

CANADA / JUDGMENT

R. v. Turcotte

2013 BCSC 1664

COURT

Supreme Court of British Columbia

DECIDED

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IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Turcotte,

2013 BCSC 1664

Date: 20130726

Docket: 39110

Registry: Penticton

Regina

v.

Andre Joseph Conrad Turcotte

Before: The Honourable Mr. Justice Butler

Oral Reasons for Judgment

Counsel for the Crown:

William J. Hilderman

Counsel for the Accused:

G. Jack Harris, Q.C.

Place and Date of Trial:

Penticton, B.C.

July 23 and 24, 2013

Place and Date of Judgment:

Penticton, B.C.

July 26, 2013

- [1] THE COURT: Corporal Andre Turcotte, a member of the RCMP since 1996, is charged with perjury arising from a statement he made under oath at a trial on January 28, 2010. The statement which the Crown alleges was knowingly false is set out in the single-count indictment. The circumstances leading up to the making of the statement are complicated and require some explanation.
- [2] On November 29, 2007, when Corporal Turcotte was off duty, he was involved in a confrontation with Mr. Ian Scott Campbell. The details of that incident were not explored in the evidence before me. It is not contentious, however, that on July 10, 2008, an information was sworn charging Corporal Turcotte with assault causing bodily harm arising from that confrontation. On March 1, 2010, Corporal Turcotte was found guilty of that assault following a four or five day trial.
- [3] The assault occurred at night. Mr. Campbell did not know his assailant and did not see him clearly. As a result, in the months after the incident, he could not recognize or identify Corporal Turcotte. The RCMP began an investigation into the assault shortly after it occurred. Corporal Turcotte was a suspect. As the incident occurred in Summerland and he was an officer at the Summerland Detachment, he was transferred to Penticton.
- [4] Corporal Turcotte was uncomfortable with this transfer and was of the view that he should have been transferred to another location because Mr. Campbell resided in Penticton. As it turned out, there was good reason for his concern. Corporal Turcotte had five or six interactions with Mr. Campbell in the six weeks between January 8 and February 24, 2008, when he was assigned to the Penticton Detachment. Unlike Mr. Campbell, Corporal Turcotte was able to recognize and identify Mr. Campbell as the complainant for the assault allegation. In these circumstances, he felt uncomfortable whenever he had to interact with Mr. Campbell.
- [5] On January 12, 2008, in an unrelated incident, Mr. Campbell was arrested in Penticton by Constable Noel for driving a vehicle while prohibited from doing so and for driving a vehicle in contravention of an undertaking. He was released on a promise to appear, which required him to attend court on February 25, 2008, and also required him to attend the RCMP detachment to be fingerprinted on February 18, 2008.
- [6] There is no question that Mr. Campbell did attend at the detachment on February 18 and that his fingerprints were taken by Constable Andrew Campbell on that date. The C-216 identification document confirms that Mr. Campbell was fingerprinted by Constable Andrew Campbell on February 18, 2008.

- [7] It is also not contentious that the fingerprinting was done during the day and that Corporal Turcotte did not work the day shift on February 18, 2008. He was the watch commander for the night shift on February 18, but that did not start until seven in the evening.
- [8] The trial of the assault charge arising from the incident between Mr. Campbell and Corporal Turcotte started in July 2009. Mr. Campbell, as the complainant, was subjected to extensive cross-examination, including examination regarding incidents where he was stopped or arrested by police, even if those incidents did not result in charges or convictions. It was apparent to Crown counsel at trial that the information used by defence counsel to cross-examine Mr. Campbell about those incidents could only have come from one of the police databases. This would have been of interest to senior RCMP supervisors because information on the police database can only be accessed for investigative or duty-related purposes.
- [9] The assault trial was adjourned for six months, and during that interval on October 6, 2009, an internal RCMP code of conduct investigation was commenced against Corporal Turcotte, and a notice of that investigation was served on him. The notice included an allegation that between November 13, 2007 and February 17, 2008, Corporal Turcotte inappropriately accessed information from the RCMP electronic databases to use for non-duty related purposes. It also included an allegation that he disclosed such information to unauthorized persons. These allegations were based on the theory that Corporal Turcotte accessed information from the database about Mr. Campbell and Chantal Meilleur, the woman who was in the car with him on November 29, 2007, and did so for personal purposes; that is, to use it to defend himself on what was, at the time, a possible assault charge.
- [10] In addition, the allegation was based on the theory that the information Corporal Turcotte obtained was given by him to his defence counsel sometime before July 2009 when the cross-examination of Mr. Campbell took place.
- [11] I turn now to the allegedly false statement made by Corporal Turcotte on January 28, 2010. By the time the trial recommenced, it was known that Corporal Turcotte had accessed the RCMP PIRS database seeking to obtain information regarding Mr. Campbell and Ms. Meilleur on four occasions: February 2, 9, 16 and 17, 2008.

