

SUPERIOR COURT OF JUSTICE

NELSON BARBADOS GROUP LTD.

PLAINTIFF

- against -

RICHARD COX, ET AL

DEFENDANTS

\* \* \* \* \*

PROCEEDINGS

BEFORE THE HONOURABLE MR. JUSTICE SHAUGHNESSY  
on Friday, January 25, 2013,  
at OSHAWA, Ontario

\* \* \* \* \*

APPEARANCES

DONALD BEST

Agent for the Plaintiff

GERALD RANKING

Counsel for the Defendant,  
Price Waterhouse Coopers East Caribbean

LORNE SILVER

Counsel for the Defendants, Cox

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I've done all this myself and it was laid out all over my kitchen table and on the floor and I suppose - I think I spent about \$500 at Staples or I didn't even remember where it was, but I got them to bind things. That's what I've spent, Your Honour.

As to these experts he says I've spent a fortune. No Your Honour, it was a couple of thousand dollars and that's not a fortune but it was a lot of money to me and that's why I did it. So Mr. Ranking is - is - or Mr. Silver is - is not presenting a fair picture of - of me or - or what I've done. And it's just not - not true.

Your Honour, I wanted to speak about examining Mr. Ranking and Mr. Silver and their clients, because if we're going to have a hearing and by the way, I'm very pleased about the mediation judge. I think that's an excellent thing and I had hoped - frankly Your Honour, I will say this. I did receive a communication from Messrs Ranking and Silver which if it was meant as sort of an olive branch, I'll take it as that. They said they didn't want to see me go to jail which I guess a significant change in their position so ...

THE COURT: I don't think anybody wants to see anyone go to jail, Mr. Best.

MR. BEST: Well ...

THE COURT: It's not just Mr. Ranking and Mr. Silver. I got to tell you that I - I consider it

one of the most difficult and profound decisions I have to make and there's no - it's not something that's done cavalierly or without basis and foundation. So I want to tell you I share that same view but having said that, I have made the decision. I have made an order. I did issue a bench warrant and I've stayed the bench warrant. So that's the plight you find yourself in right now.

MR. BEST: I appreciate that Your Honour and ...

THE COURT: Maybe - maybe, and I can't get into this. This is why I don't want to get into this any further but that's why maybe a mediation judge is involved so that you can have a proper full dialogue through this what I'll call a mediation judge about a way to resolve this matter ...

MR. BEST: Yes.

THE COURT: ... without me hearing it. That's the whole focus. But I don't want to hear anything more about that aspect. All right?

MR. BEST: I understand Your Honour, but if I could just read this I - I ...

THE COURT: Go ahead.

MR. BEST: Yes, sir. I - I believe that you know I have a right to have all the evidence and I would want the Court to have all the evidence as it's relevant and in terms of examining Mr. Silver and Ranking, they have said things and done things that I believe they are going to try to convince you are true and I disagree, and I believe that I'm

entitled to examine them before we get here for the hearing.

5 Now, Mr. Silver did admit to me and it's right in the transcript Your Honour, that he has taken an enormous amount of information and he sent it to his clients, and I can tell you that after that, it appeared on the internet and that's why - that's one of the reasons why I want to examine Your Honour, because there's other information that he 10 has too that could help in my defence and you know, they've also put a lot of what I call quasi evidence before the Court. Not just since August but - but way back when and I'm asking the Court to 15 allow me to question them because if they're going to insist that what they said is true, I don't agree and I think it's only fair.

20 Now Mr. Ranking has also continued to avoid answering questions about the purported entity he represents and how and when he realized that Price Waterhouse Coopers East Caribbean Firm is a non-entity. I - you know, he admitted this effectively during a cross-examination last Wednesday. I'd 25 like to ask him questions about this issue and the affidavit and cross-examination of his witness Marcus Hatch (ph) in 2007.

30 I consider this issue to be very important to my presentation to the Court because Your Honour, everything flowed from that foundation, and Mr.

5 Silver said to me in the transcript that he had -  
you know, given a number of documents to his  
clients and those appeared on the internet. That's  
enormously important because where the issue was my  
security and - and this impacted my ability - this  
- this impacted my ability and - and impacted my  
reasoning and my decision making about my family  
and my family's security and I understand that  
there's been quasi evidence, allegations that I put  
10 this stuff on the internet and that's false.

And I'd like to ask them questions about the  
documents because their distribution to and by Mr.  
Silver's clients was the source of many attacks  
15 against my witnesses, my family, me and even many  
persons who have nothing to do with this case in  
any way, which is another reason why I want  
everyone to be very careful about what's on those  
sticks.

20 On Wednesday, Mr. Ranking and Mr. Silver indicated  
that Milt Davis (ph) had been in contact with them  
at some point as my lawyer and - and that's not  
accurate, Your Honour. Milt Davis was never my  
25 lawyer and I'm not sure what information Mr. Davis  
gave Mr. Ranking or Mr. Silver.

THE COURT: Mr. Milton - Mr. Greenspan indicated  
that he brought Mr. Milton into the picture because  
Mr. Greenspan's background is in criminal law.  
30 This is a quasi criminal proceeding when you have

contempt but in any event, to understand the civil components, Mr. Greenspan made that decision.

MR. BEST: Well ...

THE COURT: So let's not get into Mr. Davis.

