

E-File Name: 2019-04-29SVQStewartJ  
Appeal No.:

IN THE COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
JUDICIAL CENTRE OF SASKATOON

BETWEEN

JAMES STEWART

Plaintiff

and

GORDON KEATING, BRADLEY MCAVOY, VINCENT SCHAEFER,  
RYAN HOUNSELL, and ADAM BOYCE

Defendants

---

TRIAL  
Volume 1  
(Pages T1 - T162)

---

April 29 and 30, 2019  
May 1, 2, and 3, 2019  
Saskatoon, Saskatchewan

Royal Reporting Services Ltd.  
300-2010-11th Avenue  
Regina, Saskatchewan  
S4P 0J3  
Phone: 306-352-3234  
Fax: 306-757-7788

## TABLE OF CONTENTS

Description	Vol.	Page
April 29, 2019		
Morning Session	1	T1
Discussion	1	T1
Opening by the Court	1	T2
Opening by Mr. Stewart	1	T9
Opening by Mr. Gibbings	1	T10
April 29, 2019		
Afternoon Session	1	T20
Discussion	1	T20
<b>JARVIS STEWART</b> , Sworn, Examined by Mr. Stewart	1	T21
Mr. Gibbings Cross-examines the Witness	1	T29
Mr. Stewart Re-examines the Witness	1	T37
<b>JAMES STEWART</b> , Affirmed, Testifies	1	T41
April 30, 2019		
Morning Session	1	T84
Discussion	1	T84
<b>JAMES STEWART</b> , Previously Affirmed, Cross-examined by Mr. Gibbings	1	T90
The Witness Re-testifies	1	T103
Read-in by Mr. Stewart	1	T106
<b>DAVE MCGILLIVRAY</b> , Sworn, Examined by Ms. Rohrke	1	T109
Mr. Stewart Cross-examines the Witness	1	T120
<b>GORDON JAMES KEATING</b> , Sworn, Examined by Ms. Rohrke	1	T129
April 30, 2019		
Afternoon Session	2	T163
Discussion	2	T163
<b>GORDON JAMES KEATING</b> , Previously Sworn, Cross-examined by Mr. Stewart	2	T165
Ms. Rohrke Re-examines the Witness	2	T216
<b>CLAYTON SCHAEFER</b> , Sworn, Examined by Ms. Rohrke	2	T226

May 1, 2019	Morning Session	2	T252
Discussion		2	T252
<b>CLAYTON SCHAEFER</b> , Previously Sworn, Cross-examined by Mr. Stewart		2	T254
Ms. Rohrke Re-examines the Witness		2	T304
<b>BRAD MCAVOY</b> , Affirmed, Examined by Ms. Rohrke Mr. Stewart Cross-examines the Witness		2	T308
Ms. Rohrke Re-examines the Witness		2	T326
Ms. Rohrke Re-examines the Witness		2	T362
May 1, 2019	Afternoon Session	3	T365
Discussion		3	T365
<b>RYAN HOUNSELL</b> , Sworn, Examined by Ms. Rohrke Mr. Stewart Cross-examines the Witness		3	T366
Ms. Rohrke Re-examines the Witness		3	T378
Ms. Rohrke Re-examines the Witness		3	T399
<b>ADAM BOYCE</b> , Sworn, Examined by Ms. Rohrke Mr. Stewart Cross-examines the Witness		3	T402
Discussion		3	T413
Discussion		3	T422
May 2, 2019	Morning Session	3	T428
Discussion		3	T428
<b>AARON SMITH</b> , Sworn, Examined by Ms. Rohrke Mr. Stewart Cross-examines the Witness		3	T430
Ms. Rohrke Re-examines the Witness		3	T442
Ms. Rohrke Re-examines the Witness		3	T479
Final Submissions by Mr. Gibbings		3	T481
Discussion		3	T489
May 2, 2019	Afternoon Session	3	T490
Discussion		3	T490
Final Submissions by Mr. Stewart		3	T491
Certificate of Transcript		3	T504

## EXHIBITS

No.	Description	Vol.	Page
D-1	Notice and Claim - Tab 24	1	T33
P-1	Photograph of James Stewart - Tab 25	1	T46
D-1	Amended - Two-page Document	1	T87
D-2	Certified Copy of Information 37292281 - Tab 22	1	T89
D-3	Copy of Provincial Court Information - Tab 27	1	T90
D-4	Copy of Ticket Number 7485339 for Operating an Unregistered Vehicle - Tab 7	1	T91
D-5	Copy of Ticket 7485339 with Words Written Across - Tab 8	1	T92
		1	T93
D-6	Ticket 7485340 - Summons for Driving Without Valid Driver's Licence - Tab 11	1	T93
D-7	Copy of Ticket 7485340 with Words Written Across - Tab 14	1	T93
D-8	Copy of Ticket 7485341 for Unauthorized Licence Plate	1	T94
D-9	Copy of Ticket 7485341 with Words Written Across - Tab 17	1	T94
D-10	Letter from James Stewart dated March 11, 2012 - Tab 9	1	T95
D-11	Statement dated March 26, 2012 - Tab 1	1	T99
D-12	Advertisement for Panasonic Camera - Tab 18	1	T117
P-3	City of Saskatoon Purchase Order 331049	1	T128
D-13	Photocopy of Licence Plate on Subject's Car - Tab 19	1	T135
D-14	Saskatoon Police Service - Note to Prosecutor August 24, 2012 - Tab 20	1	T154
D-15	Saskatoon Police Service Charge Checklist - Tab 21	1	T157
P-4	Saskatoon Police Service Use of Force Reporting Form - Tab 23	2	T208
D-16	Map, Birds-eye View of the Subject Area Indicating Where Vehicles are Parked	2	T231
D-17	FOR IDENTIFICATION - USB Drive with Detention Video	2	T240
D-18	Warrant for Arrest of James Douglas Stewart, Ticket Ending 339 - Tab 10	2	T241

D-19	Warrant for Arrest of James Douglas Stewart, Ticket Ending 340 - Tab 12	2	T243
D-20	Warrant for Arrest of James Douglas Stewart, Ticket Ending in 341 - Tab 16	2	T243
D-21	Recognizance in Relation to Tickets 7485339, 7485341, 7485340	2	T245
P-5	Dispatch DVD - 12-81887 Audio	2	T251
P-6	Occurrence Report of Jay Keating, August 24, 2012	2	T254
P-7	Occurrence Report of Clayton Schaefer, August 24, 2012	2	T256
P-8	Occurrence Report of Matthew Bradford, August 23, 2012	2	T333
P-9	Prosecutors Case Summary, August 24, 2012	3	T380
D-17	USB Drive with Detention Video (Formerly D-17 FOR IDENTIFICATION)	3	T437
P-10	Handwritten Notes of Constable Smith, August 24, 2012	3	T447
P-11	Incident Report of Constable Smith, August 24, 2012	3	T447
P-12	FOR IDENTIFICATION - DVD of James Stewart's Detention and Two Mugshot Photos	3	T454
P-13	Excerpt from Criminal Code, Section 497	3	T458
P-12	DVD of James Stewart's Detention and Two Mugshot Photos (Formerly P-12 FOR IDENTIFICATION)	3	T490

1 Proceedings taken in the Court of Queen's Bench, Saskatoon, Saskatchewan

2

3

4 April 29, 2019

Morning Session

5

6 The Honourable

Court of Queen's Bench for Saskatchewan

7 Mr. Justice R.S. Smith

8

9 (No Counsel)

For the Plaintiff

10 R. Gibbings, Q.C.

For the Defendants

11 A. Rohrke

For the Defendants

12 B. Werezak

Court Clerk

13

14

15 **Discussion**

16

17 THE COURT:

Thank you. Please be seated. So I will  
bring the jurors in. We will just confirm their numbers, and then I will give them  
their opening instructions. Ready? Cell phones off.

20

21 MR. GIBBINGS:

My Lord.

22

23 THE COURT:

Yes.

24

25 MR. GIBBINGS:

Just before we begin, a small matter. I  
wanted to introduce someone to you, and that's Erin Maerz. Erin is an articling  
student at our firm. So if you wonder who's typing notes back there --

28

29 THE COURT:

Okay.

30

31 MR. GIBBINGS:

-- that's who that is.

32

33 THE COURT:

Well, you are welcome, Ms. Maerz. Try  
not to pick up all of Mr. Gibbings' bad habits.

35

36 MS. MAERZ:

Thank you, My Lord.

37

38 THE COURT:

Thank you, Deputy. Bring in the jury.

39

40 THE SHERIFF:

Yes, My Lord.

41

1 (JURY ENTERS)

2

3 THE COURT: Thank you, members of the jury. My  
4 clerk will now just confirm your Juror Numbers, all right, and the order.

5

6 Madam Clerk.

7

8 (JURY POLLED)

9

10 **Opening by the Court**

11

12 THE COURT: Thank you. Members of the jury, you  
13 should know that civil jurors are six in number. I chose to have alternates just out  
14 of an abundance of caution. We have a self-represented. We aren't sure exactly how  
15 it will go, but the alternates will be released before the end of the -- before the end  
16 of the case. Okay. We are just being careful.

17

18 Before we have the opening address by Mr. Stewart, the plaintiff, and we begin to  
19 hear evidence, I am going to tell you something about what I expect will happen  
20 during the trial and your duties as jurors. You must follow the instructions I give  
21 you respecting the law. So don't do your own research on the law by using the  
22 Internet or other sources. Now, we usually sit from 9:30 or 10 to around 12:30 or  
23 12:45, then we break for lunch. The times aren't exact, as it depends on the  
24 witnesses. Sitting hours in the afternoon are from 1:30 or 2 to 4:15 or 5. During the  
25 trial, you may leave for lunch and go home at the end of the day. However, as I  
26 said, once all the evidence is heard and I finish giving my instructions on the law,  
27 you will be sent to the jury room to reach a verdict. At that stage, you will not go  
28 home. You will be sequestered. In other words, you will be kept together as jurors  
29 during the day until you reach a verdict. If necessary, I will arrange for hotel rooms  
30 for each of you, and meals.

31

32 At some point you should select a person to act as your representative and act as  
33 chair during your deliberations. That individual will be your foreperson. He or  
34 she -- in this case, it will be she -- will speak on your behalf to the sheriff should  
35 you have any questions or need assistance during these proceedings. Don't make  
36 the selection today, though. Wait until you get to know one another a little better,  
37 and at that point, elect a foreperson. You will then give the Juror Number of the  
38 foreperson to the dispute deputy.

39

40 I will talk about note-taking. During the course of the trial, I will be taking my own  
41 notes. Some of you may also wish to take your notes during the trial. There is

1 nothing wrong with doing so if you find it's a good way to help you remember the  
2 evidence and my instructions. However, I remind you that your primary duty is to  
3 observe the witnesses as they testify. That allows you to understand the evidence  
4 and decide on their credibility or trustworthiness. A recording machine keeps a  
5 record of what each witness says. There is a procedure for playing back the  
6 recording at the end of the trial, if you wish. But there is no record of the behaviour  
7 and attitude of the witnesses as they testify. So your memory of these factors will  
8 be your only guide. Observing the witness on the stand is your one chance, one  
9 chance, to assess the witness's demeanour in responding to the questions put to him  
10 or her. Therefore, if you decide to take notes, please be very careful and not get  
11 distracted from your primary duty: observing the witnesses.

12

13 The judge and jury system is one of the oldest and most important in our legal  
14 tradition. We work together as a team. You are the judges of the facts. I am the  
15 judge of the law. Although I may be commenting on the evidence at the end of the  
16 trial, your view of the evidence must prevail. If I make an observation, it is  
17 available to you to say, Boy, he got that wrong. You are the judge of the facts.

18

19 Because I am the exclusive judge of the law, when I tell you what the law is, my  
20 view must prevail. It would be wrong for you to decide the case on what you think  
21 the law is or what you think it should be. You must accept the law as I tell it to you,  
22 and you must reach a verdict based on those instructions. By the same token, as I  
23 said, if at the end of the trial I make a comment on the facts, it is perfectly  
24 permissible for you to dismiss it. As I said, you are the sole judge of the facts.

25

26 Before we started the jury selection process, I gave you a brief summary of what  
27 this trial is all about. It's a civil, not a criminal trial. We are not here to decide guilt  
28 or innocence. From the pleadings, it would appear you will be called upon to pass  
29 judgment on whether the police acted reasonably and in good faith in their  
30 interaction with the plaintiff, James Stewart. The party who has the burden of  
31 proving an issue must produce evidence proving it on a balance of probabilities. I  
32 will tell you a little bit more about that later on, after the trial.

33

34 The plaintiff, James Stewart, will begin the trial at the conclusion of my remarks.  
35 He will take the opportunity to explain to you what he expects the evidence will  
36 disclose, to give an overview of the plaintiff's case. Mr. Gibbings or Ms. Rohrke  
37 will likewise have an opening statement, outlining a road map of what their  
38 evidence will be.

39

40 The opening remarks by counsel are made so you will better understand the nature  
41 of the evidence the parties intend to call. It gives you context. However, it's very



1 important for you to remember that what counsel says or what Mr. Stewart says in  
2 his opening address is not evidence. You cannot rely on the opening address  
3 remarks to prove any of the facts. You have to decide the facts on the evidence,  
4 which is what you hear coming from the witness stand.  
5

6 So after Mr. Stewart makes his opening remarks, he will call his first witness. You  
7 will hear that witness give testimony about the matters in issue. This is called  
8 examination-in-chief or direct examination. There are rules respecting direct  
9 examination, and sometimes lawyers or the parties can disagree over whether a  
10 question is proper. If there is disagreement, I will decide.  
11

12 After direct and cross-exam, one of the other counsel for the defendants will have  
13 an opportunity to cross-examine the witness. Like direct examination,  
14 cross-examination is a series of questions and answers. However, the purpose of  
15 cross-examination is to test the evidence given by the witness and to bring out facts  
16 that the defendants' counsel thinks will assist them. After the completion of  
17 cross-examination, the witness may be re-examined by the plaintiff on any new  
18 matters brought up. That's re-examination. Again, if there is an issue, I will make  
19 the decision.  
20

21 So that procedure will continue for each witness, until you hear all the evidence in  
22 support of the plaintiff's claim. After the plaintiff closes his case, counsel for the  
23 defendants will call evidence on behalf of the defendants. The same procedure will  
24 be followed as with witnesses called by the plaintiff, except that counsel for the  
25 defendant will be examining in chief, and the plaintiff will be cross-examining the  
26 defendants' witnesses.  
27

28 After the parties present all the evidence, they will then make their final address to  
29 you. Again, the final address, not evidence. Argument. Evidence is what you hear  
30 from the mouths on the stand. They will make their final address to you. They will  
31 review the evidence and explain why they think the plaintiff should succeed or fail.  
32 I remind you again that what is said in argument is not evidence. Counsel and the  
33 parties may also touch upon the law. In the unlikely event what they say about the  
34 law is different from what I do it, you have to accept my view. Okay.  
35

36 While you are listening to the evidence, I urge you to pay close attention to what  
37 each witness says and how he or she behaves while giving evidence. You must  
38 eventually decide which witnesses to believe. You need not accept or reject all of a  
39 witness's testimony. You may choose -- on any given witness, you may choose to  
40 believe part of what the witness says and reject the rest. It's entirely up to you. So to  
41 repeat, you may accept or reject some, part, or all of any given witness's testimony.

1  
2 There are some guidelines to help you when assessing the credibility of a witness.  
3 Consider the witness's attitude and behaviour as he or she testifies. Please  
4 remember that some people may be nervous about testifying in court, while others  
5 are able to lie without appearing nervous. Also, remember that there are cultural  
6 and individual differences between people that may affect the way they appear to  
7 you when testifying. Consider the ability and opportunity of the witness to observe  
8 and remember the things referred to in his or her testimony. Consider the ability of  
9 the witness to express himself or herself, to understand the questions, and to give  
10 straightforward answers. Ask yourself whether the witness has any reason to be  
11 biased regarding the outcome of the case. That is, does the witness have any  
12 interest in the outcome of the case that might affect his or her ability to give  
13 impartial testimony? Remember that you do not have to accept a witness's  
14 testimony simply because no other witnesses have testified to the contrary. On the  
15 other hand, consistency between what a witness says and other evidence can be  
16 important.

17  
18 Please understand these are only guidelines. You should use your common sense  
19 when deciding which evidence to believe and which evidence to reject.

20  
21 I respectfully remind you it is not the role of jurors to conduct the trial. Your duty is  
22 to consider the evidence that is presented, not to decide what questions the witness  
23 should be asked. Sometimes you might wish to ask a witness a question. It is  
24 usually best to listen to the rest of the witness's testimony in case your question is  
25 answered later. It may even be answered by another witness. That's why generally,  
26 it's simply best to be patient and listen closely to all the evidence. However, if there  
27 is an important point that you believe needs to be clarified, put your hand up and  
28 indicate you have a question. Although the law permits a juror to ask a question,  
29 make no mistake, there is something of a production involved with it. If you have a  
30 question, you must write it down in writing. You hand it to the deputy. I read it.  
31 Then I call the parties in. We discuss it. All the while, you're sitting quietly in the  
32 jury room. We then decide whether to let the question be asked. So as I said,  
33 respectfully, generally, it's best to be patient and just listen to the evidence called by  
34 the parties.

35  
36 Now, from time to time during the trial, it may be necessary for you to retire to the  
37 jury room so that the parties may argue points of law relating to procedure. Please  
38 don't speculate on the specific reasons you are being excluded. This happens in  
39 order to ensure that you hear only properly admissible evidence and argument.

40  
41 You should be aware that evidence may include more than just the testimony that is

1 oral evidence of a witness. Documents and objects are often part of the evidence at  
2 trial. If any documents or objects become part of the evidence at the trial, you will  
3 have them with you in the jury room when you retire to consider the verdict.

4  
5 The onus or burden of proof is on the plaintiff, James Stewart, to prove that the  
6 defendants acted improperly. If it is determined that the defendants wrongfully  
7 arrested and assaulted the plaintiff, then the plaintiff must outline for you the  
8 damages he should receive. I will also assist you in providing a range. The plaintiff  
9 must prove his case on a balance of probabilities. Now, you might reasonably ask,  
10 what does proof on a balance of probabilities mean? That's a good question. It does  
11 not mean beyond a reasonable doubt. That is the standard that applies only in a  
12 criminal matter. This is a civil trial. In civil trials such as this, the party who has the  
13 burden of proof on an issue must convince you that what they assert is more  
14 probable than not, that the balance is tipped in their favour. You must examine the  
15 evidence and determine whether the party who has the burden of proof on an issue  
16 is relying on evidence that is more convincing than the evidence relied on by the  
17 other side. In short, you must decide whose position on any given fact is more  
18 probable than not.

19  
20 I will give you my final instructions after the parties' addresses at the end of the  
21 trial. I will tell you the law that you applies in this case. I may review some of the  
22 evidence. As I have said, please remember that it's your memory of the evidence  
23 that counts, not counsel's, not the parties, not mine. You are the exclusive judges of  
24 the facts arising from the evidence.

25  
26 To assist in your deliberations, I will give you a list of questions to be answered.  
27 Hopefully they will assist you in maintaining focus on the appropriate issues and  
28 debate and serve as a checklist for your deliberations. I will attempt to make the  
29 questions sufficiently straightforward so they can be answered with a simple "yes"  
30 or "no" or by inserting a number, if damages are in issue.