[12] When Corporal Turcotte was cross-examined, he was asked:

Okay. I understand you ran seven PIRS occurrence queries of historical police files involving Mr. Campbell. What investigation were you doing where his historical police files would have been relevant?

[13] His response to that question, which forms the basis of the perjury charge is set out in the indictment:

I know on one occasion Mr. Campbell came in to provide his prints. He came in to -- I was the watch commander at the time. He came to the front desk. I believe I was the only member in the office at the time. The front counter lady came over to me, said she had a client at the front desk

who was in to provide his fingerprints. Gave me a -- some sort of identification of some sort. I had to pull out the details and the reason why he was present to provide his prints. Did some search and I got someone else to take his prints, because I was not going to take his prints. But I did the workup on the client I was dealing with at the time.

Position of the Crown

- [14] The Crown says that it has proved beyond a reasonable doubt the elements of the perjury charge. Corporal Turcotte's statement was made under oath. He was asked by Crown counsel to explain the investigation he was doing, which required him to conduct the PIRS searches. The Crown says that his response to that question was plainly false. The evidence establishes that on February 18, when Mr. Campbell came in to give his fingerprints, Sergeant Jason Lucash was the watch commander and Corporal Turcotte was not on duty. Contrary to that known fact, Corporal Turcotte stated that he was present at the detachment and was the watch commander when Mr. Campbell came in to give his fingerprints.
- [15] The Crown says that the evidence establishes beyond a reasonable doubt that the statement was knowingly false and was made with the intent to mislead the court. The Crown says that Corporal Turcotte's motives for lying about the fingerprinting incident relate to the searches on the PIRS database. By the time the trial recommenced, Corporal Turcotte knew that he was under investigation for improperly accessing the database. Accordingly, the Crown contends he decided to provide a valid reason for doing so. The question and answer relied on by the Crown is part of a lengthy cross-examination about Corporal Turcotte's interactions with Mr. Campbell and Ms. Meilleur and his reasons for searching the database.
- [16] The Crown says that Corporal Turcotte was placed in a position where he felt he had to lie about the database searches because his credibility was an important issue at the assault trial. If it appeared he was improperly accessing the database, this would impact on his credibility at trial. Further, the Crown says that Corporal Turcotte had to provide some explanation to protect himself from the allegations made against him which were the subject of the code of conduct investigation.
- [17] The Crown says that the impugned statement includes Corporal Turcotte's assertion that he "did some search" and a "workup on the client", meaning Mr. Campbell, when he came in for the fingerprinting. The Crown maintains that these statements were made in response to the question about the reason for the PIRS searches, and so Corporal Turcotte was stating that he did a PIRS search when Mr. Campbell came in for the fingerprinting. As indicated, Corporal Turcotte was not present on February 18 and could not have done any search on that date.
- [18] The Crown maintains that Corporal Turcotte intentionally lied about being present when Mr. Campbell came in for fingerprinting in order to explain his searches of the PIRS database.

- [19] The Crown says I should reject the evidence given by Corporal Turcotte at the present trial. The Crown submits it is also false and an extension of the false statements made at the assault trial. The Crown says there is no evidence to support Corporal Turcotte's assertion that Mr. Campbell came in on another date to ask that his fingerprints be taken. Most significantly, the Crown notes that Mr. Campbell denies coming in on any other occasion to provide fingerprints. The Crown says I should accept Mr. Campbell's evidence, which is corroborated by that of Constable Andrew Campbell and the documentation which shows that the fingerprints were taken on February 18, 2008.