MR. BEST: Your Honour, what I'm saying is Mr. Ranking and Mr. Silver made several letters into exhibits including one from Mr. Ranking to Mr. Davis, the contents of which I vehemently disagree with. Mr. Ranking is again putting quasi evidence before the Court that is 100% wrong.

MR. SILVER: It's my letter.

MR. BEST: Please, I didn't interrupt you sir, and please.

MR. SILVER: It was my letter, not Mr. Ranking's.

MR. BEST: All right. I'm sorry but please - in any event, you know, it's quasi evidence put before the Court that is 100% wrong and I want to examine on that issue because there are serious errors and falsehoods in that letter and you know, here it is, it's put in as an exhibit, as evidence, but it's just quasi evidence and - and it really has an impact upon what Your Honour sees and it's just not fair.

I should be - as an accused, I should be - I'm going to jail. I should be able to cross-examine that and test it.

Now there's an also an enormous question in this case about the activities of Mr. Ranking's private investigator, Mr. Van Allen (ph). In fact, Mr. Van

Allen's affidavit was relied upon by the Court as one of the pieces of evidence used in my conviction and the events that preceded my conviction and set the stage and the sentence for the jail.

There's also information placed onto the internet about Mr. Van Allen's activities that says there are reports from Mr. Van Allen circulating among the defendants in addition to his affidavit. Now, I've not seen Mr. Van Allen's reports and his information could be important to my defence, and I deserve the opportunity to cross-examine him and also his employer, Mr. Ranking, about many aspects of the work including why Mr. Ranking redacted Mr. Van Allen's invoices prior to submitting them to the Court during the costs hearing.

This is about full disclosure when I'm - I'm - I could be heading to jail for three months for a criminal like charge and I think that under the Charter and normal practice, I should be given full disclosure.

Now it also came to my attention as first detailed in my December 1, 2009, letters to Your Honour and the lawyers, that Mr. Silver's email address was listed on the internet at this Barbados underground website, as a place for a persons to send information about me and my family members. This same website published threatening words against persons on my side of the case. Well here we are

5 Your Honour, four years later and Mr. Silver's  
email address is still on that website, along with  
invitations for persons to hunt me down and hunt my  
family down and harass persons on my side of the  
case and Mr. Silver's email address and his firm  
are published for that purpose on the internet and  
they have been so for years.

10 Now, I'd like to know who put it there, what if any  
Mr. Silver's involvement was; what responses he has  
received over the years, and why he has not had  
this taken down and what efforts he's made to take  
this down because I told him about this on November  
15 17, 2009, during the telephone call that it was  
terrible for my family and here we are, four years  
later, and it's still there. I know that members  
of organized crime that I've previously arrested  
are working with Barbados underground and I could  
show that to Your Honour and I wish to.

20 So this - this call to connect with Mr. Silver  
about information about my family has - has taken  
root and - and caused terrible things to happen,  
Your Honour.

25 Now did Mr. Silver receive any information that  
could be useful in my defence or otherwise convince  
the Court that I am innocent or of the - the  
30 terrible safety and security problems for my family  
that have been - have happened because of this?

I should have the right to examine Mr. Ranking and Mr. Silver and other involved person about this, including Mr. Van Allen.

5 Now Your Honour, Andrew Roman and Miller Thomson and their client asked on January 15, 2010, that I receive more than three months jail time. Mr. Roman accused me of placing a defamatory article on the internet, falsely accused me. Yet as we know  
10 now, and there is evidence in the latest affidavit and the previous one and such, that you could find there in John Knox's affidavit, that the computer system at Miller Thomson Toronto has been used since at least 2004, to deliver anonymous threats and hate mail to my witnesses. This is  
15 unbelievable coming from a major Toronto law firm and it's all documented and further, Mr. Roman was cautioned about this in writing and yet he concealed that from the Court. He just stood up  
20 and asked for more time for me.

Now these anonymous internet threats are a large part of my security concerns and they were part of the reason that I had to flee Canada with my  
25 family. Excuse me, I'll just get a drink here. I should be able to examine Mr. Roman and his firm's records and his firm's records would show who sent these anonymous messages that seriously impacted the safety, security and well being of so  
30 many on my side of the case. And also seriously impacted my movements and my ability to appear

before the Court in 2009 and early 2010. I think that's only fair.

5 Now, as a police officer, I was always taught that  
when someone's going to jail, you always give full  
disclosure to the other side and it's a matter of  
the Charter of Rights and Freedoms as well as  
normal, fair and just practice in our courts. We  
10 never know what is relevant or will become relevant  
until we get it and that's why we do a full  
investigation and then provide full disclosure to  
the accused and Your Honour, some of these issues  
might change your decision one way or the other and  
- and a full record needs to be put before the  
15 Court and I'm not asking you to re-litigate the  
Nelson Barbados thing, Your Honour. I'm really  
not.

20 I'm just saying that there's a lot of things that  
seriously impact why I did what I did and that if  
Your Honour knew them, it would seriously change  
how Your Honour thinks about - about me and what  
happened, and you know, I - there's a lot of things  
that are on the record, this quasi evidence, and  
25 you know, oral statements that are - are not  
accurate in the record. I've seen them in the past  
transcripts and they're unsworn and uncross-  
examinable and I know they're false and that's why  
I think it's important that I be given a chance to  
30 cross-examine these - these people.