

CANADA / JUDGMENT

Bryfogle v. British Columbia (Attorney General)

2025 BCSC 2184

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Supreme Court of British Columbia

DECIDED

5 November 2025

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2025 BCSC 2184 Bryfogle v. British Columbia (Attorney General)

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Bryfogle v. British Columbia (Attorney General),

2025 BCSC 2184

Date: 20251105

Docket: 114777

Registry: Kamloops

Between:

Roy Charles Bryfogle

Applicant

And:

Attorney General of British Columbia

Respondent

Before: The Honourable Justice Tammen

Reasons for Judgment

The Applicant, appearing in person:

R. Bryfogle

Counsel for the Attorney General of British Columbia:

L. Ruzicka

Place and Date of Hearing:

Kamloops, B.C.

May 2, 2025

Place and Date of Judgment:

Kamloops, B.C.

November 5, 2025

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Introduction and Overview

[1] This is an application made on behalf of the Attorney General of British Columbia ("AGBC") to summarily dismiss an application for judicial review filed by Roy Charles Bryfogle on October 25, 2024. In that application, Mr. Bryfogle seeks prerogative relief in the nature of certiorari and mandamus related to decisions made by representatives of the AGBC to direct stays of proceedings in relation to various private informations sworn by Mr. Bryfogle, prior to there being a process hearing pursuant to the provisions of the Criminal Code, R.S.C. 1985, c. C-46.

- [2] The 13 private informations contain a total of 62 charges, involving nine individuals. It appears that each of the nine putative accused fall within one of the following three categories:
- 1) police officers who were involved in investigations in 2017/2018 which led to criminal charges of which Mr. Bryfogle has since been convicted;
 - 2) lawyers who were involved in those proceedings on behalf of either the B.C. Prosecution Service or the Attorney General of Canada; and
 - 3) individuals who occupied the role of AGBC during the time period specified in the particular information. Specifically, both former Attorney General David Eby (now Premier Eby) and Attorney General Niki Sharma are named as accused in different informations.
- [3] The 13 private informations were all sworn in Kamloops, on various dates from March 18, 2024 through April 22, 2024. Each of the informations was concluded by a letter written on May 21, 2024, by Deputy Regional Crown Counsel, directing the clerk of the court to enter a stay of proceedings.
- [4] Mr. Bryfogle filed this application, referred to by him as "Revised Section 774 Certiorari/Mandamus Application", on October 25, 2024. It is clear from the "Orders Sought" section of the application that Mr. Bryfogle alleges that it was an abuse of process for a representative of the AGBC to direct stays of proceedings for the 13 private informations, particularly in light of the fact that the AGBC and former AGBC are among those charged on the informations. Mr. Bryfogle takes particular issue with the fact that stays of proceedings were directed prior to a process hearing being held, and without him having an opportunity to present evidence in support of the allegations.
- [5] On February 27, 2025, the AGBC filed an application to summarily dismiss Mr. Bryfogle's certiorari/mandamus application. That application was heard on May 2, 2025. Mr. Bryfogle was granted leave to provide further written submissions, which were received on May 21, 2025.
- [6] The AGBC advances two alternative bases on which Mr. Bryfogle's application should be summarily dismissed:
- 1) the decision to direct a stay of proceedings falls within the exercise of prosecutorial discretion and Mr. Bryfogle has not satisfied the evidentiary threshold set out in *R. v. Nixon*, 2011 SCC 34 which must be met before a court can inquire into the exercise of prosecutorial discretion; and
 - 2) even if the Nixon evidentiary threshold does not apply on an application for summary dismissal, Mr. Bryfogle's application for prerogative relief is manifestly frivolous and vexatious and therefore meets the test for summary dismissal set out in *R. v. Haevischer*, 2023 SCC 11.

- [7] For the following reasons, I grant the application to summarily dismiss Mr. Bryfogle's application for prerogative relief. I am persuaded that both bases advanced by the AGBC for summary dismissal have merit and mandate that Mr. Bryfogle's application must be dismissed.

Factual Background and Procedural History

- [8] It is necessary to set out some of the background and history of court proceedings that preceded Mr. Bryfogle's application, as it provides important context supporting summary dismissal.