Position of the Defence

- [20] The defence says that the Crown has failed to prove any of the elements of the offence of perjury. Corporal Turcotte maintains that the statements he made under oath at the assault trial were true and that he had no intent to mislead the court in any way. Indeed, on this trial he repeated the evidence he gave at the earlier trial and swore to the truth of those assertions.
- [21] The defence notes that nowhere in the impugned statement does Corporal Turcotte suggest that his involvement with Mr. Campbell regarding fingerprints occurred on February 18, 2008. Corporal Turcotte maintains that Mr. Campbell attended to give his fingerprints, as required by the promise to appear, on an earlier date, sometime between January 12 and February 18. He cannot recall the date. He says that he was asked by Ms. Pounder, the civilian employee at the front desk of the detachment, to take a client's fingerprints. He was going to do so, but when he saw that the client was Mr. Campbell, he believed it was inappropriate for him to carry out that task and he was not prepared to do so.
- [22] In order to assist other officers, he was prepared to search for and pull out the file created for the charges for which Mr. Campbell was to be fingerprinted. He did so, by which time there were two other officers in the office, Constables Klatt and Blazina. He asked them or one of them to take the fingerprints and immediately left the detachment as he did not want to be present with Mr. Campbell.
- [23] When Corporal Turcotte gave evidence at the first trial, he believed that the fingerprints were taken on the occasion when he asked two of the officers on his watch to do so. He now realizes, given that the date of the fingerprinting was February 18 and that the fingerprints were taken by Constable Andrew Campbell, who was not on his watch, that his involvement must have taken place sometime before February 18.
- [24] The defence says there is no evidence that contradicts or is inconsistent with Corporal Turcotte's assertion that Mr. Campbell came in earlier for his fingerprints, other than Mr. Campbell's statement that he came in only once. The defence argues that Mr. Campbell is not a credible witness and that his evidence has been shown to be unreliable. The defence says Mr. Campbell's evidence should be disregarded entirely and that I should accept the evidence of Corporal Turcotte.

- [25] Alternatively, the defence says that even if I do not accept the evidence of Corporal Turcotte, at the very least his evidence raises a reasonable doubt as a result of which he should be acquitted. The defence says that at the very least, an examination of the whole of the evidence should leave me with a reasonable doubt as to whether the impugned statement is false.
- [26] The defence says there is an additional reason why the charge should be dismissed. Section 133 of the Criminal Code requires corroboration if the evidence in support of the perjury charge comes from only one witness. The defence says that section applies here, as Mr. Campbell is the only witness who says that he did not come into the detachment to give fingerprints on a date prior to February 18. The defence says there is no corroboration of that fact.
- [27] On this issue, the defence notes that Mr. Campbell was in the Penticton Detachment in the relevant time period approximately four to six times, and says that it is likely that he asked to be fingerprinted on one of those occasions. The defence also notes that it is the practice of the Penticton Detachment to try to accommodate someone who comes in early to have their fingerprints taken.
- [28] The defence says that the Crown failed to call as witnesses, Ms. Pounder, the front desk employee, and Constables Blazina or Klatt, the two officers who Corporal Turcotte asked to take the fingerprints on that occasion. The defence says that in the absence of those witnesses, there is no possible corroboration.

Provisions of the Criminal Code

[29] The relevant provisions of the Criminal Code are as follows:

131. (1) Subject to subsection (3), every one commits perjury who, with intent to mislead, makes before a person who is authorized by law to permit it to be made before him a false statement under oath . . . knowing that the statement is false.
132. Every one who commits perjury is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.
133. No person shall be convicted of an offence under section 132 on the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

Law

- [30] The law regarding perjury is not contentious. The elements of the offence are set out in *Calder v. The Queen*, [1960] S.C.R. 892: (1) the evidence particularized in the indictment was given under oath; (2) the evidence was false; (3) the accused knew the evidence to be false at the time it was given; and (4) the accused intended to mislead the court.

- [31] The false evidence required for a perjury conviction need not be on a material point in the proceeding. It is sufficient if it is knowingly false and was made with the intent to mislead. It is possible to infer the intent to mislead the court if there is sufficient evidence to support a finding that the accused knew the evidence was false. However, knowing falsification will not always support an intent to mislead: *Calder and Wolf v. The Queen*, [1975] 2 S.C.R. 107.
- [32] Finally, I should note that I have taken into account the comments of Wein J. at para. 3 in *R. v. Buzeta*, [2003] O.J. No. 1547 (S.C.J.). That case involved false statements made by a Canada Customs inspector. Justice Wein emphasized the significance of a perjury charge involving an official of government charged with the investigation of serious offences. She noted that even where the evidence does not relate to a critical issue at trial, false testimony by a law enforcement officer has "the potential to undermine the administration of justice".

