



Martin Global Law

COUNSEL & ATTORNEYS-AT-LAW, NOTARIES PUBLIC
The Heritage Building, 8th Terrace East, Off Collins Ave.
P. O. Box N-4535, Centerville, N.P., Bahamas

15th February, 2021

To Whom it May Concern

Re: Peter J. Nygard Bahamian Court Matters

I am a practicing attorney-at-law having been duly called to the Bahamas Bar on the 26th September, 2003. I am extensively familiar with Peter John Nygard (Mr. Nygard), whom I represent, and all of his hereinafter mentioned court matters in the Bahamas which arose out of a property dispute with his immediate billionaire neighbour.

I have reviewed Mr. Nygard's 5th February, 2021 bail judgment of Justice Shawn Greenberg (Judge Greenberg) which makes reference to a Bahamas Court of Appeal decision dated 1st February, 2021 which states that Mr. Nygard did not attend court in the Bahamas on the 28th September, 2018. This statement is not correct. Mr. Nygard did attend court on the 28th September, 2018 as ordered and as evidenced in the attached transcript of the hearing on that date. The statement emanates from an affidavit of attorney Martin Lundy which erroneously misleads the court. Mr. Nygard's attorneys will clarify this matter with the Bahamian Court of Appeal and otherwise so as to vindicate Mr. Nygard of such misleading information presented to the court.

Mr. Nygard has always shown respect for the court and has attended except on occasions when he was medically unable and advised not to do so as a matter of life and death. Please see attached medical reports from Dr. Florence Comite and Dr. Douglas Schottenstein used before the Bahamian Supreme Court in relation to why he could not attend on the 21st January, 2019.

Also attached is an affidavit of Dr. Lynwood Brown which was used in the Supreme Court on the 28th January, 2019. Dr. Brown's affidavit exhibits the medical report of Dr. Harvey B. Lee who confirmed that Mr. Nygard was admitted to St. Boniface General Hospital and was under care of a team of experts including cardiologist Dr. Basem Elbarouni. Photos showing him admitted to St. Boniface Hospital with his wrist band and patient number are exhibited in the affidavit. Finally, Dr. Brown was asked to be tendered for examination but the court and counsel on the other side objected.

In spite of such overwhelming medical report evidence stated above and attached, the presiding Judge ordered Mr. Nygard to show cause while at the same time ordering the issuance of a bench warrant to arrest him. The Court of Appeal in the attached successful restoration of appeal judgment gave favour to Mr. Nygard in stating that his appeal has real prospect of success as follows:

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“The Coalition also opposes the application for restoration on the ground that the appeal has no real prospect of success. Without deciding the merits of the appeal, I cannot accept that it is unarguable that the judge was wrong to require a party to appear to show cause why he should not be held in contempt and in the same order issue a bench warrant for at the same time order his arrest.”

Mr. Nygard is awaiting hearing of the substantive appeal so as to have such Order quashed as appears to be the posture of the Court of Appeal in the above statement. It is clear that the Court of Appeal judgment referred to *“one bench warrant”* ordered at the above referenced hearing on the 28th January, 2019.

Finally, in the judgment of Judge Greenberg, she made her decision on two grounds, secondary and tertiary grounds, which she indicated in the last sentence of her judgment. Judge Greenberg did not order continued detention of Mr. Nygard on the primary ground (see paragraph 3 of the judgment which defines the primary ground).

The primary ground is whether the Canadian Attorney General on behalf of the United States can prove that it is necessary to continue detention of Mr. Nygard "to ensure his attendance in court." While Judge Greenberg did comment on his lack attendance in the Bahamas, this was not material to her decision due to her not basing such decision on the primary ground. In the circumstances, the said attendance concerns appear to become irrelevant on appeal.

Please feel free to contact me to clarify any further issues.

Yours faithfully,

Martin Global Law,

Rouschard C. Martin

Public Law Division

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW

BETWEEN:

THE QUEEN

And

THE RT. HON. PERRY G. CHRISTIE, Prime Minister of The
Commonwealth of The Bahamas (in his capacity as the Minister
Responsible for Crown Lands)

1st Respondent

THE HON PHILIP E. BRAVE DAVIS, Deputy Prime Minister of The
Commonwealth of The Bahamas
(in his capacity as the Minister of Works and Urban Development and
the Minister Responsible for Building Regulation)

2nd Respondent

THE HON GLENYS HANNA-MARTIN, Minister of Transport and
Aviation of The Commonwealth of The Bahamas
(in her capacity as the Minister Responsible for Ports and Harbours)

3th Respondent

THE TOWN PLANNING COMMITTEE

4th Respondent

PETER NYGARD

5th Respondent

KEOD SMITH

6th Respondent

Ex Parte

COALITION TO PROTECT CLIFTON BAY

Applicant

AND In the Matter of a 2nd and 3rd Application by the Applicant for an
Order of Committal against the 5th Respondent

Coalition's Submissions

Objecting to Keod Smith's Submissions in Peter Nygard's Show Cause
Proceedings

Coalition - 2013/PUB/jrv/00012

1 (Court reconvened at 10:24 a.m.)

