of the facts and beliefs from my filed HRTO application (the “Application”, “Claim” or “Pleading”), and they have the same meaning herein as they do therein. Where square brackets are used or double underlining, these are mine and mine alone for emphasis purposes. I declare this declaration for a multitude of purposes herein. I will serve and deliver a copy of this declaration to the persons named and identified, and denoted by address in my comprehensive multipurpose submissions (the “Comprehensive Submissions”). In referencing my definition of Comprehensive Submissions, they are comprehensive, in my view, in that they provide notice to the Attorneys General (Ontario and Canada), the OHRC and the Crown, along with providing my submissions as to why this HRTO Proceeding must be expedited.

2. I welcome any sworn or declared evidence from any of the Respondents that attempts to contradict my evidence. I consent in this herein HRTO Proceeding and with any Crown counsel to email service of any and all documents relating to the same.
3. The crux of why I am seeking an order from the Tribunal for expedited proceedings are the breaches of my rights, whether under the *HR Code*, *Charter*, common law or otherwise, and to prevent any future breaches of my rights.
4. I am aware of the laws of evidence in Canada and Ontario. To reiterate, to the extent I reference my belief and allegation, they are merely my beliefs and allegations, while cited to sources and facts, and they are not in any way to be viewed or understood to be “arguments of law” or “conclusions of law.”
5. The structure of this affidavit follows the sequence and chronology of my Comprehensive Submissions. Throughout the Comprehensive Submissions, I refer to my court cases and administrative tribunal proceeding before the BC Privacy Commissioner involving the LSBC and LSBC Defendants for purposes of comparing an administrative search and seizure order versus a judicial warrant. I also provide the same in relation to the soon-to-be-defunct LSBC for purposes of ensuring that the evidence and submissions are before the Tribunal in relation to my “think skull” as it relates to privacy breaches, abuses of power and unauthorized conduct.
6. I have read the *SPPA*, *Legislation Act*, *HR Code*. I have read the *HRTO Rules of Procedure*. I have read a variety of secondary sources from the OHRC.
7. I have read the cases cited in the Comprehensive Submissions.
8. As I did not, in my view, have any detailed experience in reading the sections of the *Criminal Code* at issue in this HRTO Proceeding, I have read them and re-read them along with the jurisprudence that is referenced in the Comprehensive Submissions.

9. In relation to section 29 of the *Criminal Code*, I believe that the leading case is that of *R. v. Bohn*, 2000 (BCCA).
10. In relation to section 25 of the *Criminal Code*, including sections 493 and 495 of the *Criminal Code*, I believe the most relevant case herein is that of *Joseph v. Meier* of the BC Supreme Court, which is cited in my Comprehensive Submissions.
11. I again apologize to the Tribunal and the Respondents for my delay in delivering the materials in support of my motion for an order of expedited proceedings and the NOCQ but it was on account, in part, of the theft of my computer nearly two weeks ago. Unfortunately, I had to recommence much of the work I had nearly finalized as I had not saved some of the relevant work and to a remote storage device, cloud or otherwise. The said matter is still being investigated, but I find the timing of it to be suspicious, without any allegation against the Respondents at this time.
12. The orders I seek in relation to the order of expedited proceedings are pursuant to HRTO Specific Rule 21 and the case law cited in the Comprehensive Submissions.
13. The relief I seek in relation to the NOCQ are not to be decided by the HRTO in the expedited proceedings *per se* but solely in relation to the timing and procedure of the same.
14. I will deliver copies of the NOCQ and this declaration #1 to the Attorneys General as required by HRTO Specific Rule 4.
15. As the Attorneys General are not parties *per se* to this HRTO Proceeding, or at least not at this time, I do not expect a response to the motion components involving expedited proceedings.
16. I intend to have my final submissions regarding the constitutional questions to be far more refined, polished, and cross-referenced to evidence (now and future). However, for current purposes, I have been extensive and comprehensive, in my view, to ensure that I have identified all the issues—factual and legal—and provided the requisite notice.
17. I am aware of the implied undertaking rule herein which in turn, in my view, means that I may not utilize any documents I receive on account of discovery or otherwise in any other

proceedings. However, I intend to provide notice to the Crown, in the event that the unproven charge against me (see: section 264(b) of the *Criminal Code*) has been approved or, the said Crown intends to do so. I will not do so to gain any advantage but solely for the purposes of ensuring that the Crown has all the relevant evidence before her or him, and is aware of the potential legal consequences of approving and/or proceeding regarding the same. The recipients of this declaration #1 and my Comprehensive Submissions will be aware, after reading the same, that I have noted the following torts:

- a. Malicious prosecution;
- b. Abuse of process;
- c. Malfeasance in the public office; and
- d. Others.