31  
32 You will retire to the jury room after I finish my final instructions in the case in  
33 order to consider your verdict. Once you reach your verdict and deliver it in open  
34 court, that will be the end of your duties.

35  
36 During the trial, you may discuss the case amongst yourselves, but only when you  
37 are all together in the jury room. You must not, however, come to any conclusions  
38 about the case until you have heard all the evidence and listened to the parties make  
39 their final arguments and receive my instructions. Keep an open mind.

40  
41 Some of your family, friends, fellow workers, and others may ask you about jury

1 duty. You must not talk to them about the case, nor should you discuss the case  
2 with anybody involved with it. You may, of course, give a polite greeting to  
3 someone when you see them in the courthouse, but not -- not talk about the case  
4 with anyone except your fellow jurors.

5  
6 When you arrive at the courthouse each morning and return to it after lunch, each  
7 afternoon, please go straight to the jury room. When you leave at lunchtime or at  
8 the end of your duties for the day, please leave directly from the jury room. Please  
9 do not linger around the halls or other places in the building. And please remember,  
10 this is just like school. You must sit in the same chair every day.

11  
12 Finally, you are not lawyers or investigators. You must not investigate, seek out  
13 information, or do any research about this case or the persons involved in it,  
14 including searching the Internet. Do not consult other people or other sources of  
15 information, printed or electronic. Do not use the Internet or electronic device in  
16 connection with this case in any way. This includes chat rooms, Facebook,  
17 Instagram, Snapchat, Twitter, or any other electronic social network. Do not read or  
18 post anything about this trial other than you can post that you've been called for  
19 jury duty, but that's it. Period. End of thought. Do not engage in tweeting or texting  
20 about this trial. Do not discuss or read anything about this trial on a blog. Do not  
21 discuss it on email.

22  
23 You must decide the case solely on the evidence you hear in the courtroom and  
24 your discussions in the jury room. Once the trial is over and you reach a verdict,  
25 you may discuss what occurred in this courtroom with anyone you choose.  
26 However, your discussions in the jury room must remain secret. They must be kept  
27 confidential by you.

28  
29 Finally, and above all else, I want to stress the importance of keeping an open  
30 mind. You have a duty to be fair and impartial throughout. You may develop  
31 tentative views about matters early on, but you should only decide the case after  
32 you have heard all the evidence and counsel have addressed you. Only then and  
33 with all that information should you decide. The law expects no more from you, but  
34 it will accept no less.

35  
36 So a brief summary. You and I are working together as a team. You are the  
37 exclusive judges of the evidence and the findings of fact that follow from the  
38 evidence. I am the exclusive judge of the law. This is a civil, not a criminal trial.  
39 We are here to determine if the defendants acted wrongfully in their treatment of  
40 the plaintiff, James Stewart. If you determine that Mr. Stewart was wrongfully  
41 arrested, wrongfully detained, and/or assaulted, it will be necessary for you to

1 determine the amount of damages. The burden of proof will be upon the plaintiff,  
2 James Stewart, throughout to prove his case on a balance of probabilities.

3  
4 You should pay attention to the witnesses as they give evidence so that you can  
5 decide what evidence you accept. Avoid discussing the trial with anyone except  
6 your fellow juror. Avoid reaching any final decision until you retire to the jury  
7 room to begin your deliberations. In reaching your verdict, consider only the  
8 evidence that was presented in this courtroom. Do not take into account anything  
9 you might hear outside the courtroom. Keep an open mind until you have heard all  
10 the evidence, the addresses of counsel, and my instructions, which will come at the  
11 end of the trial. Thank you.

12  
13 Now, Mr. Gibbings, Mr. Stewart, it's 11:30. That's a little earlier. Typically we go  
14 to 12:15, 12:30. But are you ready to give your opening statement?

15  
16 MR. STEWART: Yes, Your Honour.

17  
18 THE COURT: Excellent.

19  
20 MR. STEWART: My Lord.

21  
22 THE COURT: Very good. So my thought, Mr. Gibbings,  
23 is we will invite Mr. Stewart to give his opening statement, and then you to give  
24 your opening statement, and then break for lunch. And then after lunch, you will  
25 call your first witness, Mr. Stewart. Are you comfortable with that sequence?

26  
27 MR. STEWART: Yes, My Lord.

28  
29 THE COURT: You are comfortable with that,  
30 Mr. Gibbings?

31  
32 MR. GIBBINGS: Thank you, My Lord.

33  
34 THE COURT: Very good. All right. So I will now call  
35 upon Mr. Stewart to give his opening address, which will outline to you the nature  
36 of his case.

37  
38 Mr. Stewart, you can -- do you want to stand?

39  
40 MR. STEWART: I was -- do I have to?

41

1 THE COURT: No, you don't have to.

2

3 MR. STEWART: Okay.

4

5 THE COURT: If you don't want to.

6

7 MR. STEWART: Thank you. Thank you. It's easier.

8

9 THE COURT: Make sure you have got the mike close so  
10 the jurors can hear you and I can hear you. And everything is being recorded, right?

11

12 MR. STEWART: Thank you, My Lord.

13

14 THE COURT: Okay.

15

16 **Opening by Mr. Stewart**

17

18 MR. STEWART: Thank you, jury, audience. I thought I'd  
19 get all lawyer-like and say I was going to be cogent and cohesive and critical in my  
20 analysis of this thing that's taken, mm, seven years. But I'm -- I'm just going to  
21 come at you like an average, everyday guy, and I'm just going to tell you that I  
22 never would have believed this, had it not happened to me. I never for a moment  
23 would ever have believed any of this would have ever been possible, had it not  
24 happened to me. And still today, I still don't. I still don't believe that I'm sitting here  
25 today in front of you people after what happened on the night of August 24th, 2012,  
26 at what was supposed to be a traffic stop.

27

28 So I'm not going to give you all the lawyer stuff. And My Lord told me that all I  
29 have to do is prove on a balance of probabilities. It's just a balance of probabilities.  
30 It's just a bunch of stuff happened. Some stuff happened, probably some stuff,  
31 probably not. And I get to tell you people what I thought the probabilities were, and  
32 you get to decide on that balance of probabilities. And so that's all I'm really going  
33 to say is that I'm going to write a book about this, when it's all said and done, and  
34 you guys get to finish the ending, because it's going to end on Friday. Good or bad,  
35 right or wrong, when you guys make your final decision and you decide after all the  
36 evidence has been laid out, and you ladies of the jury make your final decision, that  
37 will be the end of the book for me and the end of this adventure.

38

39 So having said all that, I'm just going to show you the three probabilities that I  
40 believe could have happened and what's going to happen. There's going to be  
41 probability A, and that's going to be that the cops acted lawfully and they were

1 authorized and I was a doodyhead and they took me down, and everything that  
2 happened thereafter, they were authorized by law, and all of the evidence that's  
3 going to come up, all the evidence that's going to be pushed towards that  
4 probability, that will show on a balance of probabilities that what these gentlemen  
5 did to me was authorized by law.

6  
7 The second probability was that maybe there were some things authorized by law.  
8 Maybe my arrest was onboard, but maybe all the things that happened after that  
9 arrest, maybe the things that went into detail past that arrest, maybe my rights as a  
10 human being, as a Canadian, past that arrest, were violated, maybe. The evidence  
11 that we're going to bring today is hopefully going to prove on a balance of  
12 probabilities that second scenario, if you want to call it, whereas, yeah, maybe  
13 something was onboard, but maybe something afterwards that happened to him  
14 wasn't quite onboard.

15  
16 And the third probability, of course, the balance of probabilities, the scenario that  
17 we have today, is that no, maybe these guys did not have the legal authority. Maybe  
18 these guys overstepped their bounds. Maybe these guys were not in the position to  
19 act like what they believe, legally and lawfully, and as such, anything that happened  
20 to me, let alone the egregious assaults that took place, anything that happened after  
21 me, was not onboard. And as such -- and as such, the evidence -- or the evidence  
22 that there will be a lack of evidence, like all the missing audio and video, will  
23 reflect upon that.

24  
25 And so that's all I can say is that I don't think it would have -- I would never have  
26 believed it, had it not happened to me. And I'd just like to thank you for being here  
27 today and hearing both sides of the story. And I can finally write my book and  
28 finish this chapter of my life.

29  
30 Thank you, My Lord. Thank you, jury.

31  
32 THE COURT: Thank you, Mr. Stewart. Mr. Gibbings.

33  
34 **Opening by Mr. Gibbings**

35  
36 MR. GIBBINGS: Thank you, My Lord. I'll stand, if that's --

37  
38 THE COURT: Yes. Whatever you are comfortable with  
39 is fine. Sure.

40  
41 MR. GIBBINGS: I'll just turn here to face you. Good

1 morning, everyone. Again, my name is Rob Gibbings. With me is Andrea Rohrke,  
2 and we represent the five Saskatoon City Police officers who are the defendants in  
3 this lawsuit.

4  
5 I want to take a few minutes to outline for you what we expect the evidence will  
6 show, once all the evidence is in. I will repeat what My Lord -- what His Lordship  
7 has said. Before I do, I want to emphasize what I say to you now regarding that  
8 evidence is not evidence itself. You are the judges of that evidence.

9  
10 And you may be a little nervous about your role in connection with assessing that  
11 evidence. Let me assure you, there is no fancy methodology that only lawyers or  
12 judges know about that. It's only necessary, as His Lordship said, that you apply  
13 your common sense to what you hear, to listen carefully to the witnesses and the  
14 evidence that they give, to look carefully at the documentary evidence that will be  
15 put in, and apply your common sense to that, what is more likely in a particular  
16 situation.

17  
18 So let me now outline what we expect the evidence to show. And I can tell you we  
19 can be pretty confident that the evidence will show this, because as I will mention  
20 later, at least part of this story has been before the courts twice before, in a criminal  
21 trial and in a civil trial, such as this one, although before judge alone.

22  
23 Here's what we expect the evidence to show. It's August 24th, 2012. One of the  
24 defendant officers, Constable Keating, is in an unmarked police vehicle. He's  
25 travelling east on 8th Street in Saskatoon, and he's alone in that car. It's Cruise  
26 Night in Saskatoon. I don't know if you know about Cruise Night or if you've  
27 attended Cruise Night, but Cruise Night is a time on 8th Street where a large  
28 number of people are present to observe vintage cars and hotrods, et cetera,  
29 travelling up and down that street. At approximately 7:00 in the evening, Constable  
30 Keating notices a white Toyota Celica directly in front of him. The continuous  
31 sticker on the licence plate looks odd, and, in fact, it ultimately turns out to be  
32 homemade and taped to the licence plate. And he queries that licence plate number  
33 and finds that it doesn't belong to a Toyota Celica, it, in fact, belongs to a Honda  
34 Civic.

35  
36 So he pulls his police vehicle in behind that car as it's making a left-hand turn into a  
37 Shoppers Drug Mart parking lot. And in doing so, he activates the emergency lights  
38 on his vehicle. The Celica comes to a stop, and Constable Keating pulls his police  
39 vehicle behind it. And we will show you eventually visually what that looked like  
40 so that you can have a clear sense of the location and who was doing what.

41



1 The plaintiff exited that Celica from the passenger's side, and his brother, Jarvis,  
2 exited from the driver's side. And using the loud hailer on his car, Constable  
3 Keating instructed both of them to get back into their vehicle, and he will testify as  
4 to the reasons why a police officer would make that request. Instead of complying  
5 with that instruction, the plaintiff and his brother ignored him. Constable Keating,  
6 who was wearing his regular police uniform, and he will describe that to you,  
7 exited his vehicle, and again instructed them to go back to their car. And again,  
8 those instructions were disregarded.

9  
10 A conversation took place, during the course of which Jarvis Stewart said to  
11 Constable Keating, as he will testify -- Constable Keating will testify, that he,  
12 Jarvis, did not -- quote, did not believe in your laws, and that Constable Keating  
13 had no right to detain him. You will hear from Constable Keating the tone in which  
14 that was spoken. Constable Keating told Jarvis Stewart that he was conducting a  
15 legal traffic stop, and nevertheless, he continued to walk away from the defendant.

16  
17 The situation begins to escalate as the plaintiff and his brother continue to ignore  
18 Constable Keating's instructions. Constable Keating places Jarvis Stewart under  
19 arrest and handcuffs him, after some bit of struggle, which Constable Keating will  
20 describe to you. While this was happening, the plaintiff, James Stewart, was  
21 walking away from the scene. And when Constable Keating began to place Jarvis  
22 Stewart under arrest, James Stewart began walking back. Constable Keating will  
23 testify that he did so in a threatening manner. And you will have to judge the  
24 evidence as to what that looks and sounds like.

25  
26 Mr. Stewart did this twice. He came towards Constable Keating, walked away  
27 again, and came back, again, according to Constable Keating, in a threatening  
28 manner. And it was at that point, having Jarvis Stewart under arrest and faced with  
29 James Stewart coming towards him, that Constable Keating called for police  
30 backup. Constables Schaefer and McAvoy attended at the scene. They were also on  
31 or near 8th Street.

32  
33 They were advised that James Stewart, the plaintiff, was arrestable for obstructing a  
34 police officer in the execution of his duties. They attempted to arrest the plaintiff,  
35 and a struggle ensued, and it's that struggle that is at the heart of this lawsuit.

36  
37 Eventually, both brothers were arrested for obstructing a police officer in the lawful  
38 performance of his duties. James Stewart was also charged with assaulting a police  
39 officer, a charge which had to do with his interactions with the other officers who  
40 attended the scene. That charge did not proceed. That charge was stayed at trial.

41

1 The plaintiff and his brother were transported in separate police cars, and thereafter  
2 they were dealt with primarily by Detention personnel at the city police station,  
3 none of whom are parties to this action.  
4

5 As I said earlier, we can say that this is the evidence that's likely to come out with  
6 some confidence, because of the litigation that's preceded this trial. James Stewart  
7 and Jarvis Stewart were tried at a criminal trial in April of 2013. The decision was  
8 rendered on May 3rd, 2013. Both of them were found guilty of wilfully obstructing  
9 Constable Keating while engaged in the lawful execution of his duty by disobeying  
10 lawful commands at a traffic stop contrary to Section 129 (a) of the *Criminal Code*  
11 *of Canada*. The Provincial Court Judge issued to them an absolute discharge,  
12 which means that they were found guilty, but no criminal record.  
13

14 Jarvis Stewart pursued a civil claim -- that's that other civil claim I mentioned  
15 earlier -- against Constable Keating. That trial took place before a judge alone,  
16 Mr. Justice Gabrielson, and Jarvis Stewart's claim was dismissed following that  
17 trial. Mr. Stewart then appealed that decision on the Court of Appeal, which upheld  
18 the decision of the lower court and dismissed his action, and Jarvis further applied  
19 for leave to appeal to the Supreme Court of Canada, which was not granted. And  
20 James now pursues his own civil claim. And he's asked, as is his right to do, that  
21 his claim be decided by a jury and judge, and not by a judge alone.  
22

23 Now, before I leave, I want to put before you something to keep in mind with  
24 respect to the law applicable to this case. In doing so, I remind you what His  
25 Lordship said. His Lordship is the ultimate judge of what the law is that's  
26 applicable here, and you will ultimately be asked to apply the law as he describes it  
27 to you, and you will apply the facts to that law. And again, I have no doubt that if I  
28 am wrong in stating the evidence, he will correct me, and you must be guided by  
29 him.  
30

31 Police officers are tasked with enforcing the law, preserving peace and order and  
32 preventing crime. On occasion, a police officer is required to use physical force in  
33 enforcing the law. I will come back to this next point again when I speak to you  
34 after all the evidence is in, but in Saskatchewan, police officers have a legal  
35 defence regarding any actions they take in enforcing or attempting to enforce the  
36 law. That's in Section 10 of *The Police Act*. And it says, and I'm paraphrasing  
37 slightly, but that no successful lawsuit can be brought against a police officer who  
38 is acting pursuant to the authority granted to that officer for any loss or damage  
39 suffered by any person by reason of anything that the police officer did in good  
40 faith. We know that the police officers here were acting within their authority. That  
41 result -- that is not an issue any longer. That was found at the criminal trial when

1 they were found guilty of obstruction.

2

3 So the real focus, and what I'm going to ask you to focus on at the end of the day, is  
4 whether or not these officers acted in good faith. It's been established, at least in my  
5 submission to you it's been established, that the relevant test of good faith is  
6 whether the actions of the defendant are so markedly inconsistent with the relevant  
7 legislative context that you could not reasonably conclude that they were performed  
8 in good faith.

9

10 On the other hand, if what the police officers did reflected an honest belief in the  
11 existence of facts which, had they existed, would have justified them in doing what  
12 they did, then they acted in good faith. There are other adjectives that get used in  
13 the authority -- authorities. A lack of good faith implies a fundamental breakdown  
14 of the orderly exercise of authority. A lack of good faith is an act which is  
15 inexplicable, incomprehensible, or it's an actual abuse of power.

16

17 So in applying your common sense to determining the truth from the evidence and  
18 applying those facts to the law, I ask you to keep in mind whether anything in the  
19 evidence shows that any officer acted recklessly or whether any action of an officer  
20 was inexplicable or incomprehensible or amounted to an actual abuse of power. We  
21 expect the evidence will show you that each of these officers acted within the scope  
22 of the authority -- again, that's been established. Nothing they did was reckless.  
23 Nothing they did was inexplicable or incomprehensible. Nothing they did was an  
24 abuse of power. In other words, they acted in good faith. And at the end of the day,  
25 we expect the evidence will show to you that this lawsuit must fail.

26

27 Thank you very much for listening.

28

29 THE COURT: Thank you, Mr. Gibbings. So it's been a  
30 busy morning. I think it's a good time to break for lunch. Mr. Stewart, my thought  
31 is we will break for lunch and resume at 1:30. You will be ready with your first  
32 witness, sir?

33

34 MR. STEWART: Yes, My Lord.

35

36 THE COURT: Excellent. Mr. Gibbings, you are  
37 comfortable with that approach?

38

39 MR. GIBBINGS: Yes, thank you, My Lord.

40

41 THE COURT: Deputy, you will take out the jury. Just

1 hang on, parties. We'll just have a brief discussion.

2

3 THE SHERIFF: My Lord.

4

5 THE COURT: Thank you, deputy. (INDISCERNIBLE)

6 because nobody knows what the rule is. When they come in. When they come in.

7

8 (JURY RETIRES)

9

10 THE COURT: Please be seated. So I got your letter,

11 Mr. Stewart, and you were comfortable with the questions I had prepared, but you

12 had another question. This was the question you wanted to put: "As an arresting

13 officer did -- " then we'll just --

14

15 MR. STEWART: Defendant.

16

17 THE COURT: -- for each defendant -- (As read)

18

19 -- fulfill his duties and obligations to the plaintiff at all times.

20

21 You said this might be a question of law. Well, it kind of sort of is.

22

23 MR. STEWART: M-hm.

24

25 THE COURT: But more to the point, police officers

26 don't have a personal duty to you. A police officer's duty is to society as a whole.

27

28 MR. STEWART: Mm.

29

30 THE COURT: To keep the peace.

31

32 MR. STEWART: M-hm.

33

34 THE COURT: Their duty, vis-à-vis an individual, is if

35 they are arresting you, not to abuse you, not to -- not to use more force than is

36 reasonably necessary, not to engage in a process -- an abuse of process, not to

37 intentionally inflict mental suffering. So those are the questions I have asked.

