CITATION: R. v. McClintic 2010 ONSC 2944
COURT FILE NO. 49/09
DATE: 2010-05-19
ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

HER MAJESTY THE QUEEN
Applicant
and –
TERRI-LYNNE RUTH McCLINTIC

Accused /Respondent
- and –
MICHAEL THOMAS CHRISTOPER STEPHEN RAFFERTY
Applicant/Intervenor
- and –
SUN MEDIA CORPORATION, CANADIAN BROADCASTING CORPORATION, GLOBE AND MAIL NEWSPAPER (A DIVISION OF CTVGLOBEMEDIA PUBLISHING INC.), CTV TELEVISION INC. (A DIVISION OF CTVGLOBEMEDIA INC.), TORONTO STAR NEWSPAPERS LIMITED, and CANWEST NEWS SERVICE ("the Media Coalition")
Respondents/Intervenors

REASONS FOR ORDER

RELEASED by Mr. Justice D. R. McDermid May 19, 2009.

2010 ONSC 2944 (CanLII)

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COURT FILE NO.: 49/09
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ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:	
HER MAJESTY THE QUEEN	**G. Beasley and M. Carnegie for the Crown, Applicant.**
Applicant	
and –	
TERRI-LYNNE RUTH McCLINTIC	**J. LeRoy, for Terri-Lynne Ruth McClintic, the Accused/Respondent.**
Accused /Respondent	
- and –	
MICHAEL THOMAS CHRISTOPER STEPHEN RAFFERTY	**D. Derstine, for Michael Rafferty, Applicant/Intervenor**
Applicant/Intervenor	
- and –	
SUN MEDIA CORPORATION, CANADIAN BROADCASTING CORPORATION, GLOBE AND MAIL NEWSPAPER (A DIVISION OF CTVGLOBEMEDIA PUBLISHING INC.), CTV TELEVISION INC. (A DIVISION OF CTVGLOBEMEDIA INC.), TORONTO STAR NEWSPAPERS LIMITED, and CANWEST NEWS SERVICE ("the Media Coalition")	**I. A. MacKinnon, for the Media Coalition, Respondents/Intervenors**
Respondents/Intervenors	

HEARD: May 18, 2010 at Woodstock

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REASONS FOR ORDER

McDERMID, J.:

Proceeding on April, 30, 2010

[1] On April 30, 2010, Terri Lynn McClintic pleaded guilty to and was convicted of the first-degree murder of Victoria Elizabeth Stafford on April 8, 2009 based on an Agreed Statement of Facts and was sentenced to imprisonment for life. Counsel for the Crown and the offender agreed that there were several bases of criminal liability to support the plea of guilty to first degree murder but that the primary one was that Victoria Elizabeth Stafford's murder took place during the commission of the offence of kidnapping and forcible confinement as provided for by s. 231(5) (e) of the Criminal Code. Because the offence carries a mandatory penalty, counsel made no submissions about the sentence and I gave no reasons other than to note that the sentence was mandatory. The Crown withdrew the charge of kidnapping.

[2] Having read the factums submitted on behalf of the Crown, Mr. Rafferty, and the Media Coalition, I ordered a total publication ban in order to permit a full argument on the issues that were raised. I granted Mr. Derstine and Mr. MacKinnon intervenor status. I then fixed May 18th and 19th to hear argument about what information, if any, the media should be permitted to publish or broadcast, in light of the fact that Michael Rafferty has been charged in a separate indictment with the same offence and is scheduled to commence a preliminary inquiry on June 21, 2010.

[3] On April 30, I stated the following in open court:

> On the one hand, courts in this country are open and the public has a right to know what goes on in them, as reported by the media. On the other hand, in circumstances such as these, a concern is raised with respect to the impact upon the fair trial rights of Mr. Rafferty of permitting details of this proceeding to be published before counsel have had an opportunity to make full submissions.
>
> These competing rights must be balanced and a publication ban should only be granted when:
>
> > such a ban is necessary in order to prevent a real and substantial risk to the fairness of the trial, because reasonably available alternative measures will not prevent the risk, and
> >
> > the salutary effects of the publication ban outweigh the deleterious effects to the free expression of those affected by the ban.
>
> Obviously, if there is no publication ban ordered today the media are free to publish full details of this proceeding. Ms. McClintic wishes to proceed today and should be permitted to do so. Unfortunately, there has not been

time to hear full argument from counsel with respect to the publication ban.

Accordingly, I am satisfied that it is necessary for the proper administration of justice to order a total publication ban relating to this proceeding including the fact that it has taken place, on a *temporary* basis until further order of the court. For clarification, this means that no one shall publish or broadcast any information with respect to this proceeding including the fact that it has been held. This includes the dissemination of any information relating to this proceeding or the fact that it has been held by publishing any such information on the Internet in any manner whatsoever. This order is *temporary* but shall continue until further order of the court.

I am also satisfied that in the circumstances it is necessary for the proper administration of justice to order that all exhibits entered in this proceeding shall be sealed until further order of the court.

At the end of the proceeding today, I will fix a date upon which counsel may argue fully whether the publication ban should be rescinded or varied and, if the latter to what degree, prior to the completion of Mr. Rafferty's trial.

The Basic Positions of the Parties

[4] I have now had the benefit of full oral argument from all interested counsel, supported by their references to case law and factums. Their basic positions are as follows:

- Mr. Derstine submits that the total publication ban should continue until Mr. Rafferty's trial has concluded.
- Mr. McKinnon submits that there should be no publication ban at all.
- Mr. Beasley submits there should be a limited ban that permits the publication of the fact of the plea, the sentence imposed, the victim impact statements, an edited version of the facts read in to support the plea, and an edited version of Ms. McClintic's statement before being sentenced, but not the circumstances surrounding the murder.
- Ms. LeRoy submits it is appropriate that the public should know Ms. McClintic has pleaded guilty and been sentenced on the charge of first degree murder to imprisonment for life.