18. I have, in my Comprehensive Submissions, noted, *inter alia*, those torts to ensure that there cannot be any accusation against me that I somehow lulled any of these Respondents or potential defendants into a “false sense of security.” In this regard, I am attempting to convey that I, in no way, wish the said Respondents, Crown or others to believe that I agree that the unproven charge has any merit or that they should feel any level of comfort or assuredness that by taking any further steps I will not exercise my legal rights. I will exercise my legal rights to the fullest extent of the law.
19. I note that under malicious prosecution (tort), the law has evolved in that even the complainant can be found liable for the said tort.
20. I again do not know who the complainant was, but I do not believe it was Ms. Nicole Artopoulos (“Nicole” or “Former Spouse”). I believe it was the Landlord or an individual purporting to act on behalf of the Landlord. I allege and believe on that ground alone that the unproven charge must be dismissed, with prejudice, forthwith.
21. I have provided that evidence to ensure that the HRTO and Respondents *et al* have sufficient notice that I am continuing to suffer pain, loss and detriment as a result of the events that transpired on October 2, 2024, and thereafter.
22. I have never seen a copy of the alleged criminal complaint, if indeed it was made in writing. If it was made orally, I have never seen any of the notes to the file or meetings when it was made. To the extent that the Landlord delivered my property (which I defined as the “McLean Property”) and my medication (which I define as the “McLean Medication”) to

the TPS 14th Division at three p.m. on October 2, 2024, which was absent my consent, I believe that any complaint in that regard would have taken time to address between the TPS officers and the Landlord.

23. I note that the Landlord is not the complainant therein.

24. I do not believe, based upon my review of the TPS website and other police websites, that a non-complainant could have made the complaint (i.e. an individual on behalf of Nicole). I do not believe that Nicole made the criminal complaint against me.

25. At no time from September 15, 2024, to October 2, 2024, did Nicole ever convey any communication to me that I cease and desist from any further communications involving the topics that surrounded the LTB Proceeding and her vacating of Rental Unit 410 on June 23, 2024. Prior to September 15, 2024, the only other email I had with Nicole (as we were not communicating in any other forms, i.e. in person but for one exception, via phone et al) was on or around August 8, 2024, which was subsequent to my filing with the LTB in the LTB Proceeding. Prior to that email in late July 2024, Nicole located me in a public space and wished to speak with me. I was in the middle of speaking with a friend and asked the said friend to excuse me while we spoke. The said friend remained within earshot of our conversation. At the said time, Nicole had been vacant from Rental Unit 410 for approximately one month. She, during that oral conversation where she located me and not the other way around, professed that she still loved me and asked me for a hug. I reciprocated. I do not believe that Nicole at any time during July or August 2024 had any reasonable fear of me. I do not believe that Nicole had any reasonable fear of me regarding her safety at any time leading up to the purported complaint, as a consequence of the emails I sent, which related (directly or indirectly) the LTB Proceeding, specifically to the Unlawful Lockouts by the Landlord and Goldview, and/or the obtaining of her non-essential items, which she did not take with her at the time of vacating (June 23, 2024). I did so as a courtesy to her in relation to the former. I believe she received the email but she did not respond. At no time did she convey to me that I should not have sent her any of the previous emails at each time or thereafter. This is why I was quick, in my view, to retort to Detective Constable Kolankowsk (defined as “DCK”), when I was arrested by DCK and Constable Romano, that I was never warned. At no time did DCK (or Constable Romano) ever represent to me that Nicole warned me. At no time did DCK or Constable Romano