38

39 MR. STEWART: Okay.

40

41 THE COURT: And so I would respectfully say -- I know

1 the point you're getting at, but that just doesn't work.  
2  
3 MR. STEWART: That's fine.  
4  
5 THE COURT: Okay. You are also reasonably  
6 comfortable with the questions, Mr. Gibbings?  
7  
8 MR. GIBBINGS: At the moment, yes.  
9  
10 THE COURT: Yes. Yes. Again, the problem is you  
11 never know how the evidence is going to unfold. You have to check it at the end.  
12  
13 All right. You also have taken a little bit of an exception to Mr. Gibbings' reference  
14 to the criminal trial.  
15  
16 MR. STEWART: Mm.  
17  
18 THE COURT: That's -- from your perspective, file that  
19 under inconvenient fact, but it is a fact. It is integral to the larger story, so it's going  
20 to come out. Okay?  
21  
22 MR. STEWART: M-hm.  
23  
24 THE COURT: Now, you said you never got the reasons.  
25  
26 MR. STEWART: M-hm.  
27  
28 THE COURT: Ms. Rohrke, you sent me reasons.  
29  
30 MR. STEWART: M-hm.  
31  
32 MS. ROHRKE: My Lord, there was a transcript that was  
33 created --  
34  
35 THE COURT: Yes. Okay.  
36  
37 MS. ROHRKE: -- and on Quicklaw, that transcript --  
38  
39 THE COURT: Right.  
40  
41 MS. ROHRKE: -- was simply provided on Quicklaw. I

1 mean --  
2  
3 THE COURT: Okay.  
4  
5 MS. ROHRKE: -- it's (INDISCERNIBLE) the transcript,  
6 however.  
7  
8 THE COURT: Okay. Did you send a copy to  
9 Mr. Stewart?  
10  
11 MS. ROHRKE: He was cc'd on the email, My Lord.  
12  
13 THE COURT: Okay. Very good. All right. So 1:30?  
14  
15 MR. STEWART: So I'm sorry. The -- are you saying that  
16 we were using this decision or -- like, you just sort of said --  
17  
18 THE COURT: Yes. The fact that -- the decision is a fact.  
19 It will -- now, I don't know how it'll come out.  
20  
21 MR. STEWART: Yeah.  
22  
23 THE COURT: But the fact of the matter is, yeah, we  
24 can't pretend it didn't happen.  
25  
26 MR. STEWART: That's -- you know, and that's a very fair  
27 statement, My Lord, because I don't pretend it didn't happen. Except the only  
28 problem I have with this, My Lord, is that says nothing about the assault charges. It  
29 was just a complete gloss-over. So how this becomes a legit fact when I've been  
30 waiting six years for this, and it somehow shows up with Erin Mertz's name on it.  
31 It's not even, like, a legit document. Like, you can't -- it's, like --  
32  
33 THE COURT: Well, I think --  
34  
35 MR. STEWART: -- it's not a PDF document.  
36  
37 THE COURT: No.  
38  
39 MR. STEWART: It's just a -- it's a copy of a copy of a  
40 copy.  
41

1 THE COURT: Yes. But it's a transcript of what Judge  
2 Singer said in court --  
3  
4 MR. STEWART: No, no. It's a cut and paste of a transcript.  
5 I have the true criminal transcript.  
6  
7 THE COURT: Okay.  
8  
9 MR. STEWART: This is just a cut and paste of stuff he  
10 said in that transcript.  
11  
12 THE COURT: Okay.  
13  
14 MR. STEWART: It's not -- this isn't -- this --  
15  
16 THE COURT: But, look, what went on in the other  
17 trial --  
18  
19 MR. STEWART: Right.  
20  
21 THE COURT: -- I mean, we're not going to get into the  
22 evidence of the other trial. The only thing that impacts from the other trial is the  
23 fact of conviction.  
24  
25 MR. STEWART: But there was no fact, because there's no  
26 written decision.  
27  
28 THE COURT: There is --  
29  
30 MR. STEWART: That's what I'm saying.  
31  
32 THE COURT: Yes. No.  
33  
34 MR. STEWART: Is that -- right? We're in a wonderful  
35 conundrum here, My Lord.  
36  
37 THE COURT: I know. It's easy. It's not a conundrum for  
38 me.  
39  
40 MR. STEWART: Ha-ha.  
41

1 THE COURT: You have a criminal record, albeit --  
2  
3 UNIDENTIFIED SPEAKER: Whoa, whoa, whoa.  
4  
5 THE COURT: -- modified --  
6  
7 MR. STEWART: It's okay. It's all right.  
8  
9 THE COURT: -- modified by the absolute discharge.  
10  
11 MR. STEWART: Yeah. No, it is whatever the words are,  
12 yeah.  
13  
14 THE COURT: It was convicted -- you were convicted.  
15  
16 MR. STEWART: So -- so I was, yeah.  
17  
18 THE COURT: You were granted an absolute discharge.  
19  
20 MR. STEWART: Apparently. Allegedly, right?  
21  
22 THE COURT: Yes.  
23  
24 MR. STEWART: No written decision except this.  
25  
26 THE COURT: That's the way it is.  
27  
28 MR. STEWART: That's fine. That's the way it is, Your  
29 Honour.  
30  
31 THE COURT: Okay.  
32  
33 MR. STEWART: Thank you, My Lord.  
34  
35 THE COURT: Thank you. All right. Madam Clerk, 1:30.  
36  
37 UNIDENTIFIED SPEAKER: (INDISCERNIBLE) worry.  
38  
39  
40 PROCEEDINGS ADJOURNED UNTIL 1:30 PM  
41

---

---



1 April 29, 2019 Afternoon Session  
2  
3 The Honourable Court of Queen's Bench for Saskatchewan  
4 Mr. Justice R.S. Smith  
5  
6 (No Counsel) For the Plaintiff  
7 R. Gibbings, Q.C. For the Defendants  
8 A. Rohrke For the Defendants  
9 B. Werezak Court Clerk

---

10

11

12 **Discussion**

13

14 THE COURT: Thank you. Please be seated. Deputy -- or  
15 excuse me. Parties, do we have anything to talk about before I bring in the jury?

16

17 MR. GIBBINGS: I don't believe so, My Lord.

18

19 THE COURT: Bring in the jury.

20

21 MR. GIBBINGS: Actually, there was one thing. My  
22 assumption is that Mr. Jarvis Stewart is going to testify first, otherwise I would  
23 want him excluded.

24

25 THE COURT: Yes. That's usually the rule, that you  
26 exclude your witnesses, until they testify, which is no problem if Jarvis is going to  
27 testify first.

28

29 MR. JARVIS STEWART: Sure.

30

31 THE COURT: That's okay with you?

32

33 MR. JARVIS STEWART: Sure.

34

35 THE COURT: Thank you. No, no. Just -- we'll wait.

36

37 MR. STEWART: Okay.

38

39 THE COURT: I will call upon Mr. Stewart to call you  
40 up, Jarvis, and then you come up here.

41

1 MR. JARVIS STEWART: I apologize, yes.

2

3 THE COURT: Bonita. The numbers?  
4 (INDISCERNIBLE) the numbers? Okay.

5

6 (JURY ENTERS)

7

8 THE COURT: Okay. After the break.

9

10 Please be seated. So we are now going to start with the evidence. The plaintiff calls  
11 his evidence first.

12

13 Mr. Stewart, I understand your first witness will be your brother, Mr. Jarvis  
14 Stewart?

15

16 MR. STEWART: Yes, Your Honour. I -- My Lord.

17

18 THE COURT: Mr. Jarvis Stewart, why don't you come  
19 up to the stand?

20

21 I will cut them loose after the first witness.

22

23 THE COURT CLERK: Will you swear on the Bible or do you  
24 want to be affirmed?

25

26 MR. JARVIS STEWART: Oh, the Bible, please. On -- on the Bible.

27

28 THE COURT CLERK: (INDISCERNIBLE) your right hand,  
29 please. State your name for the Court.

30

31 MR. JARVIS STEWART: Jarvis Stewart.

32

33 THE COURT CLERK: Spell your surname for the record.

34

35 MR. JARVIS STEWART: S-T-E-W-A-R-T.

36

37 **JARVIS STEWART, Sworn, Examined by Mr. Stewart**

38

39 THE COURT CLERK: Thank you. You may be seated.

40

41 A Thank you.

1

2 THE COURT: We've got water there if you need it,  
3 Mr. Stewart.

4

5 A Thank you. I might.

6

7 THE COURT: When you are ready, Mr. Stewart.

8

9 MR. STEWART: Thank you, My Lord.

10

11 Q MR. STEWART: Jarvis. Why don't you tell the people  
12 what happened on the night of August 24th, 2012, around 7:00 in the evening?

13 A Thank you. This is going to be very difficult for me, so please bear with me. I've  
14 had a rough last few days, just thinking about doing this. It's been pretty  
15 traumatic. This is probably the worst thing that ever happened to me in my life.  
16 And I'm having to relive it again now for the third time in front of a judge and  
17 the first in front of a jury. So I apologize in advance. I will try not to speak too  
18 quickly or get too distraught. But I'm trying -- I'm reliving something up here  
19 that happened to me on the evening of August 24th, 2012.

20

21 Now, the defence is going to try to have you believe that this was some sort of  
22 traffic stop, that this was a traffic stop. But it was absolutely the furthest thing  
23 from a traffic stop, and it resulted in ten police vehicles showing up to the  
24 scene.

25

26 So I was driving my car on 8th Street on the evening of August 24th, 2012. It  
27 was a Friday night at around 7 PM. And I turned into the Shoppers Drug Mart  
28 parking lot. And at some point upon parking my car or just before parking, I  
29 guess I noticed a car really in close or in -- in -- direct -- directly behind me.  
30 And it did have flashing lights. And so I parked my vehicle, and I got out,  
31 really, to see what was the matter. This car parked really close up on my  
32 bumper.

33

34 And I simply got out of my car to see what was going on. I just wanted to know  
35 what was going on. There was nothing out of the ordinary that I -- I felt. And I  
36 got out of my car, and I heard somebody shout commands at me over a loud  
37 hailer in a car. And at first, I didn't really understand that these instructions or  
38 directions were relayed at me or were towards me. I -- I didn't really know what  
39 was going on. Like I said, I wanted to just see what was happening. And then  
40 again, he -- this man repeated the commands over this loud hailer and said get --  
41 get back in your car. Get back in your car right now.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

And it was really rude. It really struck me as just really arrogant. And there was lots of people watching, and I thought, wow, that was really -- that was really rude. Nobody really talks to me like that. So I stood there, and I -- and I said no. I just told this man no. That was it. N-O. It was the only thing that I spoke.

And this man got out of his car, and unbeknownst to me -- and, I mean, I guess I know now that he was a police officer, but this was an unmarked vehicle, and he was not outside of the vehicle. I could not see him. He never identified himself as a police officer. The only instruction given to me was get back in the car, get back in the car right now. And I said, quite clearly, no. I was -- no one can talk to me like that. I'm not going to get back into my car. What's going on?

And this man then said something to the effect of "that's it", and ran at me. Just basically attacked me, in -- in broad daylight, with people watching. And he attacked me, and tried to tackle me to the ground. And I said, Hey, like, what is going on? Like, what -- what is happening? Like, what -- and my brother said the same thing. He got out of the car and said, Hey, like, yeah, like, what -- what are you doing? And all I can really tell you is that this man went insane. He literally would not listen to a word I said. The only instruction that was given to me after "get back in the car, get back in the car right now" was literally, and pardon my French, was "shut the fuck up, douchebag." That was the only instruction that was given to me, and it's never escalated to the point of obstruction or my driver's licence or anything to do with my car. It was "get back in the car, get back in the car right now," and when I didn't get back in the car, that was it, and this man physically attacked me.

Now, all I really tried to do was defend myself against this attack, and my brother simply objected to what was going on and said, Hey, that's -- that's not night, you can't attack people. And I said to this man, Yeah, hey, like, what -- what are you doing? Like, what's -- what's the problem? And again, he told me to shut the fuck up.

So I kind of got my wits about me. And like I said, there's multiple people watching this. But then I asked this man, I said, Are you a police officer or a peace officer? And he said he was a peace officer. And I said, Are you a peace officer serving my best interests? So by this time, he's trying to put handcuffs on me. He had put my one hand in a handcuff. And I said, Are you a police officer or a peace officer? He said, A peace officer. And I said, Are you a peace officer serving my best interests? And he said, Yes, I am. And I asked this man, How -- how did you observe me breach the peace? How did you observe me breach the

1 peace? And he said nothing. And I asked him again, how did you observe me  
2 breach the peace? And at that point, he again told me "shut the fuck up, shut the  
3 fuck up." That was it.

4  
5 And he had a handcuff on really tight on my left wrist, and he was controlling  
6 me with it. And it really hurt. It absolutely really hurt. And I didn't resist. I  
7 didn't try to resist. I mean, I allowed him to handcuff me on the one hand. And  
8 then he used this as some kind of pain compliance. And he began to call  
9 backup. And all I kept insisting was just wanting to know what's going on, who  
10 this man was. He never identified himself to me and what the nature of this stop  
11 was. And he would not say anything to me. The only instruction given to me  
12 was "shut the fuck up, douchebag."

13  
14 So I told my brother, who was also objecting to this treatment, I said, James,  
15 go -- this guy has just lost his mind. Go to Shoppers Drug Mart. Please go to  
16 Shoppers Drug Mart and call a superior officer and get someone else down here  
17 because this guy is going crazy. And he just won't -- he won't listen to reason.  
18 And so my brother went about trying to go to Shoppers Drug Mart. And this is  
19 corroborated by the dispatch audio that you'll hear, that the arresting officer said  
20 at some point that this man was trying to get away from the scene. And that's  
21 because I instructed him to go to Shoppers Drug Mart to phone a superior  
22 officer to come down and -- and just reason with us, just de-escalate this  
23 situation that had escalated so quickly, I'm going to say, in a matter of seconds,  
24 between, you know, five to ten seconds between after getting pulled over, this  
25 man has physically assaulted me and will not reason with me at all.

26  
27 So I told him to go to the Shoppers Drug Mart and phone the police, phone a  
28 supervisor, and get him to the scene. And the arresting officer, the defendant  
29 Keating, he -- he started flipping out. And he told my brother to get back to the  
30 scene, get back here, get back here, and wouldn't -- and at some point he called  
31 backup, I guess. And all we did was object to his treatment. He would not  
32 communicate with me other than to say "shut up, shut the fuck up." And at  
33 some point, very quickly, within a matter of I'm going to say 30 seconds to a  
34 minute, other police cars came screaming into the parking lot from all  
35 directions. Now, as you've been told, this was Cruise weekend, so there was  
36 literally -- I'm going to say 50 to 100 people around, watching this. And ten  
37 police vehicles came flying into the parking lot from all directions, lights and  
38 sirens blazing.

39  
40 And when they showed up and the other officers got out of their car, the only  
41 instruction that the defendant Keating made was for other officers to take down

1 my brother. He -- he literally looked at my brother and instructed -- instructed  
2 other officers to take him down, which they did, violently, with literally no  
3 reason whatsoever. He was never told the reason. He was never told he was  
4 under arrest. He was never told anything. No one even identified themselves. And  
5 the defendant Keating made the instruction to other officers to take this man  
6 down, which they did, violently, physically, on the pavement.

7  
8 And I had to watch all this. And, I mean, by this time, I'm in handcuffs, and  
9 multiple, multiple officers are at the scene, freaking out. I was never told what  
10 was going on, that this ended up being an obstruction and something to do with  
11 a traffic stop is ridiculous. If this was a traffic stop, they wouldn't have needed  
12 ten vehicles to violently take us into custody.

13  
14 And that was really my only interaction with the defendants, because at that  
15 point, they had taken me away to jail for reasons not known to myself. I was  
16 never told I was under arrest for obstruction of a peace officer, for disobeying  
17 lawful commands at a traffic stop. That was absolutely ridiculous. I was never  
18 told this. And I was sent away to Detention cells with other officers, who would  
19 not tell me the charges that -- that were laid against me. I didn't find out I was  
20 being charged with obstruction until the following morning.

21  
22 And these men did not allow me to call a lawyer. They literally threw me in  
23 Detention cells for 18 hours. I spent there -- the following 18 hours in Detention  
24 cells without the ability to call a lawyer, which is -- it's just un-Canadian. It's  
25 contrary to the *Canadian Charter*. It's contrary to -- it's inhumane treatment. I  
26 would go so far as to say it was inhumane treatment. It was the absolute worst  
27 thing that's ever happened to me in my life, from a guy who knew the law and  
28 knew what rights I had that evening. They were completely stripped from me. It  
29 was the most degrading, humiliating experience of my life. And my only other  
30 interaction with the defendant Keating was when he returned to my cell, I'm  
31 going to say some two hours later, to hand me \$2,500 in traffic tickets. And that  
32 was it. And then basically told me to have a nice night in jail. And that was it.  
33 That was the end of my story, really, my interactions with the defendants, I  
34 should say.

35  
36 I had to watch them basically savage my brother right in front of me in the most  
37 aggressive display I've ever seen of violence, for literally no reason. He was  
38 taken into custody. And then he got charged with two counts of assault, which  
39 to me, was absolutely unbelievable. I could not actually believe that they would  
40 violently, physically take a man into custody and then charge him with  
41 assaulting them. And we had to endure six case managements, a three-day trial,

1 and -- and a ruling just to try to fight those assaults, to which all these  
2 defendants testified to. They all, I guess, believed that my brother had assaulted  
3 them. And they absolutely didn't.

4  
5 They absolutely were not acting in good faith, to violently, physically take a  
6 person in custody for reasons known only to yourself, and then decide that they  
7 need to be charged under the *Criminal Code* with assault, you know, something  
8 that will send a man to prison, is just insane. It's just insane to -- these men were  
9 not acting in good faith. This was the most -- the most horrific experience of my  
10 life.

11  
12 Again, I apologize. My voice is breaking up just saying this to you, because I  
13 don't think the defendants here have any idea what it's like to be charged with  
14 something that you didn't do or a member of your family -- have a member of  
15 your family charged with something that they absolutely did not do that would  
16 send them to jail. I mean, my brother is the best guy that I know, and I know he  
17 absolutely would never -- he's never assaulted anyone in his life. This is our  
18 only -- this is my first time I have ever been arrested in my entire life. Same  
19 with him.

20  
21 I never had any dealings with any police. I never had a criminal record. My  
22 driving abstract has been -- you know, short of a couple speeding tickets, I've  
23 never even had any interactions with the police. So for this I'm going to say  
24 ten-second encounter, really, which is what it was, for this man to give me some  
25 demands and me to say no, to have escalated to this, seven years later where I'm  
26 in front of you now, the jury, and again in front of a judge trying to explain  
27 myself, it's -- it's really disheartening for me. It's been, again, the worst  
28 experience of my life.

29  
30 And I can't even tell you when you start to look at the evidence how just  
31 disconcerting it should be for yourselves. I don't know that any of you would  
32 ever have been physically arrested by someone, but I hadn't before that night.  
33 And then to have that happen, and then the police come back and tell you that  
34 all the evidence is missing, that this whole arrest should have been recorded,  
35 and it should have been right in front of a new-fangled dash camera. But all the  
36 audio in the dash camera didn't work, for some reason, and -- and all the police  
37 involved, they filed a use of force report because they used force to effect your  
38 arrest, but now they can't locate a use of force report.