Issue

- [33] It is evident from my outline of the positions of the parties that the critical issue in this case is whether the Crown has proved beyond a reasonable doubt that the particularized statement is false. In that regard, the Crown focuses on Corporal Turcotte's assertion that he was the watch commander when Mr. Campbell came in to give his fingerprints. The Crown says that if I conclude the statement of Corporal Turcotte was false, then it must have been a fabrication, an intentionally false statement from which I can infer the intent to mislead.
- [34] The defence does not take serious issue with this approach. Rather, the defence says I must conclude that the statement was true or at the very least must find that the Crown has not shown it to be false beyond a reasonable doubt. If I arrive at either of these conclusions, the question of intent does not arise.
- [35] In the circumstances of the case and in light of the positions of the parties, the issue can be stated as follows: has the Crown established, beyond a reasonable doubt, that Corporal Turcotte made a knowingly false statement when he said he was the watch commander when Mr. Campbell came to the front desk of the Penticton Detachment to provide his fingerprints?

Analysis

- [36] The most important evidence which touches on this issue is that of Corporal Turcotte. In order to assess his credibility, I must examine all of the evidence that touches on the assertion that Mr. Campbell came into the detachment and attempted unsuccessfully to provide his fingerprints on a date prior to February 18. Mr. Campbell's statement that he only came to the Penticton Detachment to be fingerprinted on one occasion, on February 18 when the task was accomplished, is also critical to this issue, because it directly contradicts Corporal Turcotte's assertion.

- [37] In these circumstances, I must take the approach to assessment of credibility set out in *R. v. W. (D.)*, [1991] 1 S.C.R. 742. In other words, I must consider whether I believe the evidence of Corporal Turcotte about the attempt to give fingerprints prior to February 18. If I believe that evidence, then I must acquit him. If I do not believe his evidence about the prior encounter at the detachment, I must still decide whether I am left in a reasonable doubt by his evidence, and if I am, I must acquit. Finally, even if I am not in doubt about his evidence, I must consider all of the evidence to determine if I am satisfied that the Crown has proved beyond a reasonable doubt that Corporal Turcotte's statement at the first trial was false.
- [38] When I consider all of the evidence, I find that I am left in some doubt as to whether to believe Corporal Turcotte's assertion that he was watch commander on an occasion when Mr. Campbell attended to provide his fingerprints. However, I have no hesitation in arriving at the conclusion that there is a reasonable possibility that such an encounter occurred.
- [39] Accordingly, the Crown's case fails on the second branch of *W. (D.)*. I have a reasonable doubt as to whether the statement made by Corporal Turcotte on January 28, 2009, at the assault trial was false.
- [40] I will set out my analysis of the evidence which has led to this conclusion. To do that, I have divided my analysis into four sections: first of all, assessment of Corporal Turcotte's credibility; second, assessment of Mr. Campbell's credibility; third, consideration of the surrounding relevant circumstances; and finally, examination of the context of the impugned statement from the trial transcript.
- [41] Given the decision I have arrived at, I need not consider the defence's alternative argument regarding corroboration.

Credibility of Corporal Turcotte

- [42] I have already set out the substance of Corporal Turcotte's evidence. I will not expand on that, even though his explanation as to what occurred on the date when he was asked by the front counter attendant to take Mr. Campbell's fingerprints was quite detailed. It was much more detailed than the brief description contained in the impugned statement.
- [43] Corporal Turcotte was questioned in detail at this trial about the additional information he provided, and he responded directly and emphatically to the Crown's questions. He did not waver about what he did or the reasons for doing so. He did not contradict himself. Indeed, Corporal Turcotte's evidence at this trial was consistent with what he said at the prior trial. In other words, there is nothing in the impugned statement, or indeed in the portions of the transcript that I was asked to review for context, that obviously contradicts the evidence he gave at this trial.