ever represent to me that any individual on Nicole's behalf warned me that the emails from September 15, 2024, were unwanted or unwelcome. I declare the same evidence in relation to any individual of the TPS including the TPS 14th Division. At no time since the arrest, which I have defined as the "False Arrest", "Unlawful Arrest", "Unauthorized Arrest" or "Groundless Arrest", has any individual acting on behalf of the TPS or purporting to act on behalf of the TPS provided me with any evidence of the warning that DCK purported to have conveyed to me prior to October 2, 2024. Further, at no time has any individual acting on behalf of the TPS or purporting to act on behalf of the TPS provided me with any evidence of the warrant, which Constable Romano purported to have obtained AT THE TIME of the arrest. The time of the arrest was approximately 8:15 p.m. on October 2, 2024. I made multiple requests for a copy of the purported warrant and the TPS never provided the same to me at the time of the arrest or thereafter. As such, herein and in my Comprehensive Submissions, I have defined the purported warrant as the "Fictitious Warrant", "Imaginary Warrant" and "Illusory Warrant". I have defined in my Comprehensive Submissions the purported warning by DKC as the "Fictitious CH Warning". "CH" is defined as "Criminal Harassment". The only communications at issue, which I authorized or sent, were the emails which are in evidence with the LTB in one of my declarations therein. I can provide them upon request.

26. I believe and allege that the criminal complaint, to the extent that there was one, was filed as a form of revenge for the order that I obtained from the LTB on October 1, 2024. I did, in fact, notice the Landlord, with Nicole copied to ensure that there was no backtracking or excuses from the Landlord that it was sent, on or around October 1, 2024 and October 2, 2024, that I needed access to my property within Rental Unit 410. I did not receive a response from the Landlord (nor one from Nicole).
27. I also notified counsel to the Condo Corporation in Lash Condo Law of the same and it asked if he could be provided as a contact and to be contacted in the event I made use of the representation of Constable Salerno on September 21, 2024, (i.e. use of police presence for witness and safety purposes when entering to obtain my property). I confirmed the same as I was agreeable to the same. I wished for everything to be fully transparent and in accordance with the law.

28. With the benefit of hindsight analysis, each and every email that I sent to Nicole after our meeting in late July 2024, at her initiation, and my emails in early August 2024, were as a direct consequence of the conduct of the Landlord, which I have alleged was contrary to the RTA and unauthorized. My email to Nicole (and Victory Wine & Spirits Inc., which is an Ontario incorporated company in 2011, as it had some antiquated files that were left behind, which I left for its pickup) on September 15, 2024, was in relation to the Landlord attempting to enter Rental Unit 410 on September 14, 2024. My emails after September 20, 2024, and prior to October 1, 2024, were as a direct consequence of the Unlawful Lockouts. My emails on and after October 1, 2024, but only up until October 2, 2024, were as a direct consequence of having to obtain an order to shorten the LTB Proceeding, due to irremediable harm if such an order was not granted, which was solely based on the Landlord's Unlawful Lockouts and the Threat and Extortion conveyed to me by Ms. Ferguson, Condo Manager and employee of Goldview, on September 23, 2024.
29. I also note for the benefit of the HRTO that while I am seeking various orders of the LTB, they are solely in relation to the Unlawful Lockouts and in the jurisdiction of the LTB. Where I am seeking awards in relation to mental anguish, it is solely in relation to the mental anguish I have suffered and continue to suffer in relation to the Unlawful Lockouts and the failure of the Landlord to comply with the RTA and associated regulations. I have delineated the same based on the following example: if the Landlord has complied with her obligations under the RTA post October 2, 2024, it would not absolve the TPS and TPS Respondents, including herself, of the conduct on October 2, 2024.
30. I believe that the TPS was honest with me that it received my property (the "McLean Property") and McLean Medication on or around three p.m. on October 2, 2024.
31. I believe that the Landlord was stunned that I obtained the order that I did because she sees the world, in my view, in a "black and white" fashion and does not plan for contingencies such as an order being reversed or reconsidered. I believe she lives in her mind and wishes for everyone around her to comply with her demands and directions and to believe what she is thinking. I believe when things go differently than she wants them to, she panics. In this regard, I note that the LTB initially informed me that my application for shortened proceedings was denied. While I had not submitted all my materials in that regard at that time, I notified the LTB of the same. I then received the order I was seeking on October 1,