2 THE CLERK: The Coalition To Protect Clifton
3 Bay, Case No. 00012/2013.

4 THE COURT: Yes, Mr. Smith.

5 MR. F. SMITH: Good morning, my Lady. 00:16

6 THE COURT: For the record, appearances,
7 please.

8 MR. F. SMITH: So, my Lady, for the Coalition
9 To Protect Clifton Bay the appearances are myself,
10 Frederick Smith, Queens Counsel, along with 00:17

11 Mr. Dawson -- or Roderick Dawson Malone is appearing as
12 my junior along with Mr. Krispin Hall who is behind,
13 your Honour. And for Mr. Peter Nygard, who is the 5th
14 Respondent, are Messrs. Carlton Martin and Mr. Rouschard
15 R-o-u-s-c-h-a-r-d Martin. 00:17

16 THE COURT: I actually know how to spell his
17 name.

18 MR. F. SMITH: Oh, I'm sorry. My Lady, it was
19 brand new to me.

20 THE COURT: He has appeared many times before 00:18
21 me.

22 MR. F. SMITH: I'm sorry, my Lady.

23 MR. R. MARTIN: Thank you, my Lady.
24 Beautiful.

25 MR. F. SMITH: My apologies to the young 00:18
26 Mr. Martin. It's a father and son team. My daughter is
27 waiting for her exam results now so I hope to have a
28 father and daughter team soon. And so -- for Mr. Keod
29 [KODE] Smith --

30 THE COURT: Sorry. Mr. Keod Smith is -- 00:18

31 MR. F. SMITH: For Mr. Keod [KEE-OD] Smith.

32 MR. GOMEZ: No. Keod [KODE].

Coalition - 2013/PUB/jrv/00012

1 MR. F. SMITH: Sorry?
2 MR. GOMEZ: Keod [KODE].
3 MR. F. SMITH: Oh, Keod [KODE] Smith.
4 THE COURT: If Mr. Keod Smith is involved, I
5 would have to recuse myself. 00:18
6 MR. F. SMITH: Well, your --
7 THE COURT: Full stop.
8 MR. F. SMITH: If I may, my Lady, there are
9 two things going on. There are two separate
10 applications. So there is a matter of a continuing 00:18
11 nature in respect discretely of Mr. Peter Nygard and
12 then there are other matters which are not set for today
13 with respect to Mr. Keod Smith.
14 THE COURT: But they're before this Court?
15 MR. F. SMITH: Well, I see Mr. Keod Smith in 00:19
16 the Court. That's all I was indicating, my Lady; but we
17 are concerned today with Mr. Peter Nygard.
18 THE COURT: And, sorry, what's that number,
19 the suit?
20 MR. F. SMITH: Number -- 00:19
21 THE COURT: 12 of 2013?
22 MR. F. SMITH: 12 of 2013.
23 THE COURT: Okay. Does that involve Mr. Keod
24 Smith? If the answer is yes, I have to recuse myself
25 right away. 00:19
26 MR. F. SMITH: The current application before
27 your Ladyship do not involve Mr. Keod Smith.
28 MR. K. SMITH: My Lady.
29 THE COURT: Okay. All right.
30 MR. F. SMITH: There were a number of 00:19
31 outstanding matters before Judge Bain relating to
32 applications for and against Mr. Keod Smith. Those have

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Coalition - 2013/PUB/jrv/00012

1 not been, as I understand it, assigned to any judge to
2 deal with. In relation to Mr. Peter Nygard, I
3 understood from the Order made by justice -- there's
4 actually a filed Order by Justice Bain, who as
5 your Ladyship knows is retired, directing that the
6 sentencing aspect of the contempt convictions against
7 Mr. Nygard were assigned to your Ladyship. That's a
8 specific discrete matter.