The Test to be Applied

[5] Although the common law emphasized the right to a fair trial over the free expression interests of those affected by a publication ban, that rule has been altered by the

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passage of the *Charter*. Where, as here, there is a competition between freedom of the press as guaranteed by s. 2 (b) of the *Charter* and the rights guaranteed by ss. 7 and 11 (d) of the *Charter*, the competing rights must be balanced and a publication ban should be granted *only* when:

> a) such a ban is necessary in order to prevent a real and substantial risk to the fairness of the trial, because reasonably available alternative measures will not prevent the risk, and
>
> b) the salutary effects of the publication ban outweigh the deleterious effects to the free expression of those affected by the ban.[1]

[6] In *R. v. Mentuck*,[2] the Supreme Court reformulated the *Dagenais* test, which was specific to the situation where an accused's right to a fair trial was at issue and adapted it to apply to applications for publication bans where the right to a fair trial is not the only factor weighing against freedom of speech. As to the evidence required to justify the ban, Iacobucci J. stated that the risk must be "well-grounded in the evidence" and that the court must be provided with "a convincing evidentiary basis for issuing a ban". However, as LaForest J. stated in *C.B.C v. New Brunswick (Attorney General)*,[3]

> There must be a sufficient evidentiary basis from which the trial judge may assess the application and upon which he or she may exercise his or her discretion judicially. In some cases in which the facts are not in dispute the statement of counsel will be sufficient.

[7] In the case before me, the fact there has been extensive, ongoing, and national pretrial coverage by the media is not in dispute, as evidenced by the DVDs filed by the Crown and the supporting affidavits. In addition, there is the Agreed Statement of Facts upon which the plea was founded.

[8] The onus of justifying a publication ban falls on the party seeking it. Only when the *Dagenais/Mentuck* test is satisfied can a ban be imposed. The threshold is high. If a ban is imposed, it should be framed as narrowly as possible.

Necessity of a Ban

[9] The first question to be answered under the *Dagenais/Mentuck* test is whether a publication ban is *necessary* in this case? To answer this question, I must consider two further questions:

- If a publication ban is not granted, is there a real and substantial risk to the right to a fair trial?
- Are alternative measures reasonably available to prevent the risk?

[1] *Dagenais v. Canadian Broadcasting Corporation*, (1994), 94 C.C.C. (3d) 289 (S.C.C.) at para. 73.
[2] [2001] 3 S.C.R. 442 at para. 34.
[3] [1996] 3 S.C.R. 480 at para. 72.

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Real and Substantial Risk

[10] Mr. Derstine submits that without a publication ban there is indeed a real and substantial risk to Mr. Rafferty's constitutional right to a fair trial. The risk he proposes is twofold:

- If all the facts to which Ms. McClintic pleaded are published, there is a real and substantial risk that the expected widespread publicity given to those facts, which are untested by cross-examination and may be viewed as prejudicial to Mr. Rafferty, will adversely affect his right to a fair trial before an impartial jury. The risk is that the jury will base its verdict on information gleaned from pretrial publicity or will be biased by that publicity to a degree that would be impossible to remedy by alternative measures.

- Even the publication of Ms. McClintic's plea and sentence presents a real and substantial risk to Mr. Rafferty fair trial rights. The actions of Ms. McClintic and Mr. Rafferty have been inextricably linked by the media in their extensive coverage of the events surrounding the disappearance of Victoria Stafford. If the fact of the plea and sentence is published the risk is that a jury will necessarily infer Mr. Rafferty's guilt based solely upon media reports of Ms. McClintic's guilty plea. This is especially so since Ms. McClintic has not pleaded guilty to a lesser offence but rather to the charge of first degree murder.

[11] Mr. Derstine submits that one of the fundamental elements of a fair trial is that a jury must base its verdict on the evidence adduced at trial as opposed to information gleaned from extraneous sources. As Lamer C.J.C. stated in *Dagenais* at paragraph 75,

> In addition to the accuseds' interest in the fairness of their trial, the public has an interest in their being acquitted or convicted through trials that were fair and that had the appearance of fairness: *R. v. Genereux,* [1992] 1 S.C.R. 259 at p. 283.

[12] In support of his position, Mr. Derstine cites the following portion of the judgment of Lamer, C.J.C. in *Dagenais*:

> More problematic is the situation in which there is a period of sustained pretrial publicity concerning matters that will be the subject of the trial. In such circumstances, the effect of instructions is considerably lessened. Impressions may be created in the minds of the jury that cannot be consciously dispelled. The jury may at the end of the day be unable to separate the evidence in court from information that was implanted by a steady stream of publicity.

[13] It is his position that this is one of those "problematic cases" where a temporary and limited restriction of "the public's right to know" is necessary in order to prevent a real and substantial risk to the fairness of Mr. Rafferty's trial.

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[14] On the other hand, Mr. McKinnon submits that there should be no publication ban because there is no real and substantial risk to Mr. Rafferty fair trial rights. He stresses the importance of open courts that permit the public timely access to information about what occurs there, which is necessary to maintain confidence in the integrity of the courts and accountability by them. In this process, the media play a fundamentally important role in reporting what happens in court to those who are unable to attend. In this regard, the principle of open courts is inextricably tied to the rights guaranteed by s. 2 (b) of the *Charter*. [4] As noted in *Toronto Star Newspapers Ltd. v. Ontario,*[5] "(I)n any constitutional climate, the administration of justice thrives on exposure to light - and withers under a cloud of secrecy."

[15] He also submits courts must recognize that in the age of the Internet publication bans are ineffective. It is now simple to disseminate information widely and there is a danger that the information may be untrue or even deliberately false thereby misinforming the public and creating mischief. People posting such information on the Internet anonymously are not accountable for it. The factum he filed states:

> 3. The ascendance over the last few years of the internet and "social" media as a means of communication for both the media and individuals has led to an onslaught of information available to the public. Much of this information, including information related to court proceedings, is inaccurate, misleading, false, and/or coloured by hidden agendas.
>
> 4. It is critical for responsible and credible mainstream media outlets to inform the public of accurate facts and events that transpire within Canada's courtrooms so that misleading or inaccurate information does not feed rumours, gossip, and further misinformation.
>
> 5. When faced with a publication ban request, courts should be cognizant of the effectiveness of any proposed ban and the reality of current technology and means of communication, in addition to the necessity for a publication ban and the legal principles of the *Dagenais/Mentuck* test.

[16] If I understand the inferential thrust of this submission correctly, it is in effect that because individuals may post inaccurate information on the Internet, mainstream media outlets should be permitted to report immediately everything that takes place in a courtroom at any time in order to avoid "inaccurate information… rumors, gossip, and further misinformation."

[17] In my opinion, if this argument is extended to its logical conclusion, then the fundamental freedoms enshrined in s. 2 (b) of the *Charter*, and in particular "freedom of the press and other media of communication", will always be given precedence over all other rights, including the right of an accused person to have "a fair and public hearing by an independent and impartial tribunal" as guaranteed by s. 11(d) of the *Charter*. This does not represent the current state of the law.

[4] See *C.B.C. v. New Brunswick* (above), at para. 23.
[5] [2005] S.C.R. 188 at para. 1.