39  
40 And the whole scene was surrounded by people. It was Cruise Weekend, and  
41 there was at least probably 50 to 100 people around who watched the whole

1 entire encounter first hand. And then to have the police collectively say that  
2 they all ignored their training that night, and they didn't take a single witness  
3 statement or name. And yet, they're prepared to come to court and testify to  
4 these things and try to make a criminal out of myself. It's been the worst  
5 experience of my life. It's been the worst experience of my life. I'm very  
6 thankful today to be here and to put this before you, the jury, and -- and have  
7 you hear it, because this is the third time I've had to go through this. And no one  
8 has listened to me yet. No one really -- no one has really listened to my version  
9 of events or my side of the story yet, and I've been forced to try to just basically  
10 state my case in front of theirs. And it's very, very difficult to answer to police  
11 who can't produce evidence of anything, you know, who can't produce witness  
12 statements of you supposedly doing this. It's just their story versus my story.

13

14 And, you know, so far, you know, in criminal court, a Judge won't -- won't  
15 believe an average person's story. They'll just take the police's testimony at their  
16 word. They would never believe that an officer of the law could be lying in  
17 court or making something up or embellishing something. But they've  
18 literally -- they've made everything go away. You can -- you can ask them  
19 yourself and ask the defence. They don't have any evidence of this. They should  
20 have dash cam audio and witness statements and use of force reports, and they  
21 don't have any of this. And yet I've still had to endure a criminal trial, and here I  
22 am, seven years later, in front of you, hoping for justice. Hoping and praying  
23 that -- that you can right an injustice that's occurred to me in my life.

24

25 And like I said, this is the worst thing that's ever happened to me. I can't -- I  
26 can't even believe that I'm here before you today, trying to explain this away  
27 once more and just have one basically just listen to my words. That's all I've  
28 been looking for from the beginning. It's very difficult to refute people who --  
29 who make allegations of yourself, and yet can't produce evidence of it. So that's  
30 really my story. That's what happened to me on August 24th, 2012, and I've  
31 relived it every night since. I haven't slept in three days, knowing that I had to  
32 come here and do this one more time.

33

34 And I -- you know, I -- I hope if you have any questions, you'll ask them. I'd  
35 like to think that we've been as forthright with everything as we can. Like I said,  
36 I've been fighting to get evidence of this and everything I can since the very  
37 beginning, and now this is kind of a last grasp attempt. I have to put it in front  
38 of a jury and say, yeah, because all the evidence is missing, it's my word against  
39 theirs or their word against mine, and I have to try to convince you somehow.

40

41 THE COURT:

Okay. Mr. Stewart, that's -- thank you.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

Do you have any follow-up questions, Mr. Stewart?

MR. STEWART: Yes, I do, Your Honour. Just a couple, if you don't mind.

THE COURT: Please do.

Q MR. STEWART: Jarvis, do you remember who the police officers were who put you in the car?

A Absolutely. Yes, it was Constables Hounsell and Constables Boyce.

Q And -- and those officers drove you to the detention?

A Yeah, absolutely. Yeah.

Q And were those officers then the ones who supposedly got you a call to a lawyer?

A Oh, they were the ones that didn't get me a call to a lawyer, yeah.

Q Okay. And so the other officers that first attended the scene, that was -- which officers were those that first arrived?

A Well, the original, I guess, arresting officer would be defendant Keating. And the first two officers that I would have dealt with at the scene would have been Hounsell and Boyce, but I -- they also -- the other officers at the scene were Schaefer and McAvoy.

MR. STEWART: Thank you very much.

THE COURT: Anything else, Mr. Stewart?

MR. STEWART: No, thank you, your -- My Lord.

THE COURT: Mr. Gibbings, you tell me. If you're ready to go, fine. If you need a couple of minutes, fine.

MR. GIBBINGS: I think I'm ready to go. And, My Lord, I wanted to -- I think we're going to be potentially entering some documents.

THE COURT: Okay.

MR. GIBBINGS: Or presenting some documents to this

1 witness. And I think what we've earlier discussed is the possibility that in order to  
2 assist the jury and keeping these documents straight, we would provide them  
3 with -- with binders.

4

5 THE COURT: Oh, binders are a good thing. It helps  
6 keep them straight. As long as you've got one for our friend, Mr. Stewart.

7

8 MR. GIBBINGS: Yes. Yes, we do. And one for you, My  
9 Lord.

10

11 THE COURT: Excellent.

12

13 MR. GIBBINGS: So what we're doing here, My Lord, is  
14 just -- we're just placing in front of the -- the witness here a binder which will have  
15 a number of documents.

16

17 THE COURT: Right.

18

19 MR. GIBBINGS: We hope all will be admissible, but some  
20 may not.

21

22 THE COURT: Okay.

23

24 MR. GIBBINGS: And as that happens, they can simply be  
25 removed from the binder. But what we'll do with the juror -- jury is simply provide  
26 them with those that are admitted.

27

28 THE COURT: Good idea.

29

30 MR. GIBBINGS: Ready, My Lord?

31

32 THE COURT: You bet.

33

34 **Mr. Gibbings Cross-examines the Witness**

35

36 Q MR. GIBBINGS: Mr. Stewart, as you've indicated, this is  
37 the third time of telling your story; is that correct?

38 A In court, yeah.

39

40 Q In court? The first of those occasions was in Provincial Court in 2013?

41 A That's correct.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

Q And you told the story there that you told here today?

A Yes.

Q And at the conclusion of that matter a few weeks later in May, Judge Singer found you guilty of obstruction, correct?

A Yes, correct.

Q And then --

A I still don't have a -- a written decision with the reasons regarding that judgment.

Q You were found guilty; isn't that correct?

A Yeah, but off the record, so there's -- without a written decision and reasons, it's kind of of no force or effect here, sir.

THE COURT: I will just make this point. In Provincial Court, the judge often gives oral decisions. It's still -- it's still a decision. Carry on.

A All right.

Q MR. GIBBINGS: Okay. And then you commenced a civil action against Constable Keating, correct?

A Not really, no. I sued Constable Keating about two weeks after it happened in small claims court.

Q Okay.

A And that's why the whole theory that it was an attempt to re-litigate is ridiculous. It can be corroborated by Boyce's notes, who says at the end that I told all the police officers involved that I was going to civilly sue them the night of, so ...

Q Okay. Ultimately, this -- your claim against Constable Keating made its way to the Court of Queen's Bench, correct?

A That's correct, yeah.

Q And in front of Mr. Justice Gabrielson?

A That's correct.

Q Right. And you told this story there?

A Yes.

- 1
- 2 Q And at the conclusion of that, your action against Mr. -- Constable Keating was
- 3 dismissed. You're -- you lost your lawsuit?
- 4 A Yes. Yeah.
- 5
- 6 Q And you appealed that decision to the Court of Appeal?
- 7 A That's correct.
- 8
- 9 Q And you lost there?
- 10 A Yeah.
- 11
- 12 Q And you tried to appeal to the Supreme Court of Canada?
- 13 A That's right.
- 14
- 15 Q And they wouldn't let you?
- 16 A Yeah, that's correct.
- 17
- 18 Q Okay.
- 19 A I was very thorough.
- 20
- 21 Q Now, when this vehicle pulled up behind you with the lights flashing, what did
- 22 you think it was?
- 23 A A vehicle with lights flashing.
- 24
- 25 Q You've been pulled over for traffic tickets, speeding tickets, that sort of thing?
- 26 A Yeah. Not that many times, but yes.
- 27
- 28 Q Right. And by a police vehicle?
- 29 A Mostly by a police vehicle. That's what made this case different, because it was
- 30 an unmarked vehicle. There were no police markings on it.
- 31
- 32 Q Those police vehicles that pulled you over previously had lights flashing, red
- 33 and blue lights flashing?
- 34 A Yeah. But they also said "police" on them.
- 35
- 36 Q Oh, I see. So you thought this was some sort of rogue?
- 37 A I thought it could have been just security for Shoppers Drug Mart, sir. I didn't
- 38 know who it was. He parked so close to my bumper, I -- I didn't really know. I
- 39 just got out to see what was going on.
- 40
- 41 Q When the individual got out of the car, that individual was dressed as a police

1 officer, was he not?

2 A I mean, yeah, technically. But when the individual got out of the car, he just ran  
3 at me and tried to tackle me.

4

5 Q Technically or not, was he dressed as a police officer?

6 A Yes.

7

8 Q When he got out of the vehicle, you said to him, We don't believe in your laws?

9 A No, absolutely not. The only thing I indicated to him was "no." He told me to  
10 get back in the car, get back in the car right now. The only -- the only thing I  
11 said to him was "no" and "no," then he tried to tackle me.

12

13 Q The fact of the matter is, Mr. Stewart, you didn't believe in the laws?

14 A Oh, no. I believe strongly in our laws, sir.

15

16 Q Let me show you something that you were carrying in your vehicle that night. If  
17 you'd go to the binder in front of you and go to tab 24, do you recognize that  
18 document?

19 A Yes.

20

21 Q Okay.

22

23 MR. GIBBINGS: I wonder if I could have it admitted, My  
24 Lord.

25

26 MR. STEWART: I'm not -- I'm just going to say I'm going  
27 to make an objection. Where did this come from? Was this taken out of a vehicle  
28 with a warrantless search? I believe it was. Let's just go through with this. How is  
29 this even admissible?.

30

31 THE COURT: Did you prepare this document,  
32 Mr. Jarvis -- Mr. --

33

34 A Well, I mean, this was in the glove box of my car when I got pulled over. But, I  
35 mean, I never offered this up to police. How did they --

36

37 THE COURT: All right. But it was -- it was in the car,  
38 which was pulled over, the police say on a traffic stop, you say not, but --

39

40 A Yeah. I mean --

41

1 MR. STEWART: Well, I mean, parking -- it's in a parking  
2 lot. There's no pulling over. You're parked --

3  
4 A But, I mean, it was --

5  
6 MR. STEWART: -- in a parking spot. There's no pulling  
7 over. Pulling over is pulled over to the side of the road.

8  
9 MR. GIBBINGS: My Lord --

10  
11 MR. STEWART: Parking is parking.

12  
13 THE COURT: In any event, this was in the car, which  
14 was the subject of the debate, and --

15  
16 MR. STEWART: Yes. It was in the car. Yes.

17  
18 THE COURT: -- it will be admitted as Exhibit P-1.

19  
20 A I --

21  
22 MR. STEWART: Right on.

23  
24 MR. GIBBINGS: D-1. D-1.

25  
26 THE COURT: Sorry. D-1. My fault.

27  
28 MR. GIBBINGS: Thank you.

29  
30 **EXHIBIT D-1 - Notice and Claim - Tab 24**

31  
32 Q MR. GIBBINGS: You prepared this document,  
33 Mr. Stewart?

34 A Yeah.

35  
36 Q Okay. I want to just touch upon some of these -- the contents of this document.  
37 If you look at the last paragraph of the first page --

38  
39 MR. STEWART: I'm just going to object. Did you have  
40 porno magazines in the car? Like, are we going to read porno magazines, too?  
41 Like, you could have had a hundred things in the car. What difference does this

1 make --

2

3 THE COURT: Well, again --

4

5 MR. STEWART: -- whether this is in the car or not?

6

7 THE COURT: -- there is a debate over whether Jarvis  
8 said "We don't believe in your laws." He said no, I embrace the laws. Okay.

9

10 MR. STEWART: Yeah.

11

12 THE COURT: Then had a document in the car which  
13 may bear on that issue and which will help the jury decide who said what.

14

15 MR. STEWART: Right. But --

16

17 THE COURT: So yes. He gets to go through it.

18

19 MR. STEWART: Okay.

20

21 Q MR. GIBBINGS: The last paragraph on the first page,  
22 Mr. Stewart, and you correct me if I read this wrong. It says: (As read)

23

24 Therefore I, comma, colon, Jarvis colon Stewart, comma, have  
25 determined and hereby affirm by affidavit and under oath,  
26 comma, by virtue of my declared sovereign, parentheses, state,  
27 close parentheses, citizenship and American case law, comma,  
28 that I am, capital N-O-T, not required to have government  
29 permission to travel, comma, not required to have a driver's  
30 licence, comma, not required to have vehicle registration of my  
31 personal property, comma, nor to surrender the lawful title of my  
32 duly conveyed property to the province as security against  
33 government indebtedness and the undeclared federal bankruptcy.

34

35 Have I read it correctly?

36 A Sure. Yeah.

37

38 Q And that's -- you prepared this document?

39 A I mean, yeah. It's -- this isn't a legally binding document, man. It's just  
40 something I had in my car.

41

1 Q It reflects what you believed?

2 A It's -- like, I had plumbing tools in the trunk. Does that reflect that I'm a  
3 plumber?

4

5 Q So this was -- you just had this for fun?

6 A Yeah. Nobody ever discussed this with me at the side of the road. First I --

7

8 Q I'm not asking you that, sir.

9 A Well, what are you asking me?

10

11 Q I'm asking to -- to admit that this was your belief at that time.

12 A No, I'm not going to admit that, man. This isn't a legally binding document. This  
13 is just something I had in my car.

14

15 Q Okay. That's the only reason you won't admit that, because you think now it's  
16 not legally binding?

17

18 MR. STEWART: Objection.

19

20 A Sir, if anyone had a problem with me --

21

22 THE COURT: Cross-exam --

23

24 A -- and this document, they could have indicated that to me on the evening in  
25 question.

26

27 Q MR. GIBBINGS: Okay. And you would have presented  
28 this document to them?

29 A Possibly. I'm not really sure. I mean, I had -- I had traffic tickets in the glove  
30 box of my car that I could have presented. I'm not sure. I would have discussed  
31 it with the officer involved, had they, you know, wished to have a discussion.

32

33 Q Okay.

34 A But like I said, no one wanted to talk to me about this.

35

36 MR. GIBBINGS: Could we distribute the document?

37

38 THE COURT: Yes. D-1, in evidence.

39

40 THE COURT CLERK: (INDISCERNIBLE)?

41



1 THE COURT: Pardon me?  
2  
3 THE COURT CLERK: (INDISCERNIBLE).  
4  
5 THE COURT: Just tab -- no, mark up the individual  
6 document at tab 24.  
7  
8 MR. GIBBINGS: So this, members of the jury -- you will  
9 get tabs potentially out of order, but we will refer to them by the tab number that  
10 we have now. So just put them in in the order they come in.  
11  
12 THE COURT: Actually, you tell me when you want to  
13 break.  
14  
15 MR. GIBBINGS: I'm going to suggest, actually, My Lord,  
16 that I'm done.  
17  
18 THE COURT: Pardon me?  
19  
20 MR. GIBBINGS: I'm concluded, My Lord. Thank you.  
21  
22 THE COURT: You are finished with Mr. Jarvis?  
23  
24 MR. GIBBINGS: Yeah.  
25  
26 THE COURT: Okay. Mr. Jarvis, do you have any  
27 re-exam?  
28  
29 A Stewart. Stewart.  
30  
31 THE COURT: Ah.  
32  
33 A Sorry.  
34  
35 THE COURT: And that's my fault.  
36  
37 MR. STEWART: My Lord --  
38  
39 THE COURT: That's my fault, James. I apologize to  
40 you. Mr. James Stewart, do you have any re-exam?  
41

1 MR. STEWART: Yes, Your Honour. Yes, I do.

2

3 THE COURT: Sure. Now, there's -- there's rules  
4 regarding the examination. And I know you weren't at that class. So I may restrict  
5 you. But go ahead.

6

7 MR. STEWART: I -- I don't have too many.

8

9 **Mr. Stewart Re-examines the Witness**

10

11 Q MR. STEWART: Would you call yourself a violent person,  
12 Mr. Jarvis Stewart?

13 A Absolutely not.

14

15 MR. GIBBINGS: Objection, My Lord.

16

17 THE COURT: I am going to let it go.

18

19 Q MR. STEWART: Have you ever been physically violent  
20 with police or members of -- of authority?

21 A No. Absolutely not. In fact, I pride myself on the ability of de-escalating if I see  
22 people fighting. I'll take it upon myself to make sure they don't, you know. I'm  
23 not --

24

25 Q Would you say, then, that your writings, the documentation that was in the  
26 vehicle, would you say the writings of -- of yourself were thought out and -- and  
27 well-mannered or do you feel that they were very much an arrogant and selfish  
28 document?

29 A No, I think it's well thought-out. I mean, there's a quote in here about any action  
30 by a police officer, executive officer, officer of the Court, or public servant, to  
31 assert unlawful authority under the colour of law will be construed as a direct  
32 and wilful violation of my constitutionally-protected rights and will be  
33 prosecuted to the fullest extent of the law.

34

35 Q Fantastic. Well --

36 A Which brings us here today.

37

38 Q The last question, Jarvis, is would you say that you have a problem with  
39 authority or would you say that you have a problem with an abuse of authority?