2024. I also believe the Landlord was upset that she did not receive a similar order when seeking the same. I believe she knew that my receiving the order and her not (on different factual and legal grounds) was a premonition that the LTB was not in agreement with her understanding of the law. As the Landlord never sought my consent to engage in any form of email service or service through the Tribunals Ontario Portal, I have served the Landlord in that LTB Proceeding via mail, express post or registered mail. For context, the Landlord did not even purport to serve me with any documents in August or September 2024. I believe this is why she misled Goldview and the Condo Manager in referencing it being a “private matter” [sic]. I can also advise and update the Tribunal and the TPS, including the TPS Respondents, that the Landlord attempted to respond to a recent motion that I filed and served upon her in October 2024 by apparently filing submissions in the LTB Portal, and then falsely claiming that she had served me. She did not serve me with any documents. Moreover, contemporaneous with that filing, she made a request of the LTB for an order of alternative service. In my view, those filings by her were nonsensical in that how could she serve me and ask for an order of alternate service? I drew that to the attention of the Tribunal immediately. Further, under the LTB Rules, there is a provision under Rule 3.4 for alternate service but it must be requested by a party and it must be ‘at least’ 40 days before the hearing. The filings of the Landlord, absent service, were filed in the evening of October 24, 2024, and were some 18 days late for any such order. I filed a letter with the LTB in this regard confirming the plain language of the LTB Rules. I notified the LTB that if the Landlord wished to seek such relief in the form of alternate service, she would have to bring a motion to seek leave some 15 days before the hearing proper therein. The Landlord did not do so. However, on or around October 15, 2024, there were filings in the Tribunal Portal that the Landlord had added two agents in the form of lawyers to act on her behalf. I was unaware of their names and had never met them or corresponded with them before. I notified the Tribunal again of the same and asserted my position that while the Landlord was entitled to file documents of agents to act on her behalf, it would not change the facts and the law of the matter. With respect to the LTB Proceeding, I believe that the Landlord has reaped what she has sown.

32. I note that I never consented to the Landlord touching, moving, disclosing or delivering the McLean Property and McLean Medication to anyone let alone the TPS 14th Division.

Volume #2: The Unproduced And Purported Warrant despite a request for the same pursuant to section 29 of the Criminal Code – an automatic breach of my Section 8 of the *Charter* rights

33. I believe that a warrant is as defined in my Comprehensive Submissions with reference to the Ministry of Attorney General (Ontario) website).
34. I believe that the TPS is part of the executive branch of government and not part of the judicial branch of government. I believe that justices, including justices of the peace, are part of the judicial branch of government.
35. I do not believe that Constable Romano or any individual at the TPS 14th division even commenced drafting an ITO for an arrest warrant involving myself.
36. I again declare that I was placed under arrest without my consent.
37. I believe that the TPS 14th Division (Constable Romano and DCK) knew that it [they] did not have reasonable and probable grounds to charge me with the offence under ss. 264(b) of the *Criminal Code*. I allege that they still know the same.
38. With respect to seeking an arrest warrant, I believe the relevant section of the *Criminal Code* is ss. 493 and the relevant form is Form 7. I do not believe that the TPS 14th division followed any of the statutory requirements, inclusive of the Form 7, to obtain an arrest warrant.
39. I do not believe that a justice of JOP received any materials, including a Form 7, from the TPS 14th Division in relation to obtaining an arrest warrant for myself.

Volume #3: False Pretense Email (also defined as the “FPE”)

40. I allege that the FPE was false in fact it contained deceit, falsehood and other fraudulent means. Through my Comprehensive Submissions, I define “other fraudulent means” as “OFM”.
41. I believe that the FPE meets the requirement under the *Criminal Code*, and the interpretation, findings and precedents set by our SCC, for OFM as follows:
 - a. It omitted material and relevant facts that I should have known before attending the 14th Division;
 - b. It took advantage of power imbalance between myself and the TPS including my disabilities (defined as the “Protected Characteristics”);

- c. The TPS had already engaged in an unauthorized arrogation of my property and medication; and
 - d. Others detailed therein.
42. I believe that Constable Romano knew the detrimental and deprivation that would ensue for me if I relied upon the plain language in the FPE.
43. I believe that Constable Romano intended for me to rely on the plain language in the FPE.
44. I believe that Constable Romano was deceptive and engaged in falsehoods in the FPE. I believe and allege that the FPE was false in material and relevant aspects and it contained falsehoods.
45. I remain puzzled and perplexed as to why Officer Salerno, which is somewhat consistent with the LTB guidance after an illegal lockout (i.e. police ‘may’ help), represented to me that their division does not get involved in LTB matters, and yet the TPS 14th Division did get involved in receiving the McLean Property and McLean Medication, which was directly in connection to an LTB issue *per se*.
46. I believe that Constable Romano knew, at the time, of sending the FPE that I was not going to obtain the McLean Property and McLean Medication without being arrested. I did not know the same at the time of reading the FPE, relying on the same, and then walking to the 14th Division of the TPS. I did not know the same even when I encountered Constable Romano at the TPS 14th Division. I did not know the same even when I left and re-entered the TPS 14th Division. I did not know the same even when Constable Romano introduced me to DCK who was about to hand me a pen to sign for the McLean Property and McLean Medication.
47. I again confirm, consistent with the HRTTO Application, that Constable Romano did not leave after arresting me but asked for other officers to “work the front desk” while he remained in the downstairs component of the 14th Division of TPS, which I refer to as the “prison” of the 14th Division. I do not allege that the administrative area of the 14th division is a prison. At no time during that period after the arrest did Constable Romano provide me with a copy of the arrest warrant despite my request for the same.
48. I bolster my evidence regarding the same as neither Constable Romano nor DCK ever asked me any questions about any allegation of criminal harassment prior to arresting me.