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[18] There is no doubt that open justice is a fundamental hallmark of a democracy and I acknowledge that it should not be encroached upon lightly. Further, "it is well established that freedom of expression protects readers and listeners as well as writers and speakers."[6] As noted in *CBC v. New Brunswick*, above at paragraph 19, the concept of free and uninhibited speech permeates all true democratic societies and institutions. However, the rights guaranteed by s. 2 (b) of the *Charter* are not absolute. As the Crown has stated in its factum, "Indeed, a media with no boundaries as to when and what it publishes may very well have a harmful effect on the proper administration of justice." As a result, the Supreme Court of Canada has recognized in *Dagenais* that a ban may be justified if the test set forth in that decision is met. In each case, a contextual analysis is required.

[19] Equally fundamental to our democracy is the *Charter* protected right to a fair trial before an impartial jury; indeed it is a measure of society's respect for the presumption of innocence. The Court in *Dagenais* emphasized the role of the unbiased jury in the exercise of this right:

> [One of s. 11(d)'s objectives is] to ensure that a person is tried by a tribunal that is not biased in any way and is in a position to render a decision which is based solely on the merits of the case before it, according to law. The decision-maker should not be influenced by the parties to a case or by outside forces except to the extent that he or she is persuaded by submissions and arguments pertaining to the legal issues in dispute.[7]

[20] Mr. MacKinnon advances the argument that jurors are presumed to follow the instructions of the trial judge and are capable of deciding a case impartially and solely on the evidence introduced during the trial notwithstanding any prior knowledge of the case that they may have gleaned through the media. He suggests that, "The publication ban sought in this case not only undermines important rights under the *Charter*, it undermines the effectiveness of the criminal justice process, including the faith in juries to decide cases based solely on evidence and facts entered in court." He has cited a number of cases in paragraph 34 of his factum to support this position, which I have read. Again, if his position were to prevail, then there would never be a publication ban ordered no matter how prejudicial the material in issue.

[21] Indeed, during the course of his submissions, I asked Mr. MacKinnon if he could envisage any circumstances in which a publication ban would ever be justified and he had great difficulty trying to formulate such a situation. I understand that an advocate must present the position of his client as forcefully as possible. However, if in fact this is the position of his client, namely that s. 2 (b) rights should always prevail, in my opinion it is a most unrealistic and unbalanced one.

[22] It is plain that Parliament has recognized the propriety and utility of publication bans in certain instances, for example, in ss. 486, 517, 539, and 648 of the Criminal Code. In my opinion, publication bans are made every day pursuant to s. 539 without maligning the ability of jurors to do what is expected of them.

[6] *R. v. National Post* 2010 SCC 16 at para. 28.
[7] *Dagenais, supra* at para. 76.

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[23] The object of jury selection is not to choose 12 persons who know nothing about the case, but to choose 12 impartial jurors who are able to decide the case based solely on the evidence introduced during the trial and the instructions of the trial judge. Mr. MacKinnon submits that alternative measures are reasonably available to guard against the risk of an unfair trial, namely a change of venue, the use of the challenge for cause and peremptory challenges in jury selection, and the instructions of the trial judge to the jury.

[24] In my opinion, publishing the fact that Ms. McClintic pleaded guilty to the first-degree murder of Victoria Elizabeth Stafford and was convicted and sentenced to imprisonment for life does not present a real and substantial risk to the fairness of Mr. Rafferty's trial. At best, it is a speculative risk and, as Chief Justice Lamer stated in *Dagenais:* "[p]ublication bans and sealing orders should not be available as protection against remote and speculative dangers."[8]

[25] I have no doubt that the trial judge, through his or her instructions, will make it quite clear to the jury:

- that the accused is presumed to be innocent until the Crown has proved his guilt beyond a reasonable doubt;
- what the term "reasonable doubt" means and that the accused must not be found guilty merely because the jury thinks he is probably or likely guilty;
- that the jury must consider only the evidence introduced during the trial and the instructions about the law they receive from the trial judge; and
- that the fact Ms. McClintic has pleaded guilty to the first degree murder of Victoria Stafford has no bearing on whether Mr. Rafferty is guilty and does not implicate him in the crime.

[26] In addition, the challenge for cause and peremptory challenge procedures as well as an application for a change of venue are additional safeguards regarding this risk.

Reasonable Alternatives to a Publication Ban

[27] However, with respect to evidence about the circumstances giving rise to and surrounding the murder of Victoria Elizabeth Stafford, I believe a publication ban is necessary in order to prevent a real and substantial risk to the fairness of Mr. Rafferty's trial.

[28] In this case, some of the information contained in the Agreed Statement of Facts filed on the sentencing is sensational, inflammatory, and evokes a visceral response. The disappearance, kidnapping, and murder of eight-year-old Victoria Elizabeth Stafford captured and maintained the attention not only of residents of Woodstock but also of citizens across the country. Her disappearance on April 8, 2009 embodied the worst fear of every parent and every nuance of this extremely high profile case was followed with a mixture of hope and fear. It involves the brutal murder of an innocent 8 year old female child.

[8] *Dagenais, supra*, at para. 76.

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[29] However, the mere fact of extensive pretrial coverage is not sufficient in and of itself to justify a ban.

[30] As the Supreme Court reiterated in *Dagenais*, “a hierarchical approach to rights, which places some over others, must be avoided”.[9] When equal rights collide, they must be weighed and balanced contextually in a way that fully respects the importance of both sets of rights. In balancing the rights provided by s. 2 (b) and s. 11 (d) of the Charter, I find that this is one of those "problematic cases" where a temporary and limited restriction of "the public's right to know" is necessary in order to prevent a real and substantial risk to the fairness of the trial. The Crown has filed three DVDs containing evidence of the extensive pretrial publicity together with maps showing where the concentration of such publicity lies. There is no doubt in my mind that continuing extensive and repeated publicity will be given to what the media is permitted to report about the McClintic plea and sentencing hearing. In my opinion there is a real and substantial risk that if publication of the unedited Agreed Statement of Facts is permitted, "Impressions may be created in the minds of the jury that cannot be consciously dispelled" and that the effect of the trial judge's instructions will be "considerably lessened" by reason of the fact that the "jury may be unable to separate the evidence in court from information that was implanted by a steady stream of publicity.”

[31] Each accused person is presumed to be innocent until the Crown has established his or her guilt beyond a reasonable doubt. Each person has the right “to a fair and public hearing by an independent and impartial tribunal.” Mr. Rafferty’s preliminary inquiry is set to begin on June 21, 2010. Mr. Derstine advises that he will request a publication ban of the evidence led at the preliminary inquiry. If I were to permit the publication of all that the media wish to report at this time, not only would it defeat the intent of Parliament as expressed in s. 539 of the Criminal Code but, in my opinion, it would also infringe upon Mr. Rafferty's constitutional rights under s. 11 (d) of the *Charter*.