00:20

9 THE COURT: Do you have that Order?

10 MR. F. SMITH: I do, my Lady. That's to be
11 found --

00:20

12 THE COURT: I understand there's a judgment
13 also. Bear with me because it's coming before me and I
14 don't have materials. The first time I knew of it was
15 when I got a letter from Mr. Gomez.

00:20

16 MR. F. SMITH: Let me be very deliberate
17 before we proceed, my Lady. So my Lady asked me to
18 indicate --

19 THE COURT: Yes.

20 MR. F. SMITH: -- the Order in relation to the
21 sentencing of Mr. Peter Nygard. There are two Orders:
22 Conviction No. 2 and Conviction No. 3 for contempt.
23 Those are to be found in Volume 31 at tabs 15 and 16.

00:20

24 So does your Ladyship see them?

25 THE COURT: I'm just looking at them.

00:21

26 MR. F. SMITH: Yes.

27 THE COURT: Can you make these bundles for the
28 Court?

29 MR. F. SMITH: We did. Those are for the
30 Court, my Lady. That's what we have been doing from
31 inception of the matter. We have been providing the
32 Court and all parties with bundles, as they are filed,

00:21

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1 my Lady. So your Ladyship will see two Orders. One, it
2 says -- they're both filed July 23 and the first one
3 says under Order: Second finding of contempt against
4 Peter Nygard and directions for mitigation hearing at
the bottom.

5 THE COURT: Yes, of course. 00:22

6 MR. F. SMITH: And then the second one is the
7 same, my Lady; but it's in relation to the third
8 finding of contempt.

9 THE COURT: Okay.

10 MR. F. SMITH: Okay. So your Ladyship will 00:22

11 see that a brief -- if you go to page 3 of the first
12 one, my Lady, whereby Her Ladyship, as she then was,
13 Justice Bain ordered at No. 1: Before a sentence is
14 imposed, a hearing shall take place before the
15 Honourable Madam Justice Indra Charles at 10:00 a.m. on
Friday, 28th of September, to afford Peter Nygard an
opportunity to make submissions in mitigation. 00:22

16 And then various orders are made directing the
17 filing of evidence and submissions.

18 And at paragraph 5, Mr. Nygard is ordered to
19 be present; and I can confirm that Mr. Nygard is,
20 indeed, here, my Lady. He's there. 00:23

21 THE COURT: Yes. Can he have a seat somewhere
22 there. He probably should sit next to Mr. Gomez.

23 MR. F. SMITH: Well, in relation -- so,
24 my Lady, in respect of quite a number of the other
25 matters that Judge Bain had been managing to conclusion, 00:23
26 which involved Mr. Keod Smith, there is no Order or
27 direction made for your Ladyship to hear the matter. So
28 we are only concerned with Mr. Nygard today.

29 So, my Lady --

30 THE COURT: So just to be clear, Mr. Martin 00:24
31 and junior Martin are counsel for Mr. --

32 MR. F. SMITH: Yes, my Lady.

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Re: Mr. Peter Nygard - Letter of Medical Necessity
DOB: 7/24/1941

January 16, 2019

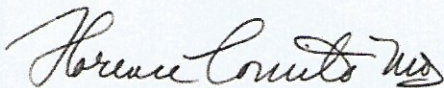
To Whom It May Concern,

Mr. Peter Nygard is a long-term patient of mine with multiple comorbidities being evaluated and treated in New York. He is currently scheduled for consultations, radiological scans and treatments starting on Tuesday, January 15th, 2019. These will require close monitoring and multiple follow-up visits in the doctor's office. Due to the procedures scheduled and follow-up required, it is medically necessary that Mr. Peter Nygard remain in New York until January 22nd, 2019.

Please extend all courtesies to him concerning matters he may be involved with you.

Thank you for your understanding. Should you have any questions, please feel free to contact our office at 212-288-8123.

Sincerely,



Florence Comite, MD



January 14, 2019

RE: Peter Nygard

To Whom It May Concern,

This is to certify that Peter Nygard is currently under my care for Pain Management Knee Pain and Shoulder Pain. Patient is currently scheduled to come in for Regenokine injections on the following dates:

- 1-14-2019 at 5:00PM
- 1-15-2019 at 5:00PM
- 1-16-2019 at 5:00PM
- 1-17-2019 at 5:00PM
- 1-18-2019 at 5:00PM
- 1-19-2019 at 10:00AM

If there are any further questions, please feel free to contact me at (212)-750-1155.

Sincerely,

Douglas Schottenstein, MD
Board Certified Neurology
Board Certified Pain Management