Related court proceedings

- [9] In April, 2018, Mr. Bryfogle was bound by a probation order made by Cullen A.C.J. on July 15, 2016, as part of a sentence imposed for criminal contempt of court. The terms of the probation order included the following:
- a proscription on entering any courthouse in B.C. unless he was attending court as a witness to a proceeding pursuant to a subpoena.
 - a proscription on involving himself in any proceeding or legal matter, in any manner whatsoever, on behalf of Zsuzsanna Hegedus (also known as Zsuzsanna Holland) except to appear as a witness under subpoena to a criminal proceeding brought against Ms. Hegedus.
- [10] Ms. Holland was, in April and May, 2018, facing serious criminal charges, including child abduction, in a criminal matter set for a jury trial in Williams Lake, B.C. Ms. Holland sought to have the presiding judge issue a subpoena for Mr. Bryfogle so he could testify as a defence witness. Crown counsel conceded that Mr. Bryfogle had material evidence to give at that trial. Although a subpoena issued for Mr. Bryfogle, he was not called as a defence witness.
- [11] Just prior to the commencement of the Williams Lake trial, Ms. Holland was charged with other serious offences in Kamloops, B.C. On May 1, 2018, Mr. Bryfogle sent email communications to both the RCMP and the AGBC expressing his opinion about the merits of the Crown case against Ms. Holland in the Kamloops matter.
- [12] Mr. Bryfogle was subsequently charged with breach of probation and disobeying a court order in relation to his May 1, 2018 email communications.
- [13] On October 21, 2019, Judge Cleaveley found Mr. Bryfogle guilty of both counts, but entered a conditional judicial stay on the charge of disobeying a court order and directed that a conviction be entered on the charge of breach of probation.
- [14] On April 19, 2024, Justice Hori dismissed Mr. Bryfogle's summary conviction appeal, in reasons indexed as 2024 BCSC 643.
- [15] On January 10, 2025, Justice Winteringham denied Mr. Bryfogle's application for leave to appeal the conviction to the Court of Appeal.

- [16] Both during the trial proceedings in Provincial Court and since, Mr. Bryfogle has alleged that he was a target of the Kamloops kidnapping investigation leading to the above-noted charges against Ms. Holland. Mr. Bryfogle has made repeated requests to be provided with the basic disclosure in that case and with sealed material related to intercepted communications (wiretaps) that apparently formed part of the Crown case against Ms. Holland. Mr. Bryfogle's many court applications seeking that material have all been dismissed.
- [17] Mr. Bryfogle advised me during pre-hearing conferences in this matter that he now has at least some of the disclosure from the Holland Kamloops file, and further, that if his certiorari application proceeds, he will be advancing an application that he be permitted to rely on that material in these proceedings.
- [18] As I understand it, from things Mr. Bryfogle has said in either affidavits or during submissions, both in these proceedings and in the Kamloops breach of probation proceedings, he alleges that he was entrapped into engaging in the May 1, 2018 communications, and there has been since then a concerted effort by various state actors, including the AGBC, police and Crown counsel, and potentially even judges, to prevent the true facts from being aired in court.
- [19] In the Kamloops breach of probation proceedings, Mr. Bryfogle advanced various arguments related to abuse of process, and requested that subpoenas issue for many of the individuals who are now putative accused in the private informations. Judge Cleaveley refused to issue those subpoenas and declined to give effect to any abuse of process applications.
- [20] Mr. Bryfogle did not testify at trial in the Provincial Court. Thus, there was no evidentiary foundation for any of the allegations of misconduct he made against various individuals.
- [21] Judge Cleaveley in the Provincial Court, and both Donegan J. (as she then was) and Holmes A.C.J. in the Supreme Court, have denied Mr. Bryfogle access to the sealed wiretap material from the Holland criminal proceedings: *R. v. Holland*, 2019 BCSC 2529 (Donegan J.) and Memorandum dated December 12, 2024 (Holmes A.C.J.).
- [22] Mr. Bryfogle filed an application for mandamus to compel responses from certain provincial and federal employees, politicians and others, which was dismissed by Girn J. in reasons indexed as *R. v. Bryfogle*, 2023 BCSC 2060. Among those from whom Mr. Bryfogle sought information were Premier David Eby; Attorney General Niki Sharma; and four members of the B.C. Prosecution Service and one Department of Justice counsel (referred to in some decisions as Federal Crown) who had been involved as counsel in Mr. Bryfogle's Kamloops criminal matter. All of those individuals are among the putative accused in the current private informations.