[32] Counsel have cited many cases on both sides of many of the issues that are alive before me. Two examples from the many cases provided will suffice to illustrate different approaches that judges have taken. In favour of disclosure is the decision in *R. v. J.S.R.*[10] where an application for a publication ban by the Crown and some accused persons in the much publicized and high profile “Jane Creba” trial was denied. I note that it was an application to ban all or part of the evidence to be given at the trial of J.S.R. because other accused were charged with offences arising from the same circumstances and would be prosecuted in subsequent trials. In *R. v. Bernardo*[11] a partial publication restriction was granted modeled after s. 539 of the Criminal Code even though a change of venue was ordered and the challenge for cause procedure was available and could be utilized. As LeSage, J. stated in paragraph 47:

> I am satisfied that a partial ban is appropriate, even though a change of venue has been ordered and a challenge for cause is available and may be utilized. I am concerned that certain evidence, once disseminated to the public, may be difficult to erase from the subconscious of potential jurors.

[9] *Dagenais, supra*, at para. 72.
[10] [2008] O.J. No. 4160 (S.C.J.) at para. 40.
[11] [1995] O.J. No. 247 (Ont. Ct. Jus. Gen.Div.).

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> … I am of the opinion that certain evidence cannot be published because its dissemination to potential jurors will make it difficult, if not impossible, for them to ultimately distinguish between evidence heard during trial proceedings and evidence obtained outside the courtroom. As suggested by the Chief Justice, in Dagenais, at p. 43,
>
> > Impressions may be created in the minds of the jury that cannot be consciously dispelled. The jury may at the end of the day be unable to separate the evidence in court from information that was implanted by a steady stream of publicity.

[33] In the course of argument, counsel made other submissions with respect to the publication ban imposed in regard to the Bernardo/Homolka charges and the criticism that ensued from granting it. As Mr. Derstine observed, and I agree, I believe the criticism had more to do with the nature of the plea bargain than with the publication ban. In any event, there are marked differences between that situation and the one before me, although the ban was certainly controversial and criticized.

[34] The public has a right to know now that the hearing on April 30, 2010 was conducted in open court and that there was no intention to conduct a secret hearing nor was a secret hearing held. The publication ban was imposed for the purpose of permitting all counsel to make full submissions. It was clearly stated that the order would be temporary. It is also important for the public to know that there has been no plea bargain or "deal" between the Crown and the defence. Ms. McClintic pleaded guilty to the charge of first degree murder, which bears a mandatory penalty that is the maximum penalty provided for in the Criminal Code. Therefore, she did not plead guilty to a lesser offence than the one with which she was charged and obviously she could not and did not receive a reduced sentence in return for her plea. Before I accepted her plea of guilty, she confirmed she understood that:

- She was presumed to be innocent of the crime of first degree murder.
- The onus was on the Crown to prove her guilt beyond a reasonable doubt.
- By entering a plea of guilty, she was admitting that she was guilty of the first degree murder of Victoria Elizabeth Stafford and that she was relieving the Crown of the burden of proving that she was guilty of that offence beyond a reasonable doubt.
- If her plea were accepted, the mandatory sentence was imprisonment for life and that I had no discretion to impose any other sentence.
- She also confirmed before I accepted her plea that:
  - She had not been promised anything for pleading guilty.
  - She had not been threatened or coerced in any way to plead guilty.

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- She made the plea voluntarily and of her own free will.

[35] Each case must be decided on its own facts and in the context of all the circumstances that apply in a particular case. Some of the information that was adduced before me on April 30, 2010, namely the circumstances surrounding the murder of Victoria Elizabeth Stafford, will be the subject of evidence led at Mr. Rafferty's preliminary inquiry and trial. I find that if that information were published in advance of his trial there would indeed be a substantial risk to the fairness of his trial and that there are no reasonably available alternative measures that would prevent the risk. In my opinion, it is no answer and entirely illogical to suggest as Mr. MacKinnon does that because evidence will be led at a preliminary inquiry there is no prejudice to an accused person by publishing it in advance of the preliminary inquiry or trial. To the contrary, the purpose of the publication ban imposed at a preliminary inquiry or at an application for judicial interim release is to prevent the dissemination of information that might prejudice the right of the accused to a fair trial and contaminate the impartiality of prospective jurors. As noted, the wisdom of this ban has been recognized by Parliament in ss. 517 and 539 of the Criminal Code.

Salutary and Deleterious Effects

[36] Does the salutary effect of the publication ban outweigh the deleterious effects to the free expression of the media?

[37] Society has an interest not only in open courts but in fair trials. Mr. MacKinnon submits that timely scrutiny of the judicial process is a fundamental aspect of the rights protected by s. 2 (b) of the *Charter* and that it is no answer to say that a ban is temporary and that banned material will be published eventually. However, a temporary ban certainly represents a lesser impairment of s. 2 (b) rights than would a permanent ban. Moreover, when compared to the temporary infringement of s. 2 (b) rights, the inability to be tried by an impartial jury would result in a tragic miscarriage of justice that could not be remedied. As noted, the right to a fair trial is not only an individual interest but a societal interest as well. In *Re Global Communications Ltd. and Attorney General for Canada*[12] the Ontario Court of Appeal stated,

> The right to a fair trial is a fragile right. It is quite capable of being shattered by the kind of publicity that can attend a bail hearing and, once shattered, it may, like Humpty Dumpty, be quite impossible to put back together again.

[38] Mr. MacKinnon has also advanced the argument that in this age of the Internet any publication ban imposed by the court will be ineffective, which position I have dealt with above and rejected. In considering this argument in the context of the salutary and deleterious effects of a publication ban, I am of the opinion that the court must do what is within its power to maximize the opportunity for securing an impartial jury and a fair trial when it concludes, applying the *Dagenais/Mentuck* test, that a publication ban is necessary and that there are no reasonably available alternative measures to prevent the real and substantial risk of an unfair trial. Society is not comprised solely of persons who use the Internet. A substantial although perhaps dwindling number of citizens still rely upon

[12] [1984] O.J. No. 3066 (C.A.)

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traditional media for their information, whether in print or in electronic format. Therefore, there is utility in imposing a publication ban in appropriate circumstances as recognized by Parliament in ss. 517 and 539 of the Criminal Code.