49. I do not know if TPS, specifically TPS 14th division and its officers, profited in any way from what I allege was a contravention of section 380 of the *Criminal Code*. I am alleging a breach of section 380 of the *Criminal Code* and other contraventions of the *Criminal Code* by various respondents herein with a focus on the TPS as those facts are best known to me for purposes herein.
50. I do not believe Constable Romano, with respect to the FPE and what I allege was further misleading, deceptive and fraudulent conduct thereafter to the time of the arrest, believed, at the relevant times, that no harm would ensue for me.
51. I do not believe that Constable Romano believed that the FPE was an innocent prank or some negligent misrepresentation. I ground my belief in this regard in the conduct of Constable Romano after the FPE, my responsive email, and my attendance at the 14th Division of TPS.
52. I again note in the FPE that the language therein were words such as:
- a. Retrieve my property;
 - b. Front desk officers;
 - c. They will retrieve it for you.
53. I also provide this evidence herein so TPS and the TPS Respondents can take active steps to remedy the same and notify the Tribunal of the same for the record of the proceeding.
54. I allege that with the Landlord as the “mastermind” of the ruse and scheme, which I define as the “Unlawful Scheme” or “Conspiratorial Agreement” between the respondents, some or all, that once the TPS knew that I needed medication and had physical disabilities that my Protected Characteristics were a factor in my adverse treatment and adverse impact. I also address in my Comprehensive Submissions my treatment under section 12 of the *Charter*. I allege that the treatment (not punishment) that the TPS engaged in towards me by processes and conduct was not only adverse but it was ‘cruel and unusual’. In my Comprehensive Submissions, I cite a variety of authorities to bolster the facts herein.
55. I believe that like other residents of Ontario and citizens of Canada, with a fixed address, contrary to the inscription by Sergeant Cassidy in the undertaking document which I still find offensive and deceptive, I am entitled to the benefits of the *Charter* and the *HR Code* subject to any lawful exceptions and reasonable limits.

Volume #4: Lack of investigation or no investigation

56. I do not believe that the TPS or TPS respondents conducted any investigation or any investigation that meets any of the lawful requirements of an investigation into a complaint made by one person against another.
57. I believe that if TPS had asked for my position, which I believe it was required to at least attempt to do, regarding the matter, that there would have never been a charge or even a request for my attendance at the TPS 14th division but to send an agent to pick up the McLean Property and McLean Medication.

Volume #5: No character assassination but similar fact evidence where the probative value outweighs the prejudicial

58. While I do not know the character or integrity of the TPS 14th Division and the TPS Respondents, I sincerely hope that the treatment towards me was an aberration and a radical departure from usual practices. I do note the following instances of misconduct of officers at TPS 14th Division, which I have found published in the Toronto press:

Volume #5(A): Constable McArthur and Sergeant Mark Morris at the 14th Division
McArthur: obtaining a victim's (of domestic assault) phone number from the other officer, saving it in his personal cell phone, and then sending half nude photos to her
Sergeant Morris: engaging in conduct with a female Sergeant about the comparison of his genitalia to a "snake" and then attending unannounced and unwelcomed by the other sergeant to her home looking for a "sleep over"

59. However, I am concerned that the TPS 14th Division has had some issues in the past as it relates to conduct that involves privacy interests and the misappropriation of personal information.
60. I am also stunned by the conduct, as alleged, in one Sergeant Morris with another Sergeant.
61. I find it ironic that the TPS would even allege or even want to question me regarding criminal harassment after the conduct of Sergeant Morris therein.

