

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

FF

TO BE SPOKEN TO

BEFORE THE HONOURABLE JUSTICE V. GIOURGAS

on September 21, 2018

at NEWMARKET, Ontario

APPEARANCES:

S. Kumaresan

Appearing for the Crown

D. Genis

Appearing for Mr. FF

FRIDAY, SEPTEMBER 21, 2018:

MS. KUMARESAN: Good afternoon, Your Honour. Thank you for that extra time. So, with respect to this matter - so, I am conceding a Section 8 breach - sorry - on the FF matter.

THE COURT: Yes.

MS. KUMARESAN: And given the inconsistencies in the police officer's evidence - and I've had a chance to review with my friend the transcript from the recording from yesterday and some his answers. While the Crown's not suggesting that there was any bad faith, I think it was a new officer who, for whatever reason did not testify well with respect to these issues. But, at the end of the day it is what it is. There were a number of inconsistencies, specifically with his subjective view of click and how his suspicion came about. In light of all of that and the way the evidence came out, I'm not going to argue 24(2) on it either.

THE COURT: Okay. So, you're essentially inviting me to exclude the breath readings and find...

MS. KUMARESAN: Yes.

THE COURT: ...Mr. FF not guilty?

MS. KUMARESAN: Yes.

THE COURT: Okay. So, Section 8 application - Section 8 and 24(2) application allowed, breath readings excluded, and given that that's the only evidence on the over 80 count, Mr. FF is found

not guilty.

MR. GENIS: Thank you very much, Your Honour.

THE COURT: All right. Thank you, Mr. Genis.

MR. GENIS: I thank my friend for a very careful consideration  
of this matter.

THE COURT: Yes, and I do as well. Thank you, Ms. Kumaresan.  
Okay.

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FORM 2

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October 29, 2018

Helena Tsapoitis Barbesin

Date

Signature

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