[39] I find that the salutary effects of the temporary publication ban I am about to impose outweigh the deleterious effect to the public's right to know and the media's right to free expression for the following reasons:

- The ban is temporary.
- It withholds from the public only matters that in my opinion are likely to create an indelible and prejudicial impression in the minds of members of the public that is unlikely to be dispelled by judicial instruction or alternative measures.
- The ban permits the publication and broadcasting of the huge majority of what was contained in the Agreed Statement of Facts upon which the guilty plea was founded.
- It preserves Mr. Rafferty's constitutional right to a fair trial.

Ruling

[40] Having considered all the circumstances and the submissions of counsel, and having considered how to frame the ban as narrowly as possible, I make the following ruling. The ban imposed on April 30, 2010 to permit full argument to be made is amended as follows:

- Only the following information may be published, broadcast, or disseminated:
    - The fact that on April 30, 2010, Ms. McClintic pleaded guilty to the first degree murder of Victoria Elizabeth Stafford, was convicted, and sentenced to the mandatory penalty of imprisonment for life.
    - The fact that the charge of kidnapping was withdrawn.
    - The fact that, because the sentence was mandatory, counsel made no submissions about sentence and I did not give any reasons for sentence other than to state that the sentence was mandatory.
    - The fact that applications for a publication ban were brought on April 30, 2010 and were adjourned to May 18, 2010 to permit full argument, which occurred on May 18, 2010.
    - The Edited Version of Agreed Statement of Facts attached as Schedule A.
    - The Edited Statement of Terri-Lynne Ruth McClintic at Sentencing attached as Schedule B.
    - The Edited Victim Impact Statement of Rodney Stafford attached as Schedule C.
    - The contents of the remaining victim impact statements including the identity of the authors.
    - These reasons for granting this temporary and limited publication ban.

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- For greater clarity, other than as permitted above, no information may be published, broadcast, or disseminated in any way, in any format or medium, including the Internet, either directly or indirectly that:

    - Mentions or refers in any way either directly or indirectly to anything stated directly or indirectly in court about Michael Thomas Christopher Stephen Rafferty either on April 30, 2010 or on May 18, 2010:

        - in any of the evidence, whether oral or written, introduced on the hearing on April 30, 2010 or on May 18, 2010, or

        - in any arguments or submissions advanced either orally or in writing by counsel on either date, or

        - in any of the material filed or presented in connection with the applications for a publication ban on either date, or

        - in any other way.

[41] The ban shall remain in effect until the trial of Michael Thomas Christopher Stephen Rafferty has been completed and a verdict has been rendered.

_____

Mr. Justice D. R. McDermid

Released: May 19, 2010.

SCHEDULE A

EDITED VERSION OF AGREED STATEMENT OF FACTS

APRIL 8 – MAY 19 2009

On Wednesday April 8th, 2009, Victoria Elizabeth Stafford (Tori) was 8 years 8 months and 23 days old. She resided in Woodstock with her mother Tara McDonald and her older brother Daryn Stafford. She attended Oliver Stephens Public School and was in Grade 3. During the months leading up to April 8th, Tori and Daryn had been living with their maternal grandmother Linda Winters. She would usually drop Tori and Daryn off in the morning at a townhouse complex where they used to live close to the school. Daryn would then walk a number of other younger children to school accompanied by Tori. At the end of the school day the process would be reversed. On April 7th, Tori had spent the night with her mother at her new house. For April 8th it was specifically arranged that Tori would not accompany her brother in

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the afternoon but would walk the few blocks to her mother's home alone. She had invited a number of friends to come over later in the day to watch a video.

School dismissal for students who are walking is at 3:25 pm. Tori lined up with the other students at the south east door of the school. She was then given permission to return to her classroom to retrieve her butterfly earrings. She returned to the line just as the bell rang and left the school with the other students. This was the first day she was to walk alone to her home.

Tori was expected to arrive at her new residence at about 3:45 pm. When one of her friends called at 3:55 pm there was no answer and she left a voicemail about watching the movie. Meanwhile Daryn had walked to the adjacent townhouse complex with one of the children he usually accompanied. He then went to a cousin's house and borrowed a bicycle to ride to his mother's house at 647 Frances Street. When he arrived his mother told him that Tori had not yet arrived home. Daryn then rode around the neighbourhood looking for his sister. By 5:00 pm he had returned to his cousin's house in the townhouse complex. Tara McDonald called there at 5:00 pm and said Tori was still not home. At 5:20 pm Tara McDonald called her mother Linda Winters to tell her that Tori was missing. Linda drove to Tara's house and picked her up. They then drove around until 5:40 pm looking for Tori. After approaching an Oxford Community Police Services officer involved in another investigation they were directed to police headquarters. At 6:04 pm Linda Winters reported Tori missing to Oxford Community Police Service. (OCPS)

OCPS immediately commenced an investigation. A ground search was conducted of the area immediately around the school area and neighbourhood. This included the present and previous residence of Tara McDonald. In the early morning of April 9th details of the missing child were released to the media. The search area was expanded with the assistance of the Woodstock Fire Department.

On April 9th police retrieved the surveillance video from College Avenue Secondary School (CASS). Once Tori was identified as the child in the video being led away by an unidentified female the case became a criminal investigation of a possible abduction. The search area was expanded to include a significant portion of the Woodstock area.

Later on April 9th, the CASS video was released to the media and broadcast extensively in South Western Ontario. Police immediately began to receive tips from the general public suggesting the possible identity of the person in the video walking with Tori. A few of those early tips suggested the accused, Terri-Lynne McClintic, was the person in the video. Police also

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received direct information from a number of persons that provided more detailed contact information regarding Terri-Lynne McClintic.

On April 12th, the accused was one of a number of persons of interest to investigators. Once it was learned that there was in fact an outstanding arrest warrant for the accused on a minor offence, Terri-Lynne McClintic was arrested and taken to OCPS headquarters. She has been in custody since that date.

Terri-Lynne McClintic was questioned about the abduction of Tori Stafford. She was shown the CASS video but denied being the person in the video or having any involvement in the abduction of Tori Stafford. She was still considered a person of interest and was identified to be the subject of further investigation.

On April 15th, 2009, the OCPS requested the assistance of the Ontario Provincial Police (OPP). The scope of the investigation had expanded exponentially and almost a thousand tips had been received by investigators.

On May 12th, 2009, investigators attended at the Detention Centre to interview Terri-Lynne McClintic for a second time. She was asked to once again recount her activities on April 8th. She told investigators that she had gone to the Employment Centre and then had gone for a "pick up" of oxycontins. She did recall walking on Fyfe Avenue across from CASS but did not stop anywhere near the high school. She described her clothing and advised that she had consumed some illegal drugs.