- [23] On September 3, 2024, Holmes A.C.J. dismissed Mr. Bryfogle's application to prefer direct indictments that are virtually identical to the 13 private informations at issue here, in reasons indexed as *In the matter of Screening Proceedings Charles Bryfogle Seeks to Initiate*, 2024 BCSC 1621 [Screening Decision].
- [24] While Mr. Bryfogle's summary conviction appeal was extant, he commenced an action in the United States District Court for the District of Arizona against some of the individuals named in the current private informations (Crown counsel T.L. and N.W., RCMP member Z.P., and Premier David Eby) as well as Justice Dley, who was the trial judge on the Holland matter. In that action, Mr. Bryfogle alleged that the same Canadian investigation and prosecution which led to his breach of probation conviction was unlawful. On June 21, 2022, that action was dismissed with prejudice: *R. Charles Bryfogle v. Tim A. Livingston, et al.* (21 June 2022), No. CV-00546-TUC-RCC (United States District Court for the District of Arizona).

History of Private Informations at Issue

- [25] On March 18, 2024, Mr. Bryfogle swore the following four private informations:
- Kamloops Information No. 114734 - T.M. (RCMP Officer involved in Holland investigation) (4 Counts)
 - Kamloops Information No. 114735 - Premier David Eby (former Attorney General) (3 Counts)
 - Kamloops Information No. 114736 - Z.P. (RCMP Officer involved in Holland investigation) (4 Counts)
 - Kamloops Information No. 114737 - T.L. - Provincial Crown counsel who initially had conduct of the prosecution against Ms. Holland and had conduct of the prosecution against Mr. Bryfogle for breach of probation (3 Counts)
- [26] Those four private informations relate to the Holland Kamloops matter, and the prosecution of Mr. Bryfogle for breach of probation. Among the allegations are: fabrication of evidence; that the AGBC directed Mr. Bryfogle's arrest; and, conspiracy to prosecute Mr. Bryfogle for an offence despite having knowledge that he had not committed the offence.
- [27] On March 20, 2024, Mr. Bryfogle swore the following three private informations:
- Kamloops Information No. 114739 - K.B. - Provincial Crown counsel who appeared on Mr. Bryfogle's proceedings (2 Counts)
 - Kamloops Information No. 114740 - V.Y. - Counsel for the Department of Justice - appeared on Mr. Bryfogle's summary conviction appeal proceedings (5 Counts)
 - Kamloops Information No. 114741 - M.C. - Provincial Crown counsel who had conduct of Mr. Bryfogle's summary conviction appeal (5 Counts)

- [28] Those three private informations appear to relate to Mr. Bryfogle's summary conviction appeal of his breach of probation conviction, and allege various offences related to the suppression or withholding of evidence, said to amount to criminal contempt or obstruction of justice.
- [29] On March 22, 2024, Mr. Bryfogle swore one private information:
- Kamloops Information No. 114742 - N.W. - former Deputy Regional Crown Counsel who appeared on the summary conviction appeal (4 Counts)
- [30] The allegations are similar to those in the informations sworn on March 20, 2024, and also include an allegation that Mr. W. "reneged" on a promise to provide disclosure of a particular hard drive to Mr. Bryfogle.
- [31] On April 19, 2024, Mr. Bryfogle swore two private informations:
- Kamloops Information No. 114756 - former Attorney General David Eby (6 Counts)
 - Kamloops Information No. 114757 - Attorney General Niki Sharma (3 Counts)
- [32] All but one of the charges on those private informations relate to allegations that the former and current Attorneys General are part of a criminal organization, or assisted others who were part of a criminal organization, which unlawfully conspired against Mr. Bryfogle during the criminal proceedings in which he was an accused. The sole exception is an allegation that former Attorney General Eby committed fraud by permitting the Ministry of the Attorney General to pay his legal expenses in relation to Mr. Bryfogle's Arizona proceedings.
- [33] On April 22, 2024, Mr. Bryfogle swore three private informations:
- Kamloops Information No. 114759 - Z.P. (RCMP officer involved in Holland investigation) (9 Counts)
 - Kamloops Information No. 114760 - M.C. - Provincial Crown counsel who had conduct of Mr. Bryfogle's summary conviction appeal (5 Counts)
 - Kamloops Information No. 114761 - T.L. - Provincial Crown counsel who initially had conduct of the prosecution against Ms. Holland and the prosecution of Mr. Bryfogle for breach of probation (9 Counts)
- [34] Those three private informations contain a panoply of allegations related to the prosecution of Mr. Bryfogle for breach of probation, including various conspiracy, criminal organization and obstruction of justice type charges. Also, the allegations against Z.P. and T.L. include fraud related to the payment of legal expenses by the Ministry of the Attorney General for the Arizona proceedings.