62. In this regard, I have hyperlinked the article: <https://torontosun.com/news/crime/another-14-division-cop-in-hot-water-over-conduct-involving-women>

63. I quote and attach the pictures of the same *infra* involving two police officers of the 14th Division:

“Another 14th Division cop in hot water over conduct involving women”

A 14 Division cop admitted he sent inappropriate text messages and bare-chested and muscle-posing images of himself to a domestic abuse complainant he and his partner had investigated earlier that day.

Article content

Const. Jeffrey MacArthur pleaded guilty to one count of discreditable conduct for his behaviour stemming from a domestic call that he and his partner Cst. Tony Pignatelli answered at 1:30 a.m. May 27, 2017.

The alleged victim R.V. provided her contact information to Pignatelli.

MacArthur obtained that information to send the woman inappropriate text messages from his personal cell phone.

“We all have shitty days,” was one message MacArthur sent the woman.

He also sent images of himself in martial arts poses, showing his naked barrel chest and flexing himself, but then sent a message apologizing, “Sorry, that was for someone else.”

Apparently I'm chatty lol Have a great night

You too! Thanks again for following up.

Np

Today 3:42 AM



Sorry!!! That was for someone else

“He violated the trust of a victim and the trust of the public at large,” said prosecutor Shane Branton.

“He sent seriously unprofessional messages and images of himself.”

MacArthur had an otherwise, unblemished career and “has acknowledged he made a mistake and wants to move past itⁱ,” said Branton.

“None of this was ill-intendedⁱⁱ and I apologize for the damage to the reputation of the serviceⁱⁱⁱ,” said MacArthur.

Branton and MacArthur’s lawyer Gary Clewley jointly proposed that MacArthur should be docked **five days pay**. Acting Superintendent Peter Code said he would email his decision.

[The second incident involving Sergeant Mark Morris and Sergeant McInnis]^{iv}

This is the second publicized complaint about 14 Division officers.

Sergeant Jessica McInnis has alleged she was sexually harassed by fellow Sgt. Mark Morris who sent “Anaconda” penis photos to her and she has launched a human rights complaint against him and other officers.

Morris, 58, was docked eight hours pay in January for sending his images while McInnis was docked an equal amount for receiving those images.

McInnis contended Morris allegedly referred to his penis as “Anaconda,” and sent text messages that he was waiting outside her condo and wanted to sleep over.^v

The 43-year-old woman, who joined the service in 1998 and has won many awards and accolades, made the startling sexual harassment allegations in an Ontario Human Rights complaint in December.

Morris’ lawyer, David Butt, said he’ll vigorously defend his client at the human rights tribunal.

spazzano@postmedia.com

Volume #5(B): My concerns in this regard and why the Tribunal can be assured that I will never be making use of the <i>Police Act</i> and associated regulations complaint process
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64. I now query in relation to the DCK Fictitious CH Warning whether he warned another individual who may be traumatized by a warning that was not for said individual. I await DCK’s evidence under oath in this regard.

65. While I appreciate that the conduct of Sergeant Mark Morris is perhaps not emblematic of all at the 14th Division of the TPS, in my view, that type of conduct is harassment but under a different section of 264 in physically attending a location of the home of Sergeant McInnis.

66. With the only the potential of five and eight HOURS pay respectively, that forecloses any potential I would ever use any procedure under the Police Act and associated regulations to make a complaint about these officers and sergeant herein.

67. I find that revolting and offensive that anything of that level of punishment was discussed in relation to either.

Volume #6: Conclusion and Jurat

68. I believe and allege that TPS and TPS Respondents acted in an intentional and voluntary fashion in relation to their conduct.
69. I believe that DCK and Constable Romano were aware of section 29 of the *Criminal Code*.
70. To the extent that I am incorrect in that belief, I note section 19 of the *Criminal Code* that ignorance of the law is no defence.
71. I, in the linguistic sense, emphatically note that Constable Romano did NOT represent to me that “We will get a warrant” but on October 2, 2024, after waiting for 30 minutes and some conversations with Constable Romano and then being introduced to DCK with the ruse of me to sign a receipt and receiving the McLean Property and McLean Medication, Constable Romano represented to me, “WE HAVE A WARRANT FOR YOUR ARREST.” For precision purposes, Constable Romano represented the same to me AFTER he said I was under arrest and I responded, “For what?” and further words to the effect, and then my conversation with DCK ensued regarding the Fictitious CH Warning. To be clear, Constable Romano made the warrant representation slightly after DCK was unable to counter my representation to him that I had never met him and the alleged warning was fictitious and a figment of his imagination.
72. While TPS did extend me with the right to speak to “duty counsel” and not any lawyer per se, I did not trust them at the time and will not until there is a resolution or orders that are acceptable to me and in accordance with the law. Moreover, I was concerned that the TPS 14th Division, with all of its cameras and “all eyes on me” that any phone conversation may be recorded without my consent.
73. I believe that I was entitled to the protections, procedures and benefits of the *Criminal Code*, and *Charter*.
74. I believe that I was deprived of the same by the Landlord and Goldview in relation to the protected area of accommodation from times known to them and at least since on or around October 27, 2023, when I had my FOB deactivated without my consent. In that instance, I was provided with a replacement FOB that day. I will also be referring and putting into evidence text messages of Nicole and the Landlord, with a sole focus on the Landlord, that