40 A I have a problem with an abuse of authority.

41

1 THE COURT: That probably wasn't a proper question,  
2 but it got in. And so --  
3  
4 MR. STEWART: Thank you --  
5  
6 THE COURT: -- fine. Yes.  
7  
8 MR. STEWART: -- thank you, My Lord. No further  
9 questions.  
10  
11 THE COURT: Okay. Mr. Jarvis Stewart, thank you. You  
12 may step down.  
13  
14 A Thank -- thank you, My Lord.  
15  
16 (WITNESS STANDS DOWN)  
17  
18 MR. JARVIS STEWART: (INDISCERNIBLE)?  
19  
20 THE COURT: Yes. Leave the binder.  
21  
22 MR. JARVIS STEWART: Oh, okay.  
23  
24 THE COURT: But James has one, if you want to look at  
25 it.  
26  
27 Now, I take it you will be the next witness, Mr. James Stewart?  
28  
29 MR. STEWART: I would think so.  
30  
31 THE COURT: I think -- you know what? Just so you can  
32 get organized, we are going to take a quick break.  
33  
34 Madam Clerk, what are the last two -- what are the Juror Numbers of the last two  
35 jurors?  
36  
37 Ma'am, what is your Juror Number?  
38  
39 UNIDENTIFIED SPEAKER: 244.  
40  
41 THE COURT: 244? And --

1  
2 UNIDENTIFIED SPEAKER: 325.  
3  
4 THE COURT: 255.  
5  
6 UNIDENTIFIED SPEAKER: Three. Three.  
7  
8 THE COURT: Okay. So I picked eight jurors only  
9 because I wasn't sure how the day was going to unfold, and I wanted to make sure I  
10 had six jurors. We've started, and we're well into it, and we've seen some  
11 cross-examination. A decision will be made by six jurors, the first six jurors. I  
12 thank you for accommodating the Court in its cautious approach to assembling the  
13 jury, but when we adjourn, you will be free to go. Okay? And I might add, you are  
14 also free to stay and watch, if you wish. The courtroom is open.  
15  
16 Okay. So, again, you will be ready to go on the stand, Mr. Stewart?  
17  
18 MR. STEWART: Yes, My Lord.  
19  
20 THE COURT: All right. And you will have a beginning,  
21 middle, and end to the testimony?  
22  
23 MR. STEWART: Yes, My Lord.  
24  
25 THE COURT: Excellent, Mr. Stewart.  
26  
27 Madam Clerk, 15 minutes.  
28  
29 The jury always goes first. Thank you.  
30  
31 (JURY RETIRES)  
32  
33 (ADJOURNMENT)  
34  
35 THE COURT: Thank you. Please be seated. I am going  
36 to tell the deputy to bring in the jury.  
37  
38 MR. STEWART: Thank you, My Lord.  
39  
40 THE COURT: Bring in the jury, deputy.  
41

1 THE SHERIFF: My Lord.  
2  
3 THE COURT: Mr. James Stewart, if you want to just  
4 come up and just sit in the stand so you're ready to go. Bring whatever notes you  
5 need.  
6  
7 MR. STEWART: Nice place you got here.  
8  
9 THE COURT: Not a bad courtroom.  
10  
11 (JURY ENTERS)  
12  
13 THE SHERIFF: My Lord, if I may? The jury just brought  
14 something up. I'm not totally sure how to deal with this.  
15  
16 THE COURT: Okay.  
17  
18 THE SHERIFF: If I could approach counsel and get their  
19 direction, if you wouldn't mind? It's got to do with the binders they received.  
20  
21 THE COURT: Sure.  
22  
23 THE SHERIFF: Thank you. (INDISCERNIBLE).  
24  
25 (JURY ENTERS)  
26  
27 THE COURT: There is no problem with Exhibit D-1?  
28  
29 MR. GIBBINGS: Well, there's a question -- no, I don't  
30 mind indicating the -- the question.  
31  
32 THE COURT: Okay.  
33  
34 MR. GIBBINGS: The question is that it's a three-page  
35 document, and the last two appear to be the same. And --  
36  
37 THE COURT: That makes me think Ms. Rohrke may  
38 have made an error.  
39  
40 MR. GIBBINGS: Potentially. And that's what we're going  
41 to check, and bring it back --

1  
2 THE COURT: Okay. Check it and we will sort it out  
3 later.  
4  
5 MR. GIBBINGS: Yeah.  
6  
7 THE COURT: Be very careful this time, Ms. Rohrke.  
8  
9 MS. ROHRKE: I apologize, My Lord.  
10  
11 THE COURT: Members of the jury, Mr. James Stewart  
12 is on the stand. He is going to give his testimony. So, Madam Clerk, I will invite  
13 you to swear him in.  
14  
15 THE COURT CLERK: Raise your right hand, please. State your  
16 name for the Court, spelling your surname, please.  
17  
18 MR. STEWART: James Stewart, J-A-M-E-S  
19 S-T-E-W-A-R-T.  
20  
21 **JAMES STEWART, Affirmed, Testifies**  
22  
23 THE COURT CLERK: There's water for you.  
24  
25 THE COURT: Help yourself to water if you need so.  
26  
27 A Thank you very much, Your Honour.  
28  
29 THE COURT: Okay.  
30  
31 A My Lord. (INDISCERNIBLE) please.  
32  
33 THE COURT: Thank you, deputy.  
34  
35 A Thank you. Thank you, jury.  
36  
37 I'll just go out and -- and tell you right away. I'm a Canadian. My name is James  
38 Stewart. I took a business degree years ago. I've been a substitute teacher. I am  
39 now a certified journeyman plumber. I've done a lot of things in my life. One of  
40 the things I've always liked to do is read. I like reading. I like words. And I read  
41 a lot. And so I had an uncle who was a Crown prosecutor. I had best friends

1 who became cops. All through high school, we were best friends. And then a  
2 number of them became law enforcement. And we lost touch. And it's nothing  
3 personal. It's just my philosophies and the way I was raised. In my family, our  
4 family, was to respect one another, and I knew very early on that I would never  
5 be a policeman because police don't respect people. And my grandfather was an  
6 immigrant. My mother's father, he was an immigrant. My father was an  
7 immigrant.

8  
9 And I was told and I was taught and I was trained to be a real Canadian and  
10 stand up for yourself and have true honour and value and respect everyone and  
11 have everyone respect you. And I don't see that in this province. I've been here  
12 ten years, and I don't see that in this province from these people who call  
13 themselves cops and peace officers. That's the irony of it all. These peace  
14 officers. Never in my life. Never in my life, and I've lived across this country. I  
15 was a substitute teacher -- a substitute teacher in Prince Edward Island. I was an  
16 insurance broker for Scotia McLeod in Vancouver. I've lived everywhere in  
17 between.

18  
19 And I moved here 11 years ago because I thought Saskatchewan was the place.  
20 You could buy a cheap house. Nobody really seemed to bother with you. You  
21 didn't have the nonsense of Vancouver and the nonsense of Toronto. And the  
22 cops here were -- are the worst. They're the worst. They're the worst people. It's  
23 not about safety. It's not about anything more than revenue generation and  
24 thugging people and hurting people. And so I learned very quickly that when  
25 you're out on the roads, you have to be at your wits. You have to have your wits  
26 about you, because they will bully you.

27  
28 And so you know what I did? I read. I read, and I read, and I read, and I read,  
29 and I read and I read everything I could. And I read on the Internet, because you  
30 know what you can get on the Internet? You can get government documents on  
31 the Internet, like the *Traffic Safety Act*.

32  
33 THE COURT: So, again, Mr. Stewart, I don't want to --

34  
35 A No, I understand.

36  
37 THE COURT: -- impede your story. But the jury is  
38 interested in hearing --

39  
40 A The facts.

41

1 THE COURT: -- about the events of --

2

3 A Okay.

4

5 THE COURT: -- seven years ago --

6

7 A Yeah.

8

9 THE COURT: -- which underpin your claim.

10

11 A Okay.

12

13 THE COURT: Okay.

14

15 A So seven years ago, we were subjected to a traffic stop, except when you look in  
16 the *Traffic Safety Act*, a parking lot is not part of a highway. It states very  
17 specifically what a highway is and what a highway isn't. And so we were  
18 driving into a parking lot when he decided to engage his lights. Now, I don't  
19 know about you, but if you want to -- if you want to drive into a parking lot and  
20 try to keep looking behind you, then -- then -- then you can have eyes in the  
21 back of your head. But this is the reason they write it. A highway means a road,  
22 parkway, driveway, square, or place designed and intend for or used by the  
23 general public for the passage of vehicles but does not include any area,  
24 whether privately or publicly owned, that is primarily intended to be used for  
25 the parking of vehicles and the necessary passageways on that area.

26

27 And that is what I had an issue with. We were pulled over in a parking lot. That  
28 looks to me like it's exactly against the jurisdiction. And yet, amazingly enough,  
29 out of all of this, there's no audio and no video. The first two cars on the scene  
30 were both unmarked police cars. But all the audio just disappeared. My brother,  
31 he said his name, oh, no, your brother didn't say his name. Where is the audio?  
32 Oh, we don't know. Imagine that. Imagine that. Two unmarked cars. We've got  
33 no audio. We've got no video. But they're -- they're convinced that I'm a violent  
34 individual, and they're convinced that Jarvis did not say his name. But where is  
35 the audio and where is the video? We don't have any.

36

37 Constable Keating pulled us over in a parking lot on August 24th, 2012. I get  
38 out of the car, because I don't like dealing with these people. I'm a passenger. I  
39 had to go to the bathroom. I was going to go to Shoppers Drug Mart. And he  
40 says, Get back in the car right now -- or sorry. The first thing he says is "get  
41 back in the car", and that's over -- over his -- what do they call it? Loud hailer,



1       loudspeaker. So he's still in the car. The next command is "get back in the car  
2       right now." The next command is -- it's not even a command. It's "that's it,"  
3       and -- and he's out of the car. And by that time, I had walked around the car,  
4       and my brother is basically, more or less, in a handcuff, trying to plead with the  
5       guy, like, wait a minute, like, what is going on here?

6  
7       Let's have a little bit of a background. It's my brother's car. He purchased it  
8       legally from SGI, of all places. He purchased it from SGI. He had the  
9       documentation for his car in the glove box. But you will hear later from officers  
10      they thought for an hour that the car might be stolen. Imagine that, for an hour,  
11      you're investigating a stolen car, and you don't actually tell the occupants of the  
12      car that you think the car might be stolen. Wow.

13  
14      So all we have is this crazy traffic stop that somehow escalated into this violent  
15      behaviour by two individuals, but just to have no, no authority or no -- no -- no  
16      even love for -- for any laws or anything. No, they're just so violent. They're just  
17      crazy -- crazy people. That's -- that's -- it's amazing. And there's no -- there's no  
18      audio. There's no video. There's nothing to protect me. And then you ask them,  
19      well, where's your -- where's your warranty? How did it break? Where --  
20      where's the installation reports? How did -- like, when you get -- when you get  
21      an oil change, don't you go and get your -- your installation record? Don't they  
22      write that down? When you get a -- anything installed in your car, when you get  
23      a furnace installed in your house, do you get an installation record? Does it -- do  
24      they write something down? But we don't even have an installation record for  
25      all the cars. We don't even have a verifiable installation record that would show  
26      when these cameras were outfitted or not. Anyway.

27  
28      When Mr. Keating decided to call backup -- and this will all be verified once  
29      we put the time -- the time, date, and everything in, it was basically, like, the  
30      little boy who cried wolf. And he decided he didn't even have to identify  
31      himself to Dispatch. He just said, Oh, Dispatch, I need backup, I need backup  
32      right away, I need some cars, and there's -- there's fighting, and we need to take  
33      these people down. And you'll listen, you'll hear. He didn't even identify himself  
34      to Dispatch. He comes out of an unmarked car, can't even identify himself to us,  
35      won't even identify himself to Dispatch, but everybody -- everybody showed up.  
36      Bells and whistles, blaring, ten vehicles, woo-woo-woo, for a little traffic stop, I  
37      guess, because I was being so violent.

38  
39      And I walked away, and then I -- I came back and I walked away, and I came  
40      back. And I was guilty of obstruction. But we forget to mention two counts of  
41      assault. They kicked my ass, threw me in jail. They said I was flopping my face

1 on the pavement, and that's how I got my face all scratched up. And you'll see a  
2 picture -- actually, it might even be in here. I'll show you the -- the colour one,  
3 because the colour one shows my blood. But if you look at number 20 -- 25, go  
4 ahead and look in your -- go ahead and look in your --  
5

6 THE COURT: Is that an exhibit photo?  
7

8 A Yeah. Sure, sure. Exhibit -- yeah, exhibit.  
9

10 THE COURT: Well, you have to -- you have to identify  
11 it properly. Is that a photo at tab 25 of you shortly after the arrest?  
12

13 A Negative, Your Honour. This photo, photo 25, tab 25, is a photo taken of me the  
14 next day.  
15

16 THE COURT: The next day?  
17

18 A At around 10:00 in the morning.  
19

20 THE COURT: Okay.  
21

22 A If you'd like to look at it, you're more than welcome to. You can see --  
23

24 THE COURT: They don't have it.  
25

26 A Okay. Oh, they don't have it?  
27

28 THE COURT: They don't have it.  
29

30 A Oh, okay. I'm sorry. I apologize.  
31

32 THE COURT: But are you in a position to at least  
33 provide one to them?  
34

35 MR. GIBBINGS: Yes, Sir.  
36

37 THE COURT: Yes? So this will be Exhibit P-1, full  
38 exhibit, tendered by Mr. James Stewart, from the documents of the defendants.  
39

40 Just give it to the clerk.  
41

1 **EXHIBIT P-1 - Photograph of James Stewart - Tab 25**

2

3 THE COURT CLERK: (INDISCERNIBLE).

4

5 THE COURT: Oh, okay. Give that to the jury, then.

6

7 MR. GIBBINGS: We will provide each of them a copy  
8 later.

9

10 THE COURT: Thank you. As I said, P-1. Carry on,  
11 Mr. Stewart.

12

13 A Yeah. So these -- the defendants basically accused me of grinding my own face  
14 in the pavement to elicit sympathy from the crowd, the -- the same crowd that  
15 they didn't get any witness statements from. So I just want you to understand  
16 that -- that there's a complete lack of evidence here. There's no actual evidence.  
17 But they're going to -- they're going to try to portray me as some kind of crazy  
18 bad person. And all I've done for the last ten years in this province is try to  
19 stand up for myself and try to do the Canadian thing. And when you see there's  
20 a problem, then you protest that problem. You basically say no. Like, there's  
21 only two -- there's only two words in the alphabet: Hi and no. And they're good  
22 words. No. Just say no. Just say no.

23

24 So anyway. So yeah, they -- they called ten cars, and they -- they basically, all  
25 five of them, proceeded to basically kick the crap out of me, as you can see  
26 here. And then they charged me with assault. And then they decided to go to  
27 criminal court and lie about it, because there isn't any evidence whatsoever. And  
28 then when we were asked, the defendants, on cross-examination in criminal  
29 court, there was actually no -- no assault whatsoever. So, you know, to be -- to  
30 be charged with assault times one, that's, like, an excuse. You know, it would  
31 happen, it's an accident. But times two? They want you to go to jail.

32

33 And let's -- let's be clear here when we talk about good faith. The evening in  
34 question is August 24th, 2012. My brother, Jarvis Stewart's birthday is August  
35 25th, 1978. So I'd just like you to know if you, in good faith, would put  
36 somebody in jail on the night of their birthday.

37

38 I'll take questions now. There's -- I mean, I'll be here all day.

39

40 THE COURT: No, thank you. But is there any more of  
41 the -- the actual -- the actual exchange?

1  
2  
3  
4  
5  
6  
7  
8  
9

A Yeah. I basically almost got ran over by Constable McAvoy and Constable Schaefer's second car on the scene, the unmarked car. They nearly ran me over with the speed they were -- they were coming into the parking lot. Like, it was -- it was crazy. Like, I've never seen anything like it. Like, we'll have GPS -- we have GPS records. They'll show ten cars. Like, there were ten cars. Like, it was crazy. Like, I mean, just sirens going, and I nearly got ran over. And then --

10 THE COURT: And just to complete -- not to act as  
11 counsel, but --

12  
13 A Yeah. No.

14  
15 THE COURT: -- just to complete the story, you say  
16 someone threw you to the ground?

17  
18 A Oh, yes. Yes, Your Honour. So then they almost ran me over, and then  
19 Constable Keating basically -- Schaefer and McAvoy came busting out of the  
20 car. And Constable Keating basically took -- took a look at them and then took  
21 a look at me and pointed, and he said -- and they just -- he told -- he told them,  
22 Take him down, take him down. That's all. He just said one word -- or one --  
23 one phrase, take him down. And then -- and I just said, excuse me? And I kind  
24 of threw my hands up kind of like this. I was, like, whoa. Like, wait a minute,  
25 this -- you don't just get to do that. And then it was too late.

26  
27 And you will see by their notes that Constable Schaefer and Constable  
28 McAvoy, they say I was walking away and doing this, and there's all this, but it  
29 only happens -- once we get the time stamp on the video, you'll see it's over in  
30 about two, two and a half minutes. Like, it's a straight-up carjacking. Like, they  
31 did a good job. They did a really good job. They thugged me real good. But --  
32 but yeah. And then they -- they won't actually -- they won't be able to tell you  
33 who put the handcuffs on me because it was all five of them, basically, beating  
34 me up. And then once they got me sorted out, then they just went after the  
35 Celica and just started searching the Celica because they figured there was  
36 drugs and everything else.

37  
38  
39  
40  
41

You see -- you have to understand, it's the *Traffic Safety Act*, and there was nothing that my brother and I were doing that was unsafe. That's why, like, when they pull you over, they want to check your sobriety or they want to see, you know, if they're doing things that are unsafe, like speeding or doing

1 doughnuts or stunting or driving while inebriated. But, of course, they didn't  
2 even ask us if we'd been drinking or anything, of course, because they thought  
3 the -- the car was stolen and we had drugs and whatever else.

4  
5 But also I'll show you in some case law, even when that happened in Saskatoon,  
6 there's a case called Lux, L-U-X, it sounds so -- *Lux*. And the same thing  
7 happened with her. She was in a parking lot, and Judge -- Justice Ottenbreit --  
8 actually, Justice Ottenbreit is a Saskatoon judge here, and he -- he found in her  
9 favour. And we'll get -- we'll get -- we'll get through with that. But anyway, so  
10 then they attacked me, and they threw me in -- threw me in the back of  
11 Constable Smith's car, ultimately. And it was pretty funny because they  
12 complained about how I was walking. I couldn't walk 30 feet to the car, and  
13 that's because they smashed my face all to pieces. So it -- it was pretty -- a really  
14 traumatic experience.

15  
16 And so when they took me down -- I'll just say this. I'll just say this. When they  
17 took me down, and their -- and their notes will talk about how I was resisting  
18 and I was putting my hands in my pockets and I was flailing my arms and  
19 kicking, like, every single one of their notes, nothing -- nothing. It's all totally  
20 inconsistent. But when they actually finally tackled me and took me to the  
21 ground by the head and smashed my cheek, and they had my two hands sort of  
22 separated, and they put my right hand behind my back. And the problem is I  
23 was lying down, lying face down. And they'll all tell you when they showed up  
24 to the scene, I was lying down, blood coming out of my nose, pandemonium.

25  
26 But when I was lying down, and then one officer -- because I remember -- I was  
27 lying down, and so I don't know if it was three, four, five, or six guys, but when  
28 you -- you'll hear through their thing, it could have potentially been actually six  
29 guys who were on me at the moment. But when they had me, my right arm was  
30 behind my back. And one guy was pushing my head into the -- into the  
31 pavement. And another guy was on my legs. And it was really painful. So I was,  
32 like, I can -- I can distinctly remember, like, raising my back left leg, not like a  
33 kick, but it was just, like, oh, my God, like, this is sore, you know what I mean?  
34 You get this out. And so they were screaming at me to stop resisting and -- and  
35 put your fucking hands behind your back and all this other stuff. And I'll never  
36 forget this as long as I live.

37  
38 So I had my left -- my right hand behind my back, and my left hand was flat on  
39 the -- on the pavement. And my head was down. And you'll see on the picture  
40 that my cheek was -- was open, like, open, because that's -- they -- they threw  
41 me down on the pavement. And he'll -- he'll say Schaefer used a modified hip

1 toss, took me down to the head, but we'll go through it all, and he smashed my  
2 cheek open. So now I'm down on the ground, and I have this left hand here.  
3 And they're screaming at me to get my left hand behind my back, but there's a  
4 problem. Because they're -- they're pushing on my head. Now, I don't know  
5 about you, but I don't have the ability to go, like, through the ground and -- and  
6 magically move my hand back behind my head when they're already lying on  
7 me.

8  
9 So I said, because they were, like, put your fucking hands behind your back,  
10 fuck, and I said -- I took a big deep breath, because they were sitting on me, and  
11 I was taking shots to the ribs and I was breathing heavily because I've never  
12 really been thugged and beat up before, all the whole time saying, Whoa. And  
13 I'll never forget this. I'll never forget this. I said -- I took a big deep breath, then  
14 I said, I fucking can't. I can't. I can't do what you're -- I fucking can't. And  
15 somebody grabbed me by the ear on the back of my head, and they picked me  
16 up, and they moved my arm. And then once they got my arm behind my head,  
17 they smashed my head back down on the pavement. And that's when you'll see  
18 in the picture, my nose is a big, fat clown nose. And it's funny because they say  
19 I was grinding my face back and forth. Well, if that was the case, then you'd see  
20 scraping all over my nose. They smashed my nose down into the pavement.  
21 They put both hands firmly behind my back and -- and handcuffed me.

22  
23 Now, here's the problem. They broke the -- I thought they broke my nose, so  
24 instantly, I had blood shooting out the back of my nose. And so when you're  
25 lying down on the ground and you're handcuffed and somebody is sitting on top  
26 of you and people are kicking you and screaming at you to stop resisting, how  
27 do you breathe when all of a sudden the blood starts going down the back of  
28 your throat? You can't. So what do you do? You spit. Well, what do you spit?  
29 Well, you spit blood. See, they accused me of spitting blood, and they were  
30 going to charge me with mischief for spitting blood. See, but normally people  
31 just spit blood all the time, don't you know. They just spit blood. Don't you  
32 see? When you read all their notes, they just -- people just spit blood, don't you  
33 see? So I was spitting blood at officers, apparently, right? Even though they  
34 smashed my face into the ground and I couldn't breathe.

35  
36 So now, I believe they have, like, concussion-like syndromes because they've  
37 smashed my face in the ground. And they sit upon me, and I can't breathe  
38 properly, and the -- the blood is coming down my throat, and all I'm trying to do  
39 is cough it up, and I'm trying to breathe. And that's the problem, because now I  
40 have a -- a pool of blood around my mouth, and somebody is sitting on my  
41 chest. Now, I don't know about you, but boa constrictors, when they constrict

1 people, right? That's how they suffocate them, because what happens -- what  
2 happens when you try to take a breath? You go ah, and then it constricts. And  
3 so somebody was sitting on me. I don't know who it was, but they were just  
4 sitting on me, knee in my back, whatever, they were just sitting on me.

5  
6 And I couldn't -- ah -- try to get a breath -- ah -- but not only could I not get a  
7 breath, because I got my hands tied behind my back and I'm facedown -- ah --  
8 but I'm full of blood -- ah -- and there's nothing on the pavement but a puddle of  
9 blood. So how are you supposed to breathe? How are you supposed to breathe  
10 when they've got control of your head? And then they have the audacity to pick  
11 me up gently -- and we'll read their -- we'll read their notes -- they pick me up  
12 generally -- gently and carefully place me in the car. All the while, I didn't want  
13 to walk to the car and that I was dragging my feet, not that I -- not that I was  
14 totally off balance and just been smashed in the -- I've seen guys play hockey.  
15 When you watch them skate off the ice after a fight, they can't. And I -- the  
16 same thing, and they accused me of -- of lolly -- of lollygagging, basically, of  
17 dragging my feet and not wanting to go to a car.

18  
19 Anyway. So then they took me into a car, and they all proceeded to read me my  
20 rights, apparently, because if you read all their notes, every single one of them  
21 decided to read me my rights. Amazingly, they all told me I was arrested and I  
22 was under arrest, but none of them ever actually asked or told me what I was  
23 under arrest for. I was just under arrest. And that will corroborate in Aaron  
24 Smith -- Constable Aaron Smith's notes, when we speak to him, that Keating  
25 was going to bring the charges later. So they basically drove me to jail, didn't  
26 really read me my rights, never really told me what I was being arrested for, and  
27 then once I got to jail, then I was -- I was somebody else's problem. And then so  
28 when I got to jail, they started asking me a bunch of questions. And I -- oh,  
29 yeah. Before that, they took me to the sally port, and they put a spit sock over  
30 my head, and they threatened to beat me up more. And there was about eight  
31 cops -- or seven cops. Was it seven? Seven cops in the sally port. They took me  
32 out of the car and basically more or less turned violent. And I'll -- I'll let you  
33 watch the video, and you can see for yourself.

34  
35 Meanwhile, the other cops, once my brother and I were at -- at jail, they  
36 stayed -- they stayed at the car. They stayed at the car for, like, an hour,  
37 checking on if it was stolen or -- I don't even know. I don't even know what  
38 these guys do anymore. They don't even have evidence.

39  
40 But anyway. So then -- then they put me in -- in front of the booking desk. And  
41 the booking desk was, like, yeah, what's your name, nah-nah nah. And I was,

1 like -- because nobody had even identified themselves once. They all -- not even  
2 like, I'm a police officer, rah-rah-rah, nothing. Not a thing. And so I said -- I  
3 said, I'm sorry. Who are you? What's your name and what am I doing here? And  
4 you'll see in the -- in the video, because there's no audio, obviously, that they all  
5 get busy. And the one guy puts his hand on my shoulder. And everybody is,  
6 like, oh, you know, do talk back, which is ironic because you've just taken an  
7 arrested person who has the right to remain silent, and then you throw them in  
8 the booking desk, and then you say, Answer the questions. So you're, like, well,  
9 what is it? Do I have the right to remain silent or -- you know, like, nobody  
10 even knows.

11

12 And so I then said, I'd like to go home. And they said, No, you're not going  
13 home, and you're going to jail for the night, and you're -- whatever else. And I  
14 was, like, I'm just going home, am I? And they're, like, that's it, yeah, you're  
15 going home. I was, like, well, I'd really like to go home. Or you're really going  
16 to prison. I was, like, no, I'd really like to go home. They said no. And so they  
17 took me from -- and I'll show you in the video -- they took me from the booking  
18 desk, and they were all ugh, and there was, like, eight of them, and they walked  
19 me to -- to the -- to the jail cell. And then it wasn't -- what, an hour later? And  
20 Schaefer, Constable Schaefer shows up and wants to know my name. Yeah, I  
21 told everybody at the booking desk. Like, you should have asked my name  
22 when you arrested me, you idiot. And then he was, like, I asked him for his  
23 name. Do you think he gave it to me? Not one time did any of these people ever  
24 identify themselves. Not one time. Not one. Not Mike, not Bob. Hey, you know  
25 what? My name is Bob. And you know what? I think something kind of fucked  
26 up just happened. Want to talk about it? Didn't even get that. Didn't even get  
27 that. You're a fucking criminal, and that's all there is to it, case closed. And here  
28 we are today, seven years later. Um.

29

30 Oh, yes. And then -- and then they issued a bunch of warrants for me, and they  
31 said that the paperwork was going to take too long, so we couldn't -- we  
32 couldn't let you leave jail. So I didn't actually leave jail until 1:00 the next day,  
33 which had been Saturday, his birthday, and just in time for the impound lot to  
34 close. Oh. Now, where we do live? Hanley? Oh, 60 kilometres south of  
35 Saskatoon? How do you get home at 1:00 in the afternoon on your birthday?  
36 How do you get home? Ah, ah. Good faith. Good faith. It's a great story. It's a  
37 great story.

38

39 Um. And then, yeah, then they charged me with two counts of assault. And they  
40 threw away all the evidence. They deleted it. And they're going to have people  
41 here to come and explain it all away. And here we are, seven years later, and I'm



1 still trying to defend myself. Thank you.

2

3 THE COURT: Thank you, Mr. Stewart. Is there anything  
4 else, sir? Do you need a moment to reflect?

5

6 A Oh, I'm sure it'll come up.

7

8 THE COURT: Okay. Mr. Gibbings. Cross-exam.

9

10 MR. GIBBINGS: I'm just wondering. I think I heard from  
11 Mr. Stewart that it'll all come out when I show you the video, and I -- I wonder, is  
12 that part of his evidence? Is it going to be put me through him? Because if it is, then  
13 I don't think he's finished his testimony.

14

15 THE COURT: Okay. If you --

16

17 A Oh, I mean, you can put it through if you want. It's there. It's the defence's --

18

19 MR. GIBBINGS: It's your case, Mr. Stewart.

20

21 THE COURT: Yes. Remember, I talked about, you  
22 know, who bears the burden?

23

24 A M-hm.

25

26 THE COURT: And that's you?

27

28 A M-hm.

29

30 THE COURT: So if you've got a video --

31

32 A I certainly do. I've got many.

33

34 THE COURT: All right. If you've got a video that you  
35 think is important to your case, I think you should put it in.

36

37 A Okay. Then I will.

38

39 THE COURT: Okay. So you're not done yet.

40

41 A I will. Absolutely. Okay. Fantastic. Should I get the -- my computer and -- and

1 fire it up?

2

3 THE COURT: Is this going to take a couple of minutes  
4 to set up?

5

6 UNIDENTIFIED SPEAKER: Yes.

7

8 THE COURT: Okay. In that case, we will take another  
9 break.

10

11 A Okay.

12

13 THE COURT: And how long do you think you need?

14

15 A How about -- how about 3:00, Sir, we come back -- Your Honour -- My Lord?

16

17 THE COURT: Yes. I will tell you what. We will -- we  
18 will adjourn notionally until 3:00.

19

20 Madam Clerk, if Mr. Stewart needs a few extra minutes to get the computer set up,  
21 give him -- you have authority to give him those extra minutes, okay? Okay.

22

23 Deputy, you will take the jury out.

24

25 THE SHERIFF: Yes, My Lord.

26

27 (JURY RETIRES)

28

29 THE COURT: So how long is the video?

30

31 A There's a number of videos. One is about 20 minutes long.

32

33 THE COURT: Okay. All right.

34

35 A And there's a handful of others. They're short, maybe 3 or 4 minutes each.

36

37 THE COURT: Yes. We only need the ones that basically  
38 advance your argument.

39

40 A Absolutely, Your Honour.

41

1 THE COURT: Yes. And if there's others, then  
2 Mr. Gibbings can put through. But you're interested in the ones that you say, hey,  
3 this helps me.

4  
5 A Absolutely.

6  
7 THE COURT: Okay. Ten minutes.

8  
9 (WITNESS STANDS DOWN)

10  
11 (ADJOURNMENT)

12  
13 THE COURT: Thank you. Please be seated.

14  
15 (WITNESS RE-TAKES THE STAND)

16  
17 THE COURT: So you have the audio up and ready to  
18 run?

19  
20 A It -- it seems to be, Your Honour.

21  
22 THE COURT: Okay. So when we bring --

23  
24 A My Lord.

25  
26 THE COURT: -- the jury in, give some preliminary  
27 remarks to them to explain what they are about to listen to, and then hit play.

28  
29 A Okay.

30  
31 THE COURT: But they need the preliminary remarks,  
32 and the record needs it, too.

33  
34 A Okay.

35  
36 THE COURT: Bring in the jury, deputy.

37  
38 THE SHERIFF: Yes, My Lord.

39  
40 A (INDISCERNIBLE) it's in my bag. I've got the wrong file. I'll get it. I'll get it.

41

1 THE COURT: Did we solve the problem with Exhibit  
2 D-1, Ms. Rohrke?  
3

4 MS. ROHRKE: My Lord, I will have to double-check on  
5 our computer back at the office, but I'll have it solved by tomorrow morning, I  
6 promise.  
7

8 THE COURT: So we will clarify it tomorrow?  
9

10 MS. ROHRKE: Yes, My Lord.  
11

12 THE COURT: Okay.  
13

14 (JURY ENTERS)  
15

16 THE COURT: All right. Please be seated.  
17

18 So you are carrying on with your testimony, Mr. Stewart.  
19

20 A Yeah. Thank you. I'd like to introduce a video. It was the original video from  
21 Constable Keating's car, 477. It was the first unmarked car on scene, and  
22 apparently is the only car to have any video. And the ironic thing about this car  
23 is that it doesn't actually have any rear camera. It just amazingly has a front  
24 camera, and we'll get to that soon about the camera specifics themselves. But  
25 anyway, this is the only video, and I'll try to give you a bit of a run down here  
26 before I -- I bring it up. And -- and give you some background about it here.  
27

28 Here we go. Can you see that okay? Sort of, kind of?  
29

30 THE COURT: Yes. There's lots of screens.  
31

32 A Can anybody see that? Lots of screens? Okay. More screens.  
33

34 UNIDENTIFIED SPEAKER: Wow.  
35

36 A Fantastic.  
37

38 UNIDENTIFIED SPEAKER: (INDISCERNIBLE).  
39

40 MR. GIBBINGS: We've got one missing there.  
41

1 THE COURT: Welcome to the -- yes. Welcome to the --  
2 to the courtroom of the new millennium.

3  
4 UNIDENTIFIED SPEAKER: (INDISCERNIBLE).

5  
6 A Ha-ha. Fantastic.

7  
8 UNIDENTIFIED SPEAKER: (INDISCERNIBLE).

9  
10 A Sweet. Okay. So we can all see, sort of, in front of us. So this is -- as you can  
11 see, this is a video that's taken -- and I'll let the -- the police officers -- they  
12 can -- they can talk about this a little bit. But basically, what it's saying is that  
13 these cameras are always recording. They're always -- it's just a constant loop.  
14 It's just like a security camera or whatever. And until they operate their -- their  
15 lights or their siren or something, or then what'll happen is that that camera will  
16 have a 30-second or a 1-minute or a 2-minute delay, so that it'll actually go back  
17 from that loop and begin a little further back from that loop, and then begin the  
18 recording. So, for instance, if they see something crazy and they hit the button  
19 right away, that camera will have actually picked up the last minute and a half,  
20 so you'll at least get some bit of an idea rather than just the lights come on and  
21 the camera is on it. It actually gives you that -- that buffer, I guess, if you will.

22  
23 So here we are. My brother is driving his car, this white Celica, the evening of  
24 August 24th, 2012. And I don't know if you're familiar with Saskatoon or not,  
25 but you can see, like, it's east and west. And the way the sunlight is, it's hard to  
26 see. You've got sun coming in or sun coming out off reflections. So it's difficult  
27 to see. But anyway. I'll -- I'll hit play in a second here, but as you can see, there's  
28 no lights. There's no sirens. There's no anything going on right now. We're just  
29 in a pre-determined left-hand turn lane. We haven't -- we haven't gone speeding.  
30 We haven't been stunting. He hasn't followed us for the last five miles. We're --  
31 we're just going to Shoppers Drug Mart in the Grovenor Shopping Plaza on 8th  
32 Street and Grovenor.

33  
34 So allow me to just hit play here. Oh, yeah. Okay. One more thing, sorry.  
35 Ha-ha. If you look in the top -- in the left-hand side, there's three little volume  
36 buttons. It says audio -- I'll try to move my mouse, and I'll kind of click the one  
37 there and two there and three there. Now, you see how they're all muted? And  
38 I'm going to unmute these three. So what camera -- it's called a Panasonic  
39 Arbitrator 360. Now, what this camera does is it actually has four microphones.  
40 So this is state-of-the-art stuff. Like, the U.S. military buys this. This is, like,  
41 bombproof. Like, you know, they -- they drop these in -- in Beirut and Iraq,

1           okay? This is -- you know, so the Saskatoon Police have good cameras. So  
2           apparently, according to the police, this is a test phase camera. We don't have  
3           any -- any evidence of that, but they just said it was a test phase camera,  
4           whatever that means. Maybe it just goes to explain why they don't have any  
5           audio. So there's four audio brackets there. And there's four for a reason. The  
6           first one would be your inside-the-car microphone. So that camera will have  
7           three microphones, and possibly a fourth.

8

9   THE COURT:    Yes, Mr. Gibbings.

10

11   MR. GIBBINGS:   My Lord, I wonder if Mr. Stewart could  
12       explain his expertise in this and how he is able to convey this information.

13

14   THE COURT:    Yes. It --

15

16       A Oh, perfect. Perfect. Yeah, I can, absolutely.

17

18   THE COURT:    Well, except, how did you come to know  
19       this?

20

21       A The Panasonic Arbitrator 360 has a product data sheet and information.

22

23   THE COURT:    But you weren't part of the installation?

24

25       A Well, no. But I have a purchase order that shows the cameras and what comes  
26       with the cameras, and the cameras all came with three microphones, if not four,  
27       because four would be --

28

29   THE COURT:    Sure. And --

30

31       A Okay.

32

33   THE COURT:    -- the cameras came with microphones,  
34       but you say the microphones weren't working?

35

36       A No, I don't. I -- I fully expected the microphones to work. I mean, they're --  
37       they're Panasonic Arbitrator 360 cameras. It's the police that said --

38

39   THE COURT:    So the police told you the microphones  
40       weren't working?

41

1 A Something didn't work for some unknown reason.

2

3 THE COURT: Okay. Well, we'll just leave it at that.

4

5 A Okay.

6

7 THE COURT: But let's focus on what we see. That's the  
8 important thing.

9

10 A Well, okay. That's fine. I'm just saying that those -- those three microphones are  
11 specifically for an inside-the-car microphone, an outside-the-car microphone,  
12 and what's called an officer microphone where he wears a -- a wireless  
13 microphone on his collar. It's also called a lapel microphone. And Constable  
14 Keating in his testimony, he actually admitted to wearing that microphone  
15 during this incident. Okay.

16

17 THE COURT: Okay.

18

19 A Okay.

20

21 THE COURT: Okay.

22

23 A No audio. No audio. Okay. And -- why is it not going? Why is it not going? I  
24 don't know why it's not working. I'm playing the stream file.

25

26 THE COURT: So my observation is this is not working  
27 that well.

28

29 A Apparently, Your Honour. I -- okay. All right. Hang on one second. Okay.  
30 Okay. Maybe make it bigger. Can we see that okay?

31

32 THE COURT: Again, just context.

33

34 A I'm sorry.

35

36 THE COURT: The white car is making a left turn?

37

38 A Yes. The white Celica --

39

40 THE COURT: Okay.

41

1 A -- is what my brother is driving. And I'm in the -- I'm in the passenger's seat,  
2 and we're going to make a left-hand turn into the parking lot at Grovenor and --  
3 and 8th Street. And as you can see -- actually, I'll just put it on pause real quick.  
4 Okay. Now, down below on the right-hand side, there's a bunch of writing. It  
5 says, like, W-Mike-1, W-Mike-mute. And anyway, there's a button, number 7, it  
6 says lights. And there's a little thing that says lights. So apparently, apparently,  
7 Constable Keating at the time, coming into this parking lot, he apparently hit his  
8 siren -- chirped his siren and turned on the -- the flashing lights. Now,  
9 remember, there's no lights on the roof. There's lights down in the grill. And  
10 you'll have to ask the officers where the rest of the lights are. But there's no  
11 lights on the hood. So --

12

13 THE COURT: But your brother has testified the car  
14 came up behind him with lights flashing?

15

16 A Well, obviously. But there's no lights on the hood like a police car. It's just --

17

18 THE COURT: Oh, no. No.

19

20 A -- there's -- there happens to be some lights inside the car.

21

22 THE COURT: Yes. Okay.

23

24 A Exactly. It's just so you know.

25

26 THE COURT: Okay.

27

28 A Just so that's -- that's him --

29

30 THE COURT: Good to go. Good to go.

31

32 A -- turning the lights on. Yeah. So you'll see just how flashy these lights are on  
33 the white car.

34

35 (AUDIO/VIDEO PLAYED)

36

37 A So, you know, apparently the lights went on there. Apparently.

38

39 THE COURT: All right.

40

41 A Because I can't see the lights flashing on the car. I don't see any lights. But



1           apparently, there's lights. Oh, no. Wait. One more thing. Okay. We're just going  
2           to back up for one second. Let's get a good look at this, because there's an  
3           interesting thing here. When this car drives -- when the white Celica drives into  
4           this parking lot, I want you to see as the car drives into the parking lot, I'd like  
5           you to pay close attention to the little small hatchback car that the white Celica  
6           will then basically appear to park beside. And it's very important, because  
7           there's two people in that car. So as -- as the car drives into the parking lot, it  
8           makes a left and then a right, I will -- I will point to you very quickly where --  
9           where a car is. And that's very important, that you notice where this car is. So as  
10          it's driving, it's driving into the parking lot, driving, driving, driving. Driving  
11          into the parking lot. Now, see that? See the car on the right-hand side? There's a  
12          little kind of beige-ish, just through the parking lot? Can you see that car?

13

14 THE COURT:

Yes. Yes.

15

16        A    Okay. See where that car is parked? Now, watch where this white Celica parks,  
17        because this is going to be -- this is going to play an integral role to -- to the  
18        officer's story and how Jarvis and I acted at this traffic stop. So you'll see that  
19        the white Celica actually parks right beside this little car. And in so doing, in so  
20        doing, Constable Keating with his aggressive actions, actually pins -- I'll just  
21        put this on pause right here. He's actually pinned that second car into the  
22        parking lot. So there's no way for that car that we just parked beside to actually  
23        get out. The ironic thing about that car is other officers at the scene and at my  
24        criminal trial testified that two people were in that car, two people who saw the  
25        whole thing. Yet we have no witness statements for this --

26

27 THE COURT:

          You should really -- your testimony  
28        should be about what you saw and you said.

29

30        A    There was -- there was guys in that car. I saw them when we pulled up. I'm just  
31        letting you know that there's guys in that car. So now, we've stopped the car.  
32        We've stopped the car. He is directly behind us. And I put my hands in my  
33        pockets, and I go to Shoppers Drug Mart, because I'm a passenger in a car. And  
34        that's when Constable Keating right there -- I'll put it on pause. And that's where  
35        Constable Keating basically said with his loud hailer, get back in the car, get  
36        back in the car right now, that's it. And that's when he went after my brother,  
37        and he put -- basically put my brother in an arm lock and put a handcuff on him,  
38        and -- and the rest is -- there's no audio. It all disappeared. It's magic,  
39        mysterious. There's nothing -- there's no record. But -- but I was bad, so bad. So  
40        anyway.

41

1 Now, you'll see the next five minutes, basically. You'll notice it's 1902, so that's  
2 basically 7:00 and 2 minutes and 38 seconds. So that's very important. We need  
3 to take a good look at that time value or that timeline, because that's basically  
4 1902. So it's 7:00 and 2 minutes, and I got out of the car. We could even go  
5 back. I got out of the car at, like, 30 seconds. You'll see me get out of the car --  
6 oops. Too far. Getting there now. Right --

7

8 THE COURT: You keep resetting it.

9

10 A I know. I'm sorry. But anyway, my point is -- my point is is that I get out of the  
11 car, and the time on the clock is 1902 and 30 seconds. And they will have you  
12 believe that this whole -- this whole incident, if you will, took -- took many  
13 minutes, many, many minutes, because there was much explanation, and even  
14 my friend Gibbings here, he said that there's -- there's much going on. There's  
15 lots going on. There's actually not. It was -- it was over and done in about --  
16 about 15 to 20 seconds after he called backup. And you'll see -- we'll just let this  
17 play. And at 1905, at 1905, so basically two and a half minutes after I get out of  
18 the car, Constable Keating and Constable McAvoy have their dirty mitts all  
19 over the car. And you'll see in -- in a very short period of time. And they will  
20 allude -- they will lead you to believe that it was much later when you read their  
21 notes, and they're very good at reading -- at writing their notes. They're very,  
22 very good at -- at writing their notes. But you'll see through this time stamp.  
23 And then I will play the audio of the dispatch, and you'll listen to what actually  
24 happened, and you'll get a -- a real good understanding of just how much -- how  
25 little -- how little time that this incident actually took place.

26

27 THE COURT: Okay. So let's see the balance of this  
28 video that we're seeing.

29

30 A Okay. Thank you, Your Honour. Ooh, too far. So now it's 190523, 24.  
31 Remember, I get out of the car at 1902 and 30 seconds. I was out of the picture  
32 at 1902 and 30 seconds. So now it's 1905 and 30 seconds. So literally, two --  
33 two and a half minutes between explaining all these things and having backup  
34 called and all these crazy things happening, and -- and, lo and behold, Constable  
35 Keating comes to the -- sorry. I think it's a little bit later. Constable Keating  
36 come -- no, that's -- so it was five minutes later. It was 19-oh -- right here. Here  
37 we go. So less than 5 minutes, right here, he'll be -- he'll be coming into the  
38 screen here very shortly. So we're down -- we're taking down -- you'll hear --  
39 here he comes, here he comes. And he's interested in going to the car. There he  
40 goes. Oh, wait a minute. Wait a minute. Oh. Oh. Oh, let's see here. And just --  
41 let's just watch. Let's just watch this man in action. Oh, there's McAvoy. He's



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

A M-hm.

THE COURT: -- important to see?

A Absolutely, Your Honour. Do you want me to fast-forward?

THE COURT: Yes. I think -- yes. You can move right to the point that you think it's important, Mr. Stewart.

A Okay.

(AUDIO/VIDEO PLAYED)

A Oh, I just have a note on one of my notes. Can I just grab it?

THE COURT: No, go ahead.

A Okay. Okay. So we're going to go through the constable's notes when they -- when they testify. But the number of discrepancies in their notes, I'm going to -- I'm going to bring them to your attention now because it makes a lot more sense. Excuse me. At 19 --

THE COURT: Are we still watching this?

A Absolutely, yeah. Yeah. Yeah, at 1915 -- okay. Oh. Okay. The officers all testified that they read us our rights, and that they knew who we are -- who we were because they -- they took all the information out of the car. But they actually did this later. They didn't actually go to the car until I'm about to show you. And then you'll see the documents that they get out of the car, but what they've done is they've -- they've -- they've done a nice little white lie, because they basically make it seem like they've already read us our rights. And see, right here they testified -- Keating wrote in his notes and he testified that 1914 hundred hours or so that he reads Jarvis's rights -- oh, there he goes. There goes Jarvis right there. See, there's that flashing car right there? So that flashing car right there, that was Jarvis being taken away to Detention. I don't know if you caught that. Did you catch that? You can just nod or whatever. Okay. Yeah. So that's Jarvis being taken away.

And apparently, they -- they got our names from -- from the car, you see. But my brother actually gave him his name. That's why there's no audio. They have

1 to turn us into criminals, you see, to basically create this whole -- it's really an  
2 abuse of process is what they've done, is they've basically charged us, and then  
3 made us try to be -- so we deal with all this while they get off scot-free. So  
4 you'll -- as you'll see, Jarvis just left, and in his notes, that -- Constable Keating  
5 says he read him his rights at 1914. But you'll see he's already left. And the  
6 reason that is because he's lying when he says that he -- he got our -- our -- our  
7 documentation and information from the car, because my documents were the  
8 first things in the car. And I'll show you. I have them right over there. And I'll  
9 show you as soon as McAvoy goes to this car here at 1918.

10  
11 And then when they actually testify and when they actually write in their notes  
12 when they actually read me my rights and who actually read me my rights, but  
13 then you'll actually see -- because they basically lie about getting my name  
14 when it turns out that it took them a lot later to get my name, but they just threw  
15 me off to jail anyway because there was such a scene in that parking lot, and  
16 they lost total control, so they had to throw us away to jail and clean up the  
17 scene. So I'll show you here, and I'll go and get it, actually, and I'll enter it into  
18 evidence, but it's just coming up here at 19 -- 1918 and 17 seconds, so another  
19 minute. I can try to fast-forward here. Try to fast-forward here. It's -- I'm really  
20 glad they gave us this video, even though they said all the other videos and stuff  
21 didn't work. But I'm really glad they gave us this video, because it tells a lot.

22  
23 (AUDIO/VIDEO PLAYED)

24  
25 A Come on. Too far. 1918. Yeah, right here. So the -- okay. Sorry. See the door is  
26 open now? Let's just rack -- I'll get back to that later. Okay. So the door is not  
27 actually open yet, at the -- at the Celica here. You'll see the passenger -- it's hard  
28 to see, but you'll see the passenger's side door here in a moment. And this is  
29 actually when Constable McAvoy goes into the car and gets the documentation  
30 that has our names on it, which is amazing, though, because they've already  
31 testified that they got our names through the SGI system. But you'll see right  
32 here -- and I'm -- I'm very happy -- I thank God for this video. Here comes  
33 McAvoy. So he's going in the car now, going to go in the car. Oh, can't, right,  
34 because it's locked. Of course. But that's where we go, the glove box for the --  
35 for the documents. And so we'll wait here. We'll go here in a minute.

36  
37 And then -- this is the -- this is the smoking gun. Ha-ha. He'll come out with a  
38 piece of paper, a plastic piece of paper, and I'll show you where it is. And that  
39 was my documentation on -- on the first. And so you'll see in a moment here,  
40 right about 19 -- there he goes, in the car. And the car is open. There, you can  
41 see the car door is open. You can see the glass, and now he's going in there.

1 And he'll go in there for a little while now. So Jarvis has already been sent to  
2 jail, and coming up here in a very short minute at around 1920, they send me to  
3 jail. But right now, at this time here, Constable Keating wrote in his notes and  
4 testified that he was reading me my *Charter* rights and my right to a lawyer, and  
5 that he knew my name because he got it from the SGI system. But you could  
6 still see that Constable McAvoy is still in here because he's found some  
7 goodies. Oh, he's found some good stuff. And they brought that here. They  
8 found all this literature, and he's going through it right now. He can't believe  
9 what he's found. See, watch him? Oh, I found something. Look at this, I found  
10 something. I don't know what it is, but I found something. See?

11

12 So Constable Keating is right at the car right there. He's not reading me my  
13 rights or nothing. He's right beside his own car, because that's his car right  
14 there. And Constable McAvoy is going back into the glove box. And wait for it.  
15 Wait for it. And I'll go get it. It's in my bag here. I'll go get it.

16

17 THE COURT: And what is it?

18

19 A I'll show you. I'll show you, Your Honour.

20

21 THE COURT: Is it important to your case?

22

23 A Yes, it is. It absolutely is, Your Honour. It's crucial.

24

25 (AUDIO/VIDEO PLAYED)

26

27 A And here comes a guy walking. See the guy walking across the parking lot? See  
28 him? He's just walking. And, look, McAvoy has found something. Now  
29 McAvoy has found something, and he doesn't know what it is. Look at him.  
30 He's looking at it. He doesn't know what's going on. There's a witness. What's  
31 going on? What are all these -- he's got something in his hand. What's he got in  
32 his hand? Let me look into it. What's he got? Oh, opens it up. It's -- oh. And  
33 there I go. Look, there I go, right there. That -- see that second car? That second  
34 car is a black car. That second car, that unmarked car, that's what's called a pick  
35 car. And basically what they'll do -- or like a pilot car. And what they'll do is  
36 they'll put that car behind the car that I am driving in, because then no cars can  
37 pull up and see my smashed face. You see? So it's like -- it's like -- it's like a  
38 shield, you see. So this guy in the -- in the black car, you'll see him later when  
39 we get to Detention.

40

41 THE COURT: Gentlemen, Mr. Gibbings.

1  
2 MR. GIBBINGS: There's an awful lot of editorializing  
3 going on here.  
4  
5 THE COURT: Yes. Yes.  
6  
7 A Ha-ha.  
8  
9 THE COURT: Don't forget. You are not making your  
10 argument. You make your argument later.  
11  
12 A Yeah. M-hm.  
13  
14 THE COURT: Okay.  
15  
16 A M-hm.  
17  
18 THE COURT: Let's stick to the facts --  
19  
20 A Absolutely.  
21  
22 THE COURT: -- of what happened that night.  
23  
24 A No, you can see the -- the facts.  
25  
26 THE COURT: And it really is -- it's offside to sort of  
27 say, And this is why the police were doing this.  
28  
29 A Okay.  
30  
31 THE COURT: This is why we bring the pick car.  
32  
33 A Okay.  
34  
35 THE COURT: You can ask him -- if they are on the  
36 stand, you can ask them.  
37  
38 A Okay.  
39  
40 THE COURT: Okay.  
41

1 A Anyways. So that's the pick car. So now, you see I've been driven away. I've  
2 been taken away to jail. But now they have -- they have supposedly -- they have  
3 the evidence that shows my name. But see, they -- they lied because they said  
4 they already got it. But see here, he's going through a bag now. Look at this.  
5 See, he's -- what's this? And now he's -- if you'll see very carefully, you'll see  
6 some of it's -- it's shiny. You can sort of see through it. There's one document  
7 there that looks like it's -- you can kind of see through it because it's not actually  
8 a document that you can see through it. It's a Ziploc baggie. And if -- if you --  
9 you just wait another couple of seconds, you will see it. It's all shiny. You can  
10 see it. See, now they're -- now they're not sure, see? He's got it in his hand. And  
11 he's got it open.

12

13 And I'm just going to -- I'm just going -- I'm just going to put that on pause.  
14 And I'm just going to get my evidence. So this was my UK passport, because  
15 my father was -- and my grandfather were both born in Scotland, so I went and  
16 got a UK passport, and I had a statement of live birth with me, because I was a  
17 passenger in the car. I didn't need anything else. And so that's what McCoy,  
18 Constable McAvoy finds in the car. He finds this piece of paper and this plastic,  
19 and he opens it up, and he looks at it. And he looks at it, and he looks at it at  
20 1919, but he says in his testimony, he says that he already had my documents at  
21 1914, which is a lie. Anyway.

22

23 So I'd like to put this into evidence. You can see the plastic bag.

24

25 THE COURT: You don't -- you don't want to put your  
26 passport in evidence.

27

28 A No? Okay. I don't want to, then.

29

30 THE COURT: You want to keep it.

31

32 A Okay. Fine. But just so you know, just so you know, that's -- when we go  
33 through their notes and you listen to their notes, there they are right there, they  
34 found -- you can see them. They're very -- they're quite -- they're quite  
35 enamored by this information that they've stumbled upon.

36

37 THE COURT: So the essence of your testimony is, at  
38 this time -- what time is it on the screen?

39

40 A 3:40.

41



1 THE COURT: No, no, no.

2

3 A Oh, sorry. 1921. Sorry.

4

5 THE COURT: Okay.

6

7 A 1921 of the --

8

9 THE COURT: 1921. So --

10

11 A -- yeah.

12

13 THE COURT: And you say what? You see the constable  
14 holding there is your birth certificate and your passport?

15

16 A M-hm. Yeah. Which means that that's when he found my name and not three  
17 minutes earlier when they said they had my name, but they didn't. So it's -- it's  
18 just basically to show that they're being disingenuous. You can see it how  
19 clear -- you can see the paper --

20

21 THE COURT: Okay.

22

23 A -- there he's got it. You can see it now, so ...

24

25 THE COURT: Is there anything else of import on the  
26 stick?

27

28 A On this one?

29

30 MR. GIBBINGS: My Lord?

31

32 THE COURT: Yes?

33

34 A No. No.

35

36 MR. GIBBINGS: I do wish to point out that this was -- this  
37 document, these documents, were never -- did never form part of the disclosure  
38 from Mr. Stewart.

39

40 THE COURT: Okay. Well, they're not going in as  
41 evidence, either. So --

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

A Okay. So that's basically the video, and you can see -- and they're still going into the car, of course, obviously.

THE COURT: All right.

A So I can -- I can stop that now.

THE COURT: Well, thank you. Okay.

A Okay.

THE COURT: Do you have any other video that is -- that underpins your case, that would be meaningful to the jury?

A The Detention stuff. But should I do the audio first of the -- yeah. Would you like me to do the dispatch audio first and then the Detention audio?

THE COURT: Yes. The dispatch audio would have been relatively early on in the incident?

A Yes.

THE COURT: Yes.

A Okay.

THE COURT: Well, it's always good to go in sequence --

A Yes.

THE COURT: -- and start at the beginning.

A Yes. All right. So there's audio, cover to cover, from any of the video cameras. But there was audio of Dispatch. Hopefully it's loud enough. It's -- it's approximately two and a half minutes or so. And I believe it's been edited to a certain extent, but we'll talk about it.

(AUDIO/VIDEO PLAYED)

1 A The time is 1905. The time is 1905.

2

3 (AUDIO/VIDEO PLAYED)

4

5 A Okay. So that's that.

6

7 THE COURT: So did you want the video in evidence  
8 and the audio in evidence?

9

10 A Yes. And I also have a couple more videos.

11

12 THE COURT: Okay. So is the video on just one stick or  
13 does that stick have a bunch of videos on it?

14

15 A It's got a bunch of videos on it. I could try to get it on the one stick, and give me  
16 ten minutes or whatever. I put everything that I possibly had in one --

17

18 THE COURT: Right.

19

20 A -- and then I can pull it and put what I need to on another one.

21

22 THE COURT: Are you comfortable with that approach?

23

24 MR. GIBBINGS: Thank you, My Lord.

25

26 THE COURT: Yes. I think we will have -- because you  
27 don't want --

28

29 A I don't want all my stuff --

30

31 THE COURT: That's right.

32

33 A -- being -- yeah. Yeah.

34

35 THE COURT: You want the jury, if they want, to be  
36 able to take the stick into the jury room.

37

38 A Yeah. That's fair, yeah.

39

40 THE COURT: I can't let them take a stick with other  
41 stuff that's not evidence.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

A I agree. I -- thank you. Thank you, My Lord. I agree.

THE COURT: So what you will do tonight is transfer that video that you rely on --

A M-hm.

THE COURT: -- onto a separate stick.

A Yes. And the other videos that I'm about to show right now.

THE COURT: Right.

A And the audio, as well.

THE COURT: And the audio.

A Yes, your -- My Lord.

THE COURT: Okay.

A Okay.

THE COURT: And if you can put them all on the same stick, that's fine.

A Fantastic. Absolutely. I will -- I will endeavour to do so.

THE COURT: Okay. So we will have a stick of actual evidence?

A Yes, My Lord.

THE COURT: Okay. So the video will be P-2. The audio will be P-3. And the --

A And then --

THE COURT: -- we will identify them separately, but they will maybe all go in on one stick, okay?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

A And -- and then I have another set of Detention videos that I'd wish to show --

THE COURT: Okay.

A -- that are a couple of videos that --

THE COURT: And are these long videos?

A -- push -- no. They push my -- my narrative, what I need to -- how I need to prosecute my case.

THE COURT: Okay. So we are going to see another video. And where is it from?

A This is from the sally port of the Saskatoon police station. At the time, it would have been the -- the Saskatoon -- the old Saskatoon police station on 4th.

THE COURT: Yes. Okay.

A Not -- not the brand-new.

THE COURT: This is 2012.

A 2012, yes. 2012.

THE COURT: All right. And this is -- the reason this is important is?

A It just goes to show the -- I guess you could just say the -- the mistreatment, that they want to say that -- they wrote in their notes that I was -- I was being violent and -- and aggressive and intimidating, and I'd like to show video that I believe is the -- is the exact opposite of that.

THE COURT: Okay. So we will just watch the video --

A Okay.

THE COURT: -- knowing that that's the reason.

A Yes.

1

2 THE COURT: So we don't need the narrative. Okay?

3

4 A Okay.

5

6 THE COURT: Okay.

7

8 A Okay. Okay. Hold on. Okay. Whoops. Sorry. Actually, this isn't the one I am  
9 the. It's the second one. I'm sorry. There won't be any volume on these because  
10 it's just security cameras, the cameras in the police station.

11

12 THE COURT: All right.

13

14 A Let's see if I can make it big here. Okay. So this -- the car there that that you're  
15 seeing right now, that was the car that my brother was brought in on. That car  
16 was driven by Constable Hounsell and Constable Boyce. The second car that  
17 will come in will be -- I will be in. My brother is already, obviously, upstairs in  
18 Detention. And there's -- there's another -- there's multiple cameras in -- in --  
19 in -- in the police station. So there's multiple angles. So every time you get in  
20 front of a camera, then, then they have to -- they have to cut that. So all the  
21 angles. So for this -- this incident in what's called -- in the sally port, which is  
22 the basement of the -- of the police station, there's, like, a number of cameras. I  
23 showed you the one with the elevator. There will be a couple more. This one  
24 doesn't show everything, but with the other couple of cameras, you'll get a better  
25 idea of actually what's happening.

26

27 So basically, like I told earlier. I was being driven down with a car, and a black  
28 car was running point behind me. And you'll see -- you won't see it in this  
29 video, but there's three more videos from different camera angles, and you'll see  
30 when they -- when they bring the car, and -- and why they bring it in. But  
31 anyway. We'll just fast-forward it here, so -- here it is. So -- da-da-da-okay. So  
32 I'm driving in. Driving in.

33

34 (AUDIO/VIDEO PLAYED)

35

36 A So Constable Smith was driving this car. And, meanwhile, Constable McAvoy  
37 and Constable Schaefer and Constable Keating are still back on the scene, back  
38 at -- at the Shoppers Drug Mart. So there's the black car. Do you see the black  
39 car that just pulled in? So those two were basically front and back with me in  
40 the back. You can't see me really well, but you'll get a chance to see me in a  
41 minute, and you'll see some -- you'll -- obviously, you'll see some abrasions and



1 THE COURT: Okay. Well, let's just watch it --  
2  
3 A Okay.  
4  
5 THE COURT: -- without narration.  
6  
7 A Fair. Fair.  
8  
9 THE COURT: If you get out and there's some action --  
10  
11 A Yeah. Yeah.  
12  
13 THE COURT: -- and you feel narration is warranted,  
14 kick in then.  
15  
16 A Yeah. Fair. Okay.  
17  
18 THE COURT: Or maybe fast-forward. We're just  
19 watching the officers milling about.  
20  
21 A No, here he is. He's just -- he's just engaging in interrogation here. He's just  
22 talking to me, just asking me all kinds of things. He's quite -- quite happy to just  
23 keep me in the car and keep talking. It's -- but we'll go on. There's about seven  
24 or eight of them come out to take me out of the car, but they accuse me -- they  
25 accuse me of threatening and intimidating officers. But you -- you can see for  
26 yourself.  
27  
28 (AUDIO/VIDEO PLAYED)  
29  
30 THE COURT: So is the police officer talking to you  
31 through the window?  
32  
33 A M-hm.  
34  
35 THE COURT: And the window is down?  
36  
37 A No. No, no. But it's just glass. I mean, you can talk to a person through a car.  
38 It's not soundproof. It's not like a submarine, My Lord.  
39  
40 (AUDIO/VIDEO PLAYED)  
41



1 THE COURT: At some point you get out of the car?

2

3 A Yeah.

4

5 THE COURT: So can we go to that point?

6

7 A Yeah. Sure.

8

9 THE COURT: Thank you.

10

11 (AUDIO/VIDEO PLAYED)

12

13 A And that's Constable Hounsell with the spit sock. You'll also -- I will make note  
14 of that spit sock, that that spit sock was actually given to him. His -- his job was  
15 to be tasked with giving Jarvis, my brother, a call to a lawyer, and instead, they  
16 flipped him a -- a spit sock. And then he decided to take it upon himself to come  
17 down. He didn't actually have a spit sock with him. They just gave him one. So  
18 now they're all down here to take me out of the car. But they accuse me of  
19 threatening and intimidating officers. And then you'll see -- I'm talking to the  
20 big guy here, because I don't want to get beat up, and he's saying -- he's telling  
21 me, You're going to do everything I ask you to do. And I was, like, man, just  
22 don't beat me up. And then this dark silver-haired gentleman, you'll see him for  
23 a moment when he opens the door, and they tell me to put the spit sock on. And  
24 I say, no, I don't -- I'm -- I'm not comfortable with that. And he says right here.  
25 You'll see him -- his head -- you'll see his head, and he says, no, you're putting it  
26 on. But this is -- this is -- I'm threatening and intimidating. Like, watch this  
27 guy's head. Yeah, see.

28

29 THE COURT: The spit sock goes over your head so you  
30 cannot spit blood at the officer?

31

32 A Absolutely. And it also covers up my face so you can't see my injuries on the  
33 camera. But I never actually spit up on officers, so -- just so you know. For the  
34 record, My Lord. You'll remember, too, when I was leaving the car in the  
35 beginning, I had a hat and sunglasses on. And, of course, you can't see that hat  
36 because it's on the back of the car because it was smashed off my head.

37

38 So anyway. That's that video. I'd like to enter that later into evidence, if I can.

39

40 THE COURT: Okay. So --

41

1 A And --

2

3 THE COURT: -- the video from the underground area  
4 of the police station will be P -- it's 4, right, Madam Clerk?

5

6 THE COURT CLERK: No (INDISCERNIBLE).

7

8 THE COURT: Yes. But I am going to mark them  
9 separately.

10

11 THE COURT CLERK: (INDISCERNIBLE).

12

13 A Sure. I can -- I can go and get some flash drives. I don't mind.

14

15 THE COURT CLERK: (INDISCERNIBLE).

16

17 A I have no problem. No problems at all. I'll endeavour to do my best. And so that  
18 was the -- that was the sally port one. And then in -- in my claim, I also am --  
19 claiming that they didn't get me a call to a lawyer. And so I'd just like to show --  
20 even Constable Smith, actually, in his notes, he testifies that he -- he told me  
21 he -- he would give me a call to a lawyer, but nobody ever did. There's no proof  
22 to any of that. But I'd just like to show one more video that shows apparently  
23 Constable Smith giving me an ability to call a lawyer, but they're -- anyway. It's  
24 his -- it's his word versus mine because there's -- there's no audio. So I'll just  
25 show you here. This is me coming in the sally port or --

26

27 THE COURT: Bring up the audio. Madam Clerk --

28

29 A Yeah.

30

31 THE COURT: -- is it -- is it easier for you if we just  
32 mark it as one exhibit and put all the -- all the videos and audio in one? Is that the  
33 way you would prefer to do it?

34

35 THE COURT CLERK: (INDISCERNIBLE).

36

37 THE COURT: All right. I will defer to you, then.

38

39 A Sorry. Try this one here. Yeah. This is it. So this is me in Detention. And  
40 basically, as you look see, I have a spit sock on my head, and there's a number  
41 of officers all around me. And they've taken me out of handcuffs. And I

1 basically want to go memo. Now, apparently, once we get through all the  
2 testimony here, that all these officers, apparently, were read -- read me my  
3 rights and -- and -- and did the -- the lawyers' warning and all that. But  
4 Constable Smith, even, he says that he -- he read me his -- he read me my rights,  
5 and my -- my lawyer warning. He said, do you want to speak to a lawyer, do  
6 you want to speak to a lawyer right now. And apparently, he said that right here.  
7 But I'll just fast-forward to when -- to when I'm -- oh, a little too far. And I'm  
8 just going to ask you for yourself if you see anybody and make any attempt to  
9 get me a lawyer call.

10

11 So -- you also notice somebody points me to jail, and I believe that is actually  
12 Constable Aaron Smith who's pointing me to jail, but there I am, asking myself,  
13 I don't even know why I'm here, I don't even know what's going on, I'd like to  
14 go home. Like, I haven't done anything wrong. And it's all they can do right  
15 here is just going to point -- there you go. That's you. Go to jail. No call the  
16 lawyer? Yeah. So you don't want to call a lawyer? Yeah. That's it. There you go.  
17 I don't even know what was going on. I didn't even -- I wasn't even given an  
18 explanation as to anything. I wasn't -- I wasn't told I was arrested for  
19 obstruction. I wasn't told I was arrested for assault. I wasn't told I was arrested  
20 for resistance. I wasn't told I was arrested for anything.

21

22 Anyway. There you go. There's just more -- more of my rights being violated,  
23 and I just wanted to show you. So it's just systemic. It's just everybody just  
24 thinks that you can just treat people like a piece of shit. And --

25

26 THE COURT: So the essence of that is --

27

28 A -- that's the way it is.

29

30 THE COURT: -- you say nobody --

31

32 A Nobody got me a lawyer or read any rights.

33

34 THE COURT: -- read you your rights or advised of you  
35 your *Charter*?

36

37 A No. Absolutely.

38

39 THE COURT: Okay.

40

41 A Any -- any -- I have copy -- constables here who are writing in notes and

1           testifying --

2

3   THE COURT:                               Okay.

4

5       A   -- that they -- they did so, and yet, on video, we don't have that.

6

7   THE COURT:                               All right.

8

9       A   And the only other incident I wanted to show was when -- when my brother was  
10       in the lawyer -- in the lawyer -- sorry, the phone room. The phone room doesn't  
11       work. The phone doesn't work. It's -- it's a broken -- it's a phone that has to be  
12       dialled from outside. So they just stick you in a phone room, and then they  
13       just -- they just leave you there. And so that's what Constable Hounsell did. He  
14       just put my brother in the phone room, and then they just left because they said I  
15       needed a spit sock. So they -- the -- the booking desk threw a spit sock at  
16       Constable Hounsell. And you can see, I have the video of that. And he catches  
17       the spit sock, and then he proceeds to go downstairs and put the spit sock on my  
18       head. But in his notes, he makes it out like he was the one with the spit sock,  
19       but no, they threw him the spit sock.

20

21   MR. GIBBINGS:                           My Lord, there's so much about this --

22

23       A   Ha-ha.

24

25   MR. GIBBINGS:                           -- that he cannot possibly know. He talks  
26       about somebody at a Detention desk throwing this and that and the other thing  
27       where he is not present.

28

29   THE COURT:                               Yes. All you knew is you had a spit sock  
30       put on your head, right?

31

32       A   Yeah. And I saw the Detention person throw -- give the spit sock to Hounsell.

33

34   THE COURT:                               Yes. Okay.

35

36       A   It's in the video. It's on the video.

37

38   THE COURT:                               But the reason --

39

40       A   The reason for the spit sock or the reason that he -- there's a white lie. I had a  
41       spit sock. No, he was given a spit sock.

1  
2 THE COURT: All right. It doesn't matter how he got the  
3 spit sock.  
4  
5 A Yeah. I know.  
6  
7 THE COURT: A spit sock was put on your head?  
8  
9 A It certainly was.  
10  
11 THE COURT: Okay. What is the other video?  
12  
13 A That -- that was pretty much it. I just wanted to let you know --  
14  
15 THE COURT: Okay.  
16  
17 A -- that, you know, you -- they -- they don't have anything. And all I can do is try  
18 to show you people. I'm trying to prove to you that -- that --  
19  
20 THE COURT: All right.  
21  
22 A -- I am --  
23  
24 THE COURT: So no other audio recordings to put in?  
25  
26 A No. Just the GPS record. If I could --  
27  
28 THE COURT: Okay.  
29  
30 A -- if I could enter the GPS and show that ten cars that showed up, on GPS? Can  
31 I enter that now?  
32  
33 THE COURT: All right. Is this a disclosed document?  
34  
35 MR. GIBBINGS: No.  
36  
37 A Yes, it is.  
38  
39 MR. GIBBINGS: Is it? Okay.  
40  
41 THE COURT: Okay.

1  
2 MR. GIBBINGS: Sorry.  
3  
4 THE COURT: Yes. Sure.  
5  
6 A Sorry, Bob. Ha-ha. Ha-ha.  
7  
8 THE COURT: Get the GPS record.  
9  
10 A Yeah. Ten cars showed up to this. It was pretty incredible stuff. So I'll just give  
11 you a quick -- let's see if I can find it here. Do you remember what file it was  
12 under? Oh, there it is. There it is. GPS. So that -- so this is just a -- like you  
13 said, you heard the -- you heard the call for backup.  
14  
15 THE COURT: Yes.  
16  
17 A And -- and we have ten vehicles. It'll -- it'll show you here. Let's see if I can --  
18 because they're all equipped with GPS, among other things. So this is, like, a  
19 video of another person's screen, so it'll come up. So here you go. So there's the  
20 cars. And it's just going to back up. It'll -- it'll just play. But basically, they  
21 called in the cavalry for what they consider a traffic stop.  
22  
23 THE COURT: Okay.  
24  
25 A So there's -- there's ten cars.  
26  
27 THE COURT: So you will put that on the stick, as well?  
28  
29 A Yeah, absolutely. I'll -- I'll add that, too.  
30  
31 THE COURT: All right.  
32  
33 A Yeah. So anyway, that's just -- you can see just -- there -- they back up each one  
34 to show where each one is. It's the route, basically, that each car was taking. But  
35 ultimately, all I really wanted to show was that it wasn't just, you know, a  
36 couple cars showed up. They -- he called backup, didn't identify himself, and  
37 everybody thought that, you know, it was Pearl Harbor.  
38  
39 THE COURT: All right. Do you have any further  
40 evidence?  
41

1 A No, I don't think so, Your Honour.  
2  
3 THE COURT: Thank you very much, Mr. Stewart.  
4  
5 A Thank you very much, My Lord.  
6  
7 THE COURT: Just -- no, no. No, hang on. Hang on.  
8  
9 A Oh.  
10  
11 THE COURT: Hang on. Just don't forget to cross-exam.  
12  
13 A That's true. That's true.  
14  
15 THE COURT: That's right. I was going to suggest,  
16 Mr. Gibbings, it's been a bit of a long day.  
17  
18 MR. GIBBINGS: Tomorrow morning?  
19  
20 THE COURT: That we let you start your cross tomorrow  
21 at 10.  
22  
23 MR. GIBBINGS: Thank you, My Lord.  
24  
25 THE COURT: You can spend the evening working hard  
26 honing it to a razor's edge.  
27  
28 MR. GIBBINGS: Thank you, My Lord.  
29  
30 THE COURT: All right. And you can think about the  
31 testimony you just gave, right?  
32  
33 A Absolutely, My Lord.  
34  
35 THE COURT: All right. And prepare that stick for  
36 entering into the record.  
37  
38 A Multiple sticks, or I could even just do --  
39  
40 THE COURT: No, just I -- my -- my clerk, who is in  
41 charge of the exhibits, she prefers it all on one stick.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

A Okay.

THE COURT: Okay.

A I will. Absolutely.

THE COURT: Thank you.

A Thank you, My Lord.

THE COURT: We will let the jury go. We will see you tomorrow at 10:00. I would ask that you please try to arrive around quarter to ten. Okay. Thank you.

THE SHERIFF: My Lord, is the Court comfortable with the binders they've been given being locked in the jury room overnight?

THE COURT: Yes. Yes. I don't want you taking the binders home. Just leave them in the jury room, okay?

THE SHERIFF: Yeah. I'll -- I'll see that they stay there.

THE COURT: Yes. Yes. Thank you.

(JURY RETIRES)

THE COURT: Madam Clerk, put that on the file. Just have a chair. So anything we have to discuss other than you are going to prepare and try to be efficient and focus?

MR. GIBBINGS: Yes.

THE COURT: All right. And you will work on the stick, Mr. Stewart?

A Yes, My Lord.

THE COURT: Thank you very much. You try to get here at quarter to, okay?



1 A Absolutely. I'll be here early.

2

3 THE COURT: Okay. Thank you. Have a good evening.

4

5 (WITNESS STANDS DOWN)

6

7

8 PROCEEDINGS ADJOURNED UNTIL 10:00 AM, APRIL 30, 2019

9

10

11 April 30, 2019

Morning Session

12

13 The Honourable

Court of Queen's Bench for Saskatchewan

14 Mr. Justice R.S. Smith

15

16 (No Counsel)

For the Plaintiff

17 R. Gibbings, Q.C.

For the Defendants

18 A. Rohrke

For the Defendants

19 B. Werezak

Court Clerk

20

21

22 **Discussion**

23

24 THE COURT:

Good morning, everyone.

25

26 MR. GIBBINGS:

Good morning, My Lord.

27

28 MS. ROHRKE:

Good morning, My Lord.

29

30 THE COURT:

Please be seated. Please be seated. So,

31 Mr. Stewart --

32

33 MR. STEWART:

Yes.

34

35 THE COURT:

-- Mr. James Stewart, did you get a

36 chance to put together that stick?

37

38 MR. STEWART:

Yes, I did. I actually had the original

39 disks, Your Honour -- My Lord, from the police. So I have those, and then I also

40 made up a stick, yes.

41

- 1 THE COURT: All right. So -- and the stick has just  
2 those things that you talked about and went through in your chief?  
3
- 4 MR. STEWART: Well, the disks do. The stick is the -- is  
5 the detention of my brother, Jarvis Stewart, which would show, you know, his call  
6 to a lawyer and a couple things that were relating to my case. So I could show that,  
7 too. It's -- it doesn't matter.  
8
- 9 THE COURT: Okay. But the disk --  
10
- 11 MR. STEWART: But the disks are the GPS and --  
12
- 13 THE COURT: Okay. That you went through in your  
14 chief?  
15
- 16 MR. STEWART: -- the audio and then my detention, yeah.  
17
- 18 THE COURT: Excellent. Excellent.  
19
- 20 MR. STEWART: Okay.  
21
- 22 THE COURT: So would you just give those -- I'm not  
23 going to enter them as an exhibit because I will need the consent --  
24
- 25 MR. STEWART: Okay.  
26
- 27 THE COURT: -- or at least I have to know if the  
28 defence objects. So you will have a look at those, satisfy yourself that they are  
29 reflective of what Mr. Stewart went through in his chief, and if they are, boom, we  
30 put them in as an exhibit.  
31
- 32 MR. STEWART: Okay.  
33
- 34 MR. GIBBINGS: Okay. We'll try to do that.  
35
- 36 THE COURT: Okay. Thank you. Just hand them to  
37 Ms. Rohrke.  
38
- 39 MR. GIBBINGS: We'll try to do that over the noon hour.  
40
- 41 THE COURT: Okay. Very good. And --

1  
2 MR. STEWART: Oh, you want that, too. That's the  
3 detention for my brother, Jarvis.  
4  
5 THE COURT: Well, we -- I don't think we need Jarvis's,  
6 do we?  
7  
8 MR. STEWART: Okay. Fair enough.  
9  
10 THE COURT: Yes.  
11  
12 MR. STEWART: That was just showing when --  
13  
14 THE COURT: Yes. I know, but just --  
15  
16 MR. STEWART: -- some situations --  
17  
18 THE COURT: -- hang onto it.  
19  
20 MR. STEWART: I will. I will. Thank you, My Lord.  
21  
22 THE COURT: Yes. But thanks for that.  
23  
24 MR. GIBBINGS: Yes.  
25  
26 THE COURT: Ms. Rohrke. Again, we had to regularize  
27 D-1.  
28  
29 MS. ROHRKE: Yes, My Lord. I looked into it, and the  
30 document is only two pages. So inadvertently, the second page was just inserted  
31 twice.  
32  
33 THE COURT: Okay. All right. That's good. Because if  
34 there was a third page, I was thinking, well, now what do we do?  
35  
36 MS. ROHRKE: No, My Lord. There is not a third page.  
37  
38 THE COURT: Okay. Thank you. So D-1 is regularized  
39 as a two-page document. And did you advise my clerk? Well, you advised her now.  
40  
41 THE COURT CLERK: (INDISCERNIBLE).

1  
2 THE COURT: Because she's got a three-page document.  
3  
4 MS. ROHRKE: Correct, My Lord. No, I did not advise  
5 her ahead of court. I apologize.  
6  
7 THE COURT: Okay. So, Madam Clerk, on D-1, you  
8 will just -- there's two pages that are the same, the last two pages. Just remove one.  
9 Thank you. And we will -- we will have to tell the jury.  
10  
11 MS. ROHRKE: Would you like me to do