[35] On May 21, 2024, Deputy Regional Crown Counsel in Kamloops directed stays of proceedings on all of the aforementioned 13 private informations, by way of letters directed to the clerk of the Provincial Court.

[36] On October 25, 2024, Mr. Bryfogle filed the present application for prerogative relief, having been granted leave to do so by Holmes A.C.J. on October 15, 2024.

Issues and Analysis

[37] On this summary dismissal application, the AGBC bears the onus of persuading me that Mr. Bryfogle's certiorari application for review of the Crown decision to direct stays of proceedings of the 13 private informations, and other related relief, should not be permitted to proceed to a full hearing on its merits. I am persuaded that both bases advanced by the AGBC in support of her position have merit. Each of them could, and in my view should, lead to the summary dismissal of the certiorari application.

Screening of Mr. Bryfogle's Proposed Applications.

[38] Before setting out the legal framework, I should for completeness comment on the reason for the earlier direction of Holmes A.C.J., granting leave to Mr. Bryfogle to bring this certiorari application, referenced at para. 36 of these reasons.

[39] Mr. Bryfogle has been declared a vexatious litigant in the Superior Courts of B.C. Thus, Mr. Bryfogle may not initiate any civil proceedings without first obtaining leave. Orders to that effect have been extant in both the Supreme Court and Court of Appeal for many years. In the aforementioned Screening Decision, Holmes A.C.J. determined that one of the vexatious litigant orders pertaining to him was made pursuant to the inherent jurisdiction of the Supreme Court, and thus also applied to criminal proceedings. The order in question was made by then Associate Chief Justice Cullen in March, 2015, and remains in effect, requiring Mr. Bryfogle to obtain leave to initiate criminal proceedings in the Supreme Court.

[40] In *Holland v. British Columbia (Attorney General)*, 2020 BCCA 304, the Court of Appeal concluded that an application to review a Crown decision to direct a stay of proceedings of a private information was properly brought as a criminal proceeding, in the form of an application for certiorari, pursuant to the Supreme Court Criminal Rules. Accordingly, as mandated in Cullen A.C.J.'s order, Mr. Bryfogle required leave of the Court to bring this application.

[41] In the Screening Decision, Holmes A.C.J. denied leave to Mr. Bryfogle to prefer several direct indictments, and to seek mandamus against certain Crown counsel and the AGBC. Associate Chief Justice Holmes also set out a framework and procedure by which she would screen any future applications to initiate criminal proceedings in this Court brought by Mr. Bryfogle. It was on that basis that Holmes A.C.J. granted leave to Mr. Bryfogle to file this certiorari application. That decision was merely a procedural pre-screening mechanism, not a consideration of the merits of the application.