On May 15th, 2009, Terri-Lynne McClintic was scheduled to appear in Woodstock in order to complete her matters. Investigators met with her at the court house and asked her whether or not she would consent to providing a further statement to police. She provided her written consent to that statement. She did so in the presence of counsel acting for her in the matters.

On May 19th, 2009, investigators obtained an Order from the Superior Court of Justice to remove Terri-Lynne McClintic from the Detention Centre for the purpose of providing a further statement in relation to the abduction of Tori Stafford. She was taken to OCPS headquarters. After being given her Rights to Counsel and cautioned she declined the opportunity to speak with a lawyer and indicated that she was voluntarily participating in the interview.

On May 19th, 2009, Terri-Lynne McClintic provided a "polygraph" statement to a Detective Sergeant of the OPP. Following the conclusion of the polygraph portion of the

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interview the detective continued to question the accused about her knowledge or involvement in the abduction of Tori Stafford.

On May 19th, 2009, Terri-Lynne McClintic admitted that she was the female person walking in the CASS video with Tori Stafford. After a further short series of questions she was advised at 4:47 pm that she was under arrest for the offence of abduction of a child under fourteen. Another short series of questions were asked and at 5:15 pm she was arrested for the offence of accessory to murder. On both occasions she was given her rights to counsel and cautioned. On both occasions she declined the opportunity to speak to a lawyer and reaffirmed her willingness to cooperate with the police.

MAY 19 – MAY 23

Immediately following her arrest, Terri-Lynne McClintic was taken to the Guelph area to assist investigators in their attempts to locate the body of Tori Stafford. She continued to cooperate directly in this process between May 19th and May 23rd. The investigators obtained judicial authorization to allow them to keep Terri- Lynne McClintic in their custody in order to assist the police. Virtually all of her contact with the police during this time was subject to both audio and / or video recording.

While driving to the Guelph area Terri-Lynne McClintic gave a verbal description of the residence close to where Tori Stafford had been murdered.

In Guelph she identified a Home Depot on Woodlawn Road as the location where she had entered the store to purchase garbage bags. This location was confirmed by investigators by way of a seizure of the Home Depot video surveillance tapes which positively identified Terri-Lynne McClintic purchasing items on April 8th, 2009 at 5:12 pm. The information she provided largely formed the basis for the subsequent charge of first degree murder later brought against Terri-Lynne McClintic

On May 20th, 2009, Terri-Lynne McClintic was advised during an interview that she was now going to be charged with First Degree Murder. She indicated that she understood the charge. She did not wish to speak to counsel and reiterated her intention to help police find Tori Stafford's body. She signed a consent to accompany police for that purpose for the next two days.

Also on May 20th, Terri-Lynne McClintic began to further describe the residence that she had mentioned the previous day. She described in particular how the house sat on an angle to the road and was directly across from a dirt road. Investigators then called on the assistance of the

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OPP helicopter to search for the residence from the air. Terri-Lynne McClintic accompanied officers on this search.

On May 21st, 2009, she was in the holding cells of the Oxford Community Police. She advised investigators that she had forgotten to mention that she had also purchased a hammer at the Home Depot in Guelph on April 8th, 2009. Investigators had already seized the video tape and were aware of this fact but had not told her.

During the search on May 21st, 2009, Terri-Lynne directed the investigators to the area of Highway 6 and Sideroad 6 in Wellington County.

Again on May 21st, investigators utilized the OPP helicopter to assist in the search for Tori Stafford's remains. Terri-Lynne expressed difficulty in identifying the scene as there had been snow on the ground on April 8th and now everything was green.

The search continued on May 23rd, 2009 with Terri-Lynne McClintic once again consenting to a judicial authorization to accompany the investigators.

On May 24th, 2009, Terri-Lynne McClintic again went with investigators. She further described the residence that she had previously said was close to the location of the murder. She also described in some detail the actual scene of the murder, referencing a broken down fence, visible silos, an inclined laneway and creek and a rock pile close to pine or spruce trees where the body had been hidden.

JUNE 1 – JUNE 3

OPP investigators obtained a further Order from the Superior Court releasing Terri-Lynne McClintic to their custody between June 1st and June 3rd. Once again she had signed her consent to the release. Terri-Lynne McClintic provided the investigators with a drawing that she had made while in custody illustrating the location of the residence and its relationship to the murder scene. She also provided a detailed description of the house features. She also indicated that she recognized several commercial establishments in the Cambridge area.

During the course of her contact with the investigators Terri-Lynne McClintic provided numerous hours of statements in addition to the formal interviews conducted at the Oxford Community Police Service Headquarters. While her statements initially denied any involvement in the kidnapping and murder of Tori Stafford, she ultimately admitted her involvement in these crimes.

THE KIDNAPPING

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On April 8th, 2009, Terri-Lynne McClintic went to a number of locations in Woodstock. These included the College Avenue church to obtain food vouchers. She then went to the Foodland grocery store. Video surveillance there confirmed clothing she described wearing throughout the day. She returned to the church with her receipts as per church policy. At 2:19 pm she was at community employment center where she signed in and submitted her resume. She also used the computer facilities to attempt to check her MSN account but was unable because she had forgotten her password.

Terri-Lynne McClintic returned to her house at about 2:30 pm.

Terri-Lynne McClintic advised investigators that Tori Stafford happened to be the first child she observed walking towards her from the school. As Tori approached Terri-Lynne began a conversation with her, introducing herself as "T". Tori told her that her name was Victoria but everybody called her Tori. Terri-Lynne McClintic and Tori walked north on Fyfe Avenue. At 3:32 pm, surveillance cameras show Tori and Terri-Lynne walking northbound on Fyfe Avenue.

Terri-Lynne McClintic told investigators that the conversation at this time was about dogs. Terri-Lynne told Tori she had a Shih Tzu named Precious. Tori told her she also had a Shih Tzu and she agreed that she would like to see Terri-Lynne's dog.

The CASS video last shows Terri-Lynne McClintic escorting Tori to the Caressant Care Retirement Home parking lot and ultimately off camera.

They then went to an address in Guelph and then north of Guelph.

In a remote location on a side road in the 6th Concession North of Arthur Township, Victoria Elizabeth Stafford was murdered and her body was concealed.

Between 9:00 and 10:00 pm, Terri-Lynne McClintic returned to her residence.