I allege evidence an intent to have me criminally charged and under police persecution and future prosecution in groundless fashion. I also be referring and putting into evidence by way of reference to these “text messages” evidence, which I invite Ms. Ferguson to refute under oath, of false allegations that I slashed the tires of the vehicle that Nicole and I used when we were spouses. In this regard, there was a slashing of a tire and Nicole noticed the same when we were driving. She asked if I could handle and manage the fixing of the same. I did so and paid for the same at Canadian Tire on Lakeshore. Nicole informed me that there was another slashing of the tire and she then attended to taking care of the same. I have never slashed a tire in my life let alone the vehicle that Nicole and I were used. I would presume that a knife would be required for the same. I have never carried any such knife on me or any knife but a knife utilized for eating. I believe that the text messages between Nicole and the Landlord, that reference Goldview and Ms. Ferguson, evidence stereotypical and prejudicial attitudes towards me on account of my Protected Characteristics. I believe and allege that my Protected Characteristics were a factor in my adverse treatment, which have had an adverse impact upon me and continue to, by the Landlord and Goldview irrespective and independent of the Landlord’s conduct with the Unlawful Lockouts. With respect to the Unlawful Lockouts, I am still awaiting evidence from Goldview regarding its involvement in the same. Moreover, I can advise the Tribunal that I made a PIPEDA request of Goldview in late September 2024, and it failed to respond within 30 calendar days of the same. To the extent it complies, I will notify the Tribunal and other respondents promptly but not for the truth of its contents.

75. I allege herein that the TPS and TPS Respondents, particularly Constable Romano and DCK (without knowing who in the “back offices” including Sergeant Cassidy and potentially others directed or authorized the same), engaged in a warrantless arrest of myself on October 2, 2024. I believe that they knew that they did not have any reasonable grounds to believe that I had committed the charge of section 264(b) at the time of the arrest.
76. I again declare that none of the exemptions for a Crown to proceed by indictment were applicable at the time of arrest (or thereafter). However, I note in that regard that is a decision for the Crown to make and not the TPS.

77. In relation to the “mandatory conditions” for TPS to have charged me with an indicatable offence (not a summary one), I again declare under the penalty of perjury:
- a. I have never been convicted of any offence against an intimate partner;
 - b. I have never been engaged in any of the offences under section 5 to 7 of the CDSA:
and
 - c. I was not at large, out on bail *et al* at the time.
78. I again confirm that no agent of the TPS ever informed me that I was either, or grounded their reasons in arrest, detention, search, seizure and imprisonment in the same.
79. I do not believe that I committed the offence under section 264(b) of the *Criminal Code*. I ground my belief in that I do not believe my conduct, as I believed at all times that it was with lawful authority, and nobody countered the same at the time, would meet even a civil or administrative (LTB) wrongdoing.
80. In commencing and advancing this HRTO Proceeding, I heavily rely on ss. 495(3)(b) of the *Criminal Code* with a focus on the sentence therein that commences with “unless...”.
81. I believe that once I confirmed with DCK that he had not warned me and nobody had warned me of the same, it should have been the end of the matter. I believe I should have then be entitled to take the McLean Property and McLean Medication and leave the 14th Division on my own.
82. I believe that the Fictitious Warrant Representation only arose when Constable Romano saw DCK, in my view, with a stunned look. I believe that stunned look was as a consequence of not being prepared for me being so quick on my feet and that I did try to resist the arrest. I believe that I could have escaped them, based on my assessment of relative strength and speed, and as a matter of fact. However, after I heard Constable Romano claim to have a warrant, so I knew that I could not take that risk. Put another way, I respect the police and all law enforcement, but if there is an argument to be had regarding the facts and law, I would have welcomed it. I also would have exercised my rights if I believed that I was in the right and I knew the police were wrong. For example, if the police claimed that they were going to arrest me and called out the name of “Henry Smith” in relation to myself, I would inform them it was not me, and then seek a safe place where there were witnesses and the events could be recorded to protect myself. In that regard, I

would not do so because I was attempting to be unlawful but to avoid the dehumanizing experiences and treatment at the hands of the police on the basis of misidentification. I do not believe any one is required to submit to a false arrest or an arrest based on false grounds. I provide that evidence in somewhat of a preemptive and preventative fashion.