- [44] This consistency provides some support for his version of events. However, as I will explain, the consistency is only evident once I take into account the additional evidence Corporal Turcotte provided at the present trial. For that reason, I have some difficulty with Corporal Turcotte's evidence.
- [45] Corporal Turcotte's explanation as to what the various parts of the impugned statement mean seems somewhat strained and requires a good deal of information that was not offered at the first trial. There are two prime examples of this. First, his explanation as to what he meant by "pulling out the details" and doing "some search" and doing "the workup" on the client does not, on a plain reading, appear to refer to a task as simple as pulling out a file folder. If all he did was pull a file, why did he not say just that? His statement appears, on first blush, to refer to something more, such as a database search.
- [46] Second, in the impugned statement, Corporal Turcotte says, "I believe I was the only member in the office at the time." He does not say anything about Constables Klatt and Blazina. He does not explain, as he did at this trial, that those constables came into the office in the few minutes after he was first asked to do the fingerprints. Like the explanation about the search and file workup, this is a very convenient explanation.
- [47] As a result, when I examine Corporal Turcotte's evidence on its own, I cannot conclude that I believe his evidence.

Credibility of Mr. Campbell

- [48] In chief, Mr. Campbell indicated that he came in to give his fingerprints on February 18, 2008, as he was instructed to do on the promise to appear. He was shown the document and acknowledged receipt of it and acknowledged his attendance at the detachment on that date. He said he did not go to the detachment on any other date to give his fingerprints. However, as I have already indicated, he did state that he was in the detachment on a number of occasions in that time period.
- [49] The defence strenuously attacked Mr. Campbell's credibility. He was examined at length regarding encounters with the police or court system between January 12, 2007, when he pled guilty to a driving while impaired charge, and July 7, 2009. He was asked for his recollection as to what occurred on 14 specific dates. Many of the events were or should have been significant for Mr. Campbell and should have been memorable. He had almost no ability to match up the events in his life with these dates. He could not recall guilty pleas, when he was charged with offences, and when he missed court appearances. It was evident that Mr. Campbell had little or no respect for the police or the court system. I concluded at the end of his evidence that I could have no confidence in his ability to recall events or the timing of them.

- [50] Mr. Campbell's demeanour in the witness stand also requires some comment. He was smug and somewhat defiant. He was casual and offhand when responding to questions in cross-examination. The overall impression created by both the substance of his responses and his demeanour was that he simply did not care about the veracity or completeness of his evidence.
- [51] I conclude that all I can take from Mr. Campbell's evidence is that he attended on February 18, 2008, and was fingerprinted at that time. I also accept that he attended at the detachment in Penticton on four to six other occasions in the time period. While he does not recall asking to have his fingerprints taken on a date prior to February 18, I cannot give any weight to his assertion. His recollection regarding police and court involvement was marked by disregard and disdain. He had little or no recollection of events, unless he was presented with a document that showed his involvement or attendance.
- [52] In summary, Mr. Campbell's evidence does not preclude the possibility that he attended earlier at the detachment to provide fingerprints, as described by Corporal Turcotte.

Surrounding Circumstances

- [53] All of the police officers who testified were in agreement as to how the Penticton Detachment dealt with fingerprinting of individuals charged with offences. Often the fingerprints were taken at the time of the arrest, but if the fingerprints were to be provided pursuant to a promise to appear, the accused could either appear on the date specified or, if he chose to do so, he could attend earlier to get the prints taken. If someone appeared on the date specified, the prints would be taken on that date. If someone decided to come before the prescribed date, the officers present at the detachment would try to accommodate the individual if there was someone available who could spare the time to take the fingerprints.
- [54] If the officers were too busy to accommodate the individual, he would be told that it could not be done and that he should come back later, but in any event, on or before the date set out in the promise to appear.
- [55] Sergeant Lucash, Constables Campbell and Noel, and Corporal Turcotte all agreed that this was the procedure. I have concluded from their evidence that it was not unusual for individuals to come in early to be fingerprinted. When that happened, it was also not unusual for the individual to be sent away if the officers were occupied with other tasks.
- [56] In the impugned statement, Corporal Turcotte indicated that he was asked by "the front counter lady" to take a client's fingerprints. The detachment had three civilian employees who worked at the front counter. They only did so during the week. Two of those employees were men and one was a woman, Ms. Pounder. Ms. Pounder was not working on February 18, but the Crown led no evidence as to when she was working and whether her shifts coincided with Corporal Turcotte's shifts.