JULY 19, 2009

Notwithstanding their failure to locate Tori Stafford's body during the initial efforts following the arrest of Terri-Lynne McClintic, investigators mounted an exhaustive effort to locate her remains. Several hundred officers continued a progressive grid search of areas to the north of Guelph. Other investigative efforts provided clues to assist in their work. Terri-Lynne McClintic again consented to cooperating with investigators to provide details resulting in an artist sketch of the residence she had previously described as being close to the scene.

On July 19th, 2009, an OPP officer and member of the investigative team was searching in the Mount Forest area on Concession #6. He recognized that a residence on 6th Concession North resembled the house in the sketch prepared by the OPP artist in several key aspects. A

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laneway across the road also matched the location description. The officer drove down the laneway, across a culvert and up an incline to a large rock pile on the left side. After getting out of his car, the officer immediately noted the odour of decomposition and approached a group of trees beside the rock pile. He then was able to see a portion of a green garbage bag beneath some rocks under a pine tree.

He had found Tori Stafford.

POST MORTEM

The body of Tori Stafford was removed under the supervision of the Chief Forensic Pathologist of Ontario, Dr. Michael Pollanen. The remains had suffered from significant decomposition in the time between April 8th and July 19th. She was positively identified as Victoria Elizabeth Stafford using dental records. In addition, several items of clothing including portions of a headband, a Hanna Montana t-shirt and the butterfly earrings were found with the body.

The cause of death was determined to be multiple blunt force impact.

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Court File No. 49/09

SCHEDULE B
EDITED STATEMENT OF TERRI-LYNNE RUTH McCLINTIC AT SENTENCING

SUPERIOR COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

TERRI-LYNNE RUTH McCLINTIC

****

S T A T E M E N T O F T E R R I - L Y N N E M C L I N T I C

BEFORE THE HONOURABLE MR. JUSTICE D.R. McDERMID

on APRIL 5, 2010 at WOODSTOCK, Ontario

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CHARGE: s. 235(1) C.C.C – First Degree Murder

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APPEARANCES:

	G. Beasley	**Counse**
J. LeRoy	Counsel for Terri-Lynne McClintic	

MS. MCCLINTIC: Someone told me about four years ago that even though I was dealt pretty low cards in the game of life, I couldn't keep a poker face the whole time, but by acting unbreakable and burying all my emotions, I was just hurting myself more because eventually I'd break and all those things I buried would come rushing at me at once and I wouldn't know what to do. I told that person they didn't know what they were talking about. I never thought my method of survival, my method of protection would wind up hurting me more than the life – the hardships life threw at me.

Over the last year, I've realized how accurate that statement is, but this isn't about me or anyone here else for that matter. This is about one thing, justice for an amazing little girl. This is about justice for Tori.

On April 8th, I don't know what I thought was going to happen. I am honoured to have been able to spend even a brief amount of time with such an amazing person, and it pains me to think about how many people won't get to see what a beautiful and brilliant woman I just know she would have grown up to be.

Every night before I go to sleep, I tell myself that when I wake up in the morning this will all have been just a very, very bad dream, but when I open my eyes, I look around me and see that this is reality.

I can tell you that rather than acting, I over-evaluated the situation and rather than think about any of it, I resorted to more drugs. I chose to tell myself until I believed it that everything would be okay. I didn't wake up on that morning thinking I was going to take a child.

Not in a million years would I have pictured myself standing here,

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but here I am and I know that I need to stand up and take responsibility for my actions.

Every day I think that maybe if I hadn't walked down the street that day, that precious little angel would still be here. Every day I ask myself why. Why did I tell myself that everything would be okay? Just why?

I can't explain my thought process on that day. I can't do anything except be honest. I will never try to make excuses for my judgment calls or my actions.

Yes, I was under the influence of drugs and yes, there are things that I've experienced in the past that may have affected my reactions to the situation I was in, but regardless of those reasons, it doesn't make what happened acceptable.

Every time I close my eyes, I'm flooded with the memories of that day.
I will never forget what happened, the mistakes I made, the failure I was. A million tears will never be enough and a million words would never be able to express how truly sorry I am. I allowed my own issues, my own past to affect the future of an innocent girl.

I'll never be able to take back what's happened, but I've been trying to do everything I can to make things as right as they can be, which is why I stand here today. I would give anything to be able to trade that amazing little girl places, but I can't, and man, that hurts.

Tori will never leave my heart. She'll hold my heart in her hands until the day I die. She has made me realize that I need to deal with my issues; that I can't continue on the road I've been walking. I owe

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my life to that precious little angel and all the people who've been hurt because of this.

I have one goal out of all of this, and that is to help other women like myself avoid winding up in positions such as this.

I will do everything I can to keep other children safe, and these are things I can do regardless of where I am. I also would like to help others avoid making the same mistakes I have; to learn what is meant to be learnt from our mistakes; teach others what I was failed to be taught; and most importantly, I want to help others in a way people failed to help me, and be supportive to others in need as only few people have been supportive of me. Those are the people I hold dear to my heart, and I want to be one of those people.

Enough people have been hurt as a result of this and I refuse to drag anyone through the proceedings of a trial. Spending the next few decades of life in prison is nothing compared to what Tori was robbed of.

I know that my apology doesn't mean much compared to what was lost, and I'm not asking for forgiveness as I stand here, but I am trying to make amends the best way I can by giving you my life today.

****

SCHEDULE C
EDITED VICTIM IMPACT STATEMENT FROM RODNEY STAFFORD

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Hello everyone, I am Rodney Stafford, a father to two beautiful children. One who is no longer here with us. On April 8th, 2009, I myself, my son Daryn, my ex-wife Tara, our family and friends, and much to our surprise, a nation, all became victims to a heinous crime, when one of our children was stolen in broad daylight.

I would like to thank you your honour for allowing me the opportunity to speak freely and I apologize for any Inappropriate language that may arise. I was asked if I would like to write an impact statement detailing how the last year has affected my life. And yes, I have to. Not just for me, but for every person out there that would have liked to have had this opportunity. So please, take into consideration what this victim is saying. I never chose to become a victim, it was forced into my life. All of our lives.

With the loss of Victoria, thousands if not hundreds of thousands of people felt a tremendous loss worldwide. Victoria was a very beautiful eight year old child, and an innocent little girl who put a smile on every face she met.

It plays in my mind over and over again. Just what could have Victoria done so wrong in her eight years that she deserved to lose her little Innocent life??? Nothing At All!!! Victoria was only ever guilty of being a little girl.

I now stand in front of the woman responsible for leading Victoria to her kidnapping, and eventually her final resting place. Did I mention, this is An unspeakable crime happening far too often, to too many of our children???

I try to sit and think of reasons as to why?? Why my little girl?? Why did Victoria have to lose her life?? Still, I can't think of anything.