Legal Framework

- (a) Review of Crown decision to direct a stay of proceedings in relation to a private information
- [42] Under s. 504 of the Criminal Code, "any one" may lay an information, the term "any one" including a private citizen. Section 507.1 directs how a private informant seeks process, to commence the criminal prosecution and compel the accused to appear in court and answer to the charges on the information. To seek process, a private informant must appear before a Provincial Court Judge or "designated justice" (a "pre-enquete hearing"). The AGBC must be given notice of the hearing and has the right to participate in it: *Holland v. British Columbia (Attorney General)*, 2022 BCSC 613 at paras. 7-9.
- [43] Section 579(1) of the Criminal Code authorizes Crown counsel to direct a stay of a private information at any time after the information is laid, including before a pre-enquete hearing is held. Thus, swearing a private information does not give rise to an absolute entitlement to a process hearing: *Pereira v. British Columbia (Attorney General)*, 2023 BCCA 31 [Pereira BCCA] at para. 44.
- [44] A decision by Crown counsel to direct a stay of a private information is an exercise of core prosecutorial discretion and as such is not reviewable by the court absent an abuse of process, which has been described as Crown conduct that is "egregious", that "undermines the integrity of the justice system", or that evinces "flagrant impropriety", an "improper motive" or "bad faith": *Pereira BCCA* at para. 51.
- [45] An applicant who alleges that an exercise of prosecutorial discretion constitutes an abuse of process bears the onus to meet an initial evidentiary threshold to justify the court looking behind the Crown conduct. Bare allegations are insufficient to meet the threshold: *Nixon* at paras. 60-62; *Pereira BCCA* at para. 52.
- [46] This initial evidentiary onus on the applicant respects the presumption that Crown counsel exercises their prosecutorial discretion in good faith: *Pereira BCCA* at para. 52.
- (b) Haevischer test for summary dismissal of an application in criminal proceedings
- [47] As noted above, Mr. Bryfogle's certiorari application is criminal in nature. The court may dismiss an application in criminal proceedings if it meets the "manifestly frivolous" standard: *Haevischer* at para. 66. The standard "connotes the obvious necessity of failure". The frivolous nature of the application must be clear, or unmistakable on its face. It is a rigorous standard that allows judges to identify and dismiss applications that are bound to fail and would simply waste court time if granted a full hearing on the merits: *Haevischer* at paras. 71-72.
- [48] The applicant for summary dismissal bears the onus of showing the application meets the requisite standard: *Haevischer* at para. 90.

- [49] On a summary dismissal motion, the judge treats the facts in the underlying application as true and takes the applicant's arguments at their highest. The underlying application should explain its factual foundation and point to anticipated evidence that could establish the alleged facts. Where no such evidence exists, the judge can reject the factual allegation as manifestly frivolous. The judge can reject a suggested inference if there is no reasoning path to the proposed inference. Further, an application may be found to be manifestly frivolous where the remedy sought could never issue on the facts: *Haevischer* at paras. 83-86.
- [50] The *Haevischer* test applies to summary dismissal motions in criminal proceedings that are not otherwise subject to a legislated or judicial threshold: *Haevischer* at para. 80. The Nixon evidentiary threshold is an existing judicial threshold that applies in the context of an abuse of process claim involving allegations of prosecutorial misconduct.

Discussion

- (a) Mr. Bryfogle has not met the Nixon evidentiary threshold

- [51] As noted above, it is beyond doubt that the decision to direct a stay of proceedings is an exercise of core prosecutorial discretion, which may occur at any stage after a private information is sworn, even prior to a process hearing: *Pereira BCCA*, para. 44.
- [52] Before the court can embark on a review of the exercise of discretion, Mr. Bryfogle must discharge his onus to demonstrate some basis for his claim that there has been an abuse of process. He has not met that onus. Mr. Bryfogle makes bald assertions and allegations in that regard, but points to no evidence sufficient to meet the Nixon threshold.
- [53] There is absolutely no evidence of Crown misconduct or flagrant impropriety in the record before me, merely Mr. Bryfogle's unsubstantiated assertions of same. That being so, there is no justification for the court to intervene with respect to the Crown decision to stay the private informations, and thus, the certiorari application could not conceivably succeed.
- [54] Mr. Bryfogle alleges that there has been political interference in his case, apparently by both former Attorney General Eby and current Attorney General Sharma. Again, he has not pointed to any evidence that either of these individuals had anything to do with his criminal prosecution in Provincial Court for breach of probation. Mr. Bryfogle initiated contact with then Attorney General Eby, by sending an unsolicited email on May 1, 2018. That email was part of the basis for the charges of which Mr. Bryfogle was convicted. There is no evidence that the Attorney General took any interest in the charges or the subsequent proceedings.
- [55] There is a strong presumption in Canada that Crown counsel act in good faith, and independently from outside influences. In B.C., the Crown Counsel Act, R.S.B.C. 1996, c. 87 contains safeguards against political interference in all prosecutions. Section 5 of the Act requires that any directions in respect of a prosecution made by the AGBC must be in writing and published in the Gazette.

[56] In this matter, there is no evidence that the former or current AGBC made any Gazetted directions with respect to the Holland prosecution, the breach of probation charges against Mr. Bryfogle, or the 13 private informations.

[57] Finally, there is no evidence of disqualifying conflict on the part of Crown counsel who directed the stays of proceedings. As noted, Crown counsel are presumed to act impartially, and independent of the Attorney General. There can be no basis for the assertion that simply because Mr. Bryfogle has sworn an information naming the AGBC as an accused, a member of the B.C. Prosecution Service cannot direct a stay of proceedings.

(b) Mr. Bryfogle's application should be summarily dismissed based on the Haevischer test

[58] I also agree with the submission of the AGBC that, even if the Nixon evidentiary threshold does not apply, Mr. Bryfogle's application must nonetheless be summarily dismissed under the Haevischer test because it is manifestly frivolous and an obvious abuse of the court process.

[59] As discussed above, the complete lack of evidence of prosecutorial misconduct or flagrant impropriety in relation to the direction to stay the proceedings in relation to Mr. Bryfogle's private informations supports the conclusion that there is no basis for the Court to grant the remedy Mr. Bryfogle seeks, and therefore no basis upon which Mr. Bryfogle's application could succeed.

[60] Regarding the substance of the 13 private informations, Mr. Bryfogle has not pled any facts to support the assertions of criminal conduct he advances in support of the various proposed charges. It is clear from his oral submissions that Mr. Bryfogle envisages calling a considerable body of evidence at his certiorari application, if it is permitted to proceed. He says the criminal conduct on the part of various state actors will become clear once that evidence is presented. However, nothing in the affidavit material or submissions Mr. Bryfogle has filed thus far supports that contention.

[61] Many of the proposed counts in the informations are facially defective, and are not offences known to Canadian law. For example:

- Several counts allege "the indictable offence of criminal contempt of court" and invoke both s. 9 of the Code and s. 139(b), thus combining two separate offences.
- Various counts allege the inchoate offences of either counselling or conspiracy, without tying the conduct to a substantive offence. Those counts are clearly fatally defective.
- Similarly, several counts allege that the accused was an accessory after the fact, contrary to s. 463(b), but list no substantive offence.
- Many of the counts related to political officials allege offences in relation to a "criminal organization", without setting the substantive offence, or the "criminal organization" at issue.

- [62] There is also an overarching substantive issue with respect to many of the counts which relate to the initiation of criminal proceedings against Mr. Bryfogle in Provincial Court. For example, the private information sworn March 18, 2024, in respect of RCMP Officer T.M. contains four counts. All of those counts relate to the role played by Officer M. in pursuing the breach of probation charges against Mr. Bryfogle, and arresting him for that conduct. Count three appears to be an allegation of malicious prosecution and/or wrongful arrest. It alleges that Officer M. knew that Mr. Bryfogle had not committed an offence. Mr. Bryfogle has since been convicted of that offence, and his appeal dismissed. Thus, he is conclusively deemed to have committed the offence. There can be no suggestion that he did not commit that offence.
- [63] Moreover, the remaining three counts on that private information all refer to alleged rulings I made, as the presiding judge at the Holland criminal trial in Williams Lake, at the time I issued a subpoena for Mr. Bryfogle, permitting him to attend court and testify in those proceedings. Those counts state that "Justice Tamman" (sic) "deemed" an abuse of process to have occurred, or "previously ruled" that an offence had not occurred. Obviously, I did no such thing. The issuance of a subpoena cannot equate with that type of judicial determination. The issue of whether the state committed an abuse of process in the course of its investigation and prosecution of Mr. Bryfogle was one that Mr. Bryfogle needed to litigate at his own criminal trial in Provincial Court. Any suggestion that the subpoena and accompanying judicial rulings provided an excuse for Mr. Bryfogle's conduct on May 1, 2018, was conclusively determined in those proceedings.
- [64] Each of the other private informations sworn March 18, 2024, contain counts which proceed on a similarly, and fatally, flawed legal premise.
- [65] In the result, for many of the counts on the various private informations, it is readily apparent that "there is no reasoning path to the proposed inference", and thus the application should be summarily dismissed as manifestly frivolous: Haevischer, at para. 84.
- [66] Moreover, it is equally readily apparent that the proposed criminal charges are not being advanced for a legitimate purpose, and thus the private informations are an abuse of the Court's process.
- [67] As noted, it is clear that Mr. Bryfogle in part wishes to relitigate issues which were conclusively decided against him in the criminal proceedings in which he was an accused.
- [68] It is also clear that Mr. Bryfogle wishes to pursue a personal agenda to criminally prosecute the main state actors, police and Crown counsel, who played a role in prosecuting him for breach of probation. The fact that he attempts to cast his net so wide as to capture the Attorneys General is additional evidence of an improper motive for the proposed charges.

- [69] I also note that the 13 private informations make the same allegations as the direct indictments which Holmes A.C.J. declined to permit Mr. Bryfogle to prefer in the Screening Decision. There, at paras. 44-55, Holmes A.C.J. found that to permit the direct indictments to proceed would be an abuse of the Court's process.
- [70] Associate Justice Holmes also found that:
- Mr. Bryfogle was seeking to raise issues related to police and Crown conduct that were similar to those he raised in his own trial, and were thus a collateral attack on that trial and appeal process; and
 - Mr. Bryfogle had preferred the proposed direct indictments "in the pursuit of a vendetta," seeking to retaliate against various individuals who played a role in his arrest and prosecution.
- [71] I echo those findings in respect of the present certiorari application.
- [72] Finally, I consider the events which occurred at the conclusion of this hearing on May 2, 2025, as powerful evidence of an improper motive on the part of Mr. Bryfogle.
- [73] Almost immediately after the application concluded, I was asked by court staff to reconvene court, which I did. At that time, counsel for the AGBC advised me that Mr. Bryfogle had evinced an intention to seek to prefer a direct indictment with charges against her, related to her submissions in court. Mr. Bryfogle confirmed his intention in that regard. I advised Mr. Bryfogle that I would receive any additional related material he wished to file.
- [74] On May 21, 2025, Mr. Bryfogle filed and delivered a letter and accompanying submission, setting out the basis for his proposed charges against AGBC counsel at this hearing. The allegations set out there are entirely nonsensical, and devoid of any legal merit. At its core, Mr. Bryfogle's submission is that counsel for the AGBC has always been in a disqualifying conflict, and moreover, has deliberately made submissions based on facts she knew to be false. There is absolutely no basis for either of those assertions. Moreover, Mr. Bryfogle's basic premise, that submissions made in court could potentially amount to criminal conduct, is fatally flawed. That misconception on his part is either wilful or is emblematic of a gross misunderstanding of the type of conduct which could lead to criminal charges. I tend to think it is the former. Mr. Bryfogle seems intent on attempting to prosecute any state actor who he views as occupying an adversarial legal position to his own.
- [75] At para. 39 of his submission, Mr. Bryfogle makes the outrageous allegation that Holmes A.C.J. aided and abetted the criminal conduct of Attorneys General Eby and Sharma in her earlier ruling. That, too, is powerful evidence of an improper motive on the part of Mr. Bryfogle in pursuing the private informations.
- [76] Considered cumulatively, there is overwhelming evidence that the 13 private informations were sworn for an improper purpose, are an attempt to abuse the Court's process, and are, accordingly manifestly frivolous.

Conclusion

[77] For the foregoing reasons, I grant the application of the AGBC.

[78] Mr. Bryfogle has failed to meet the required evidentiary threshold for an abuse of process, which would permit the Court to review the exercise of Crown prosecutorial discretion as sought in his certiorari application.

[79] If that evidentiary standard does not apply, the certiorari application must nonetheless be dismissed because it is manifestly frivolous and vexatious.

[80] The application for certiorari and related mandamus relief is summarily dismissed.

"Tammen J."

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