- [57] Corporal Turcotte said at this trial that the search and the workup on the client that he was referring to in the impugned statement was not a computer search but a file search. The file which relates to the fingerprinting in question was produced at trial through Constable Noel. It is a hard copy, paper file. Constable Noel indicated that all of the detachment files at the time were kept on a series of shelves that were easily accessible to the officers. Corporal Turcotte, like any other officer, could have pulled the file for someone who showed up for fingerprinting.
- [58] In addition to the evidence regarding surrounding circumstances, as I have already indicated, there is no doubt that Mr. Campbell was in the detachment on a number of occasions. Corporal Turcotte saw him in the detachment twice. Mr. Campbell said he was in to see Sergeant Harrington on three or four occasions, and that he may have gone in on days when Sergeant Harrington was not present. He also said there was usually a man at the front desk when he went in, but agreed he had seen a woman at the front desk.
- [59] When I consider all of these surrounding circumstances, I find that they are consistent with Corporal Turcotte's impugned statement. While these circumstances do not directly support his assertion that Mr. Campbell came in early to provide his fingerprints, this evidence supports the defence claim that the events could have occurred as stated by Corporal Turcotte.

Context of the Impugned Statement

- [60] Finally, I turn to the impugned statement. I was invited by both counsel to examine the surrounding questions and answers in the transcript of January 28, 2010. The Crown and the defence have very different views as to what the context shows. Corporal Turcotte says that his impugned statement was not a direct answer to the preceding question, but was a continuation of the lengthy discussion about his numerous encounters with Mr. Campbell and Ms. Meilleur while he was in Penticton, as well as an explanation as to why he would access the PIRS database for duty-related purposes. The Crown says that an examination of the context shows that the impugned statement was a direct answer to a clear question and that the answer must be false.
- [61] There is some merit to both of these positions. I have reviewed the transcript from pages 84 through 88. Corporal Turcotte is correct in stating that the questions and answers all relate to his six encounters with Mr. Campbell and Ms. Meilleur following the assault. This questioning was done to test Corporal Turcotte's credibility with regard to the assertion that he accessed the database for duty purposes. By January 28, 2010, it was known to all that he had accessed that database on the four dates I have outlined, all of which were on Saturdays or Sundays in February.

- [62] Corporal Turcotte does describe all of the encounters with Mr. Campbell, and the impugned answer is the only one that details the encounter when Mr. Campbell came in for fingerprinting. Accordingly, there is some merit to Corporal Turcotte's assertions. He may have referred to that incident to complete his listing of all of the encounters he had with Mr. Campbell and Ms. Meilleur.
- [63] On the other hand, the question was direct and quite narrow. On a plain reading of the transcript, the answer given by Corporal Turcotte seems to be giving an explanation for why he was doing historical searches. If that is the case, then the search referred to and the workup on the client that he refers to should relate to computer searches of the database.
- [64] I must conclude, however, that the context of the impugned statement does not provide a great deal of support for the Crown's case. The explanation given by Corporal Turcotte about the reason for his answer has some merit. Further, by January 28, 2010, it was known to all that the searches of the databases took place on the weekends. The encounter described by Corporal Turcotte in the impugned answer had to have taken place on a weekday. This is because there was a female civilian staff member at the front desk who asked him to take the fingerprints. It makes no sense for Corporal Turcotte to fabricate a weekday encounter to explain searches which took place on the weekends.
- [65] One of the shortcomings of the transcript for present purposes is that there was no exploration by the cross-examiner about the date of Corporal Turcotte's encounter with Mr. Campbell. There is nothing in the transcript which supports the Crown's position that he was referring to an encounter of February 18 as the encounter described by Corporal Turcotte was not examined in any detail in that examination.
- [66] In summary, an examination of the transcript provides some support for Corporal Turcotte's explanation as to the meaning and import of the impugned statement.
- [67] That concludes my review of the categories of evidence. As I have already explained, after an examination of all of the evidence, I am left in some doubt as to whether to believe the evidence of Corporal Turcotte about Mr. Campbell's attendance to provide his fingerprints on a date prior to February 18, 2008. However, I have no hesitation in concluding that the evidence has established a realistic possibility that such an encounter did take place.
- [68] Accordingly, the Crown has failed to prove beyond a reasonable doubt that the impugned statement was false. I find Corporal Turcotte not guilty.

"Butler J."

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