Hey Victoria, are you ready to go to prom?
Victoria, you ready to graduate??
Daddy is so proud of you!!
are you ready to walk down the aisle Victoria??
Hey Victoria, you want to go to nana's? your cousins?? Your Friends???
How about;
go to the movies? Go camping?
Go See those bears again??
Go back out to the mountains??
Watch tonight's sunset together?
Go tobogganing??
Go swimming?
Play baseball?

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How about take a deep breath? Or another step or two??
Did You hug your brother today??
Victoria??? Victoria?????
Just a brief summary of questions that I, nor anyone else, will ever be able to ask Victoria again, or for the first time.

Victoria may be gone in body, but Victoria's legacy will live on in every person out there that has heard Victoria's story, or that will hear Victoria's story. miss Victoria every day, and I cry for Victoria daily, but I know Victoria's innocence will prevail.

As for the last year of my life???
Victoria?? Hey, was that her?? Tori?? What do you mean Murder?? What??? What??? Why? What?
Months of drastically searching for Victoria, trying to hold out hope that one day soon, We can see my child's face again. But what do I get?? A grainy image of a video, of a woman walking away leading Victoria to her death, with Victoria walking and skipping alongside like any innocent child would.
The loss of Victoria has left an emptiness inside everyone that no parent should ever have to feel. And because of this,
I have dedicated the last year of my life to bettering myself, and helping stand up for the truly innocent. The ones' who's voices do not get heard. Not just for Victoria, but, for all the children that have lost their innocence. This has got to stop!!

I am aware that April 8th will always exist in my mind, but there is nothing I can do, or anything anyone else can do for that matter to bring Victoria's smiling face home. There is nothing I can do to bring Victoria home!! Nothing!!! Nothing but visualize little memory flashes of her face every now and then.
If I could rewrite the past, I would love to bring Victoria home, and this never happen period. But it did, and our Chubs is Gone. Do you have any idea how hard it is to say goodbye to a child you created, one that you always swore to protect?? Only then to find, that while you are out bettering yourself for the future, someone steals your baby.
I've always had the what if s, the why's, what's, where's, and who??? But knew I could wait for the answers. Atleast, I get the chance. Families are out there all over the world still searching for their babies, and may God be with you all in your search.

The last year has had me doubting my own family and friends, as to whether anything they said or anything they did, had anything to do in relation to what happened to Victoria. I turn and glare for no reason. Not just at family, not just friends, strangers. I look closer to the actions of people I don't even know. I don't want to do this. You are forced to look at everyone. You start to think, "what are the possibilities of it being that person?? or is that the person that holds the key to April 8th . "Hey, did you report that"???? I was forced to believe that until we get our answers, someone knows something that we and the police don't know. It's not that I want to, but I can't help but wonder if there is more there than meets the eye. There is, the evidence. The evidence will prove what happened, and from the very start, I have not had one doubt, not one, about the way police have been or were handling this case. Look, we're here today.

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"She is coming home, she is coming home" for just over a month, then...."Don't hold out hope". You have no idea how hard it is, when your world is flipped upside down. Is there a chance she's still alive??? Please, please, please do not tell me, to not hold onto hope. Where is she????? Where is my daughter?? Where is Victoria?? Four words stabbed into my heart "Don't hold out Hope". Suddenly news of finding Victoria's remains became a relief What the hell??? Relief??? That they found my daughters remains?? How messed up does that sound?? Most definitely messed right up, but Victoria was able to come home and so many other children are still out there missing.

1 have to thank everyone for their support in trying to find Victoria. 15 and a 1/2 weeks of searching for any clue of where Victoria could be. The vigil's, balloon launches, the memorial, and Victoria's funeral, were all heart felt and made possible by total strangers all searching for the same thing, answers, justice, but most of all, My little girl.

How was Christmas? Easter? Halloween? Victoria's Birthday?? Daryn's birthday?? Not the same, none of them were, nor will ever be again. No holidays were even close to the way they used to be. One of our pride was gone, our family destroyed, because one of our own was stolen from us. Not to mention stolen from us in broad daylight. Now In order to spend these holidays or events with Victoria, we get to go stare at a burial spot for Victoria's remains. Her little body buried beneath the ground, never to be seen again. But on the bright side, she was able to come home.

No matter the sentence set down for this heinous crime, nothing will ever be close to satisfying the feeling of the loss of your child. Forced into my life. You can not prepare for it, you can only do your part to seek justice for what has happened, and make others aware that predators are in fact out there. Not just here, but everywhere.

The hardest part of my last year, has been watching my 12 year old son try to continue through life trying to figure out why the pod now only has one pea?? Who split the pod, and why?? Best friends torn apart. A brother and sister relationship that you only see in the movies. Daryn has suffered daily for the last year, you can see it. He tries well to hide it, but you can see the emptiness. He misses his sister, and feels guilt everyday because he never walked her home. It kills me inside to see him cry, and for me to know that the one thing he wants now in life, that could make him happy, and put that smile back on his face, I can never give to him. I can never bring Victoria home to see Daryn, or to see anyone for that matter.

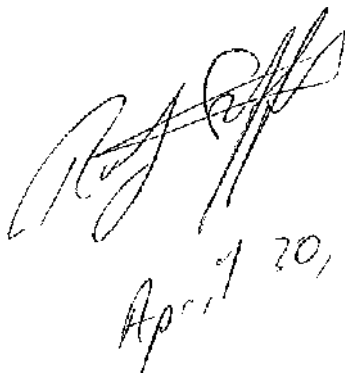
Terri-Lynn,

Over the course of the last year I have been forced to have feelings of hurt, anger, and

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worst of all hate, towards you. All feelings I have never felt towards someone before, and they are all a direct result of what happened to Victoria. As hard as this is for me, I do have to say thank you to you. Thank you for stepping up and accepting responsibility for your actions resulting in Victoria's eventual death. I thank you for aiding in the search of Victoria's remains, and for all the information provided to help lead up to finding Victoria. It has been said that without you, we may never have found Victoria. With your aide, we were able to properly lay Victoria to rest. I now believe in my heart, that you were just a woman under the influence of a controlled substance, who took things too far. Still doesn't make it right, but it happened and we can't change the past. Victoria is and has always been a very huge part of my life, but now she is gone, with only an empty void, filled with joyous memories of a precious little girl. A totally innocent child with a heart of gold taken far too soon. I hope that during your sentence, you find peace with yourself, and with God. And just maybe one day, I could learn to forgive you, but for now, excuse me if I don't. My little girl is gone.

Thank you



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