83. I challenge DCK to produce evidence of the alleged warning in which he purported to provide me with particulars of the same.
84. I also request and demand that if the TPS has no evidence of any warning made by DCK to me and no evidence of any warrant, at the time of the arrest, then it confirms the same on a forthwith basis so this HRTTO Proceeding can be streamlined accordingly.
85. In relation to the non-TPS respondents in the Landlord, Goldview and Condo Manager, I do not have sufficient evidence at this time to contend unequivocally that they were acting as *de facto* government agents; specifically, as agents of the TPS. I respectfully reserve my rights in this regard.
86. I further allege that the TPS did not restrain me pursuant to the Unlawful Arrest in accordance with what I believe (see: Comprehensive Submissions) are search powers incident to arrest: (i) identification purposes; (ii) safety of the officer; and (iii) NTD.
87. I further confirm that there was no technical psychological restraint prior to the Unlawful Arrest.
88. By this declaration #1, I am again demanding of the TPS that it take steps in accordance to remedying its unlawful acts without the intervention of the HRTTO and on a forthwith basis which will include but not limited to: (i) destroying my fingerprints (although it appeared to me at the time that some of my fingers regarding those prints registered as a “fail” in the technological device and screen; and (ii) destroying any images that it took of me including video and “mug shots” along with my tattoos (one being the Ohm symbol in yoga and the other being a Chinese symbol representing “Ohio State” (my undergraduate university); and others.
89. In my view, Constable Romano should apologize to the judiciary and all justices of the peace for even pretending to have had a warrant regarding the unproven charge as, in my view, it gives the justices and JOPs a bad name for even being implicated in the same.
90. I am not aware of any challenge by the TPS or any person to the provisions of the *HR Code* and *Criminal Code* at issue herein.

91. I allege that my expectation of privacy (“EOP”) remained high at all times even after the Unlawful Arrest as I allege that the arrest and all conduct thereafter was predicated on illegality and was in arbitrary in nature and scope.
92. I believe and allege that the TPS and TPS Respondents’ conduct was abuse in nature from a mental, emotional and physical standpoint.
93. However, I do not allege that TPS and TPS Respondents directly physically harmed me but I suffered injuries in the prison cell as a result of my impairments, from a physical standpoint, that were aggravated by the conditions.
94. I am making a claim, at least by way of the hearing of constitutional questions, that while I was not punished as I have not been convicted of a crime, that the unlawful conduct (as alleged) was not only adverse treatment but “cruel and unusual” as it is interpreted under section 12 of the *Charter*. Under the first prong of the test (as the case law evidence and noted in my Comprehensive Submissions), I allege and submit that the misconduct by the TPS and TPS Respondents was severe and it occurred in a multitude of independent ways, conduct and processes.
95. I, in my view, naturally rely on section 15 of the *Charter* in advancing my constitutional question relief but also in relation to the *HR Code* relief.
96. I allege that the conduct of the TPS and TPS Respondents was grossly disproportionate to the required and lawful treatment that I was entitled to receive under the law.

97. I declare my declaration #1 for no improper purpose.

Declared **Toronto, Ontario**
On this 5th of November, 2024



Kevin A. McLean

ⁱI note that of course he wants to move past it but what about the victim?

ⁱⁱYet Constable McArthur took her phone number from another officer without her consent and for a different purpose which was to include in his PERSONAL PHONE to contact her on a social level. He did not have her consent to do so. I allege that there may be a systemic issue with the 14th Division regarding understanding the concepts of privacy and privacy rights, and the concept of consent.

ⁱⁱⁱBut what about the victim? What about the damage to her? What about her loss of trust in the TPS 14th Division?

^{iv}The square brackets are mine.

^vThis was clearly what Sergeant Morris wanted but did he have her consent? In McLean v. TPS et al, the TPS clearly wanted to arrest Mr. McLean on false pretenses but did they have consent to even talk to him or question him? The answer is in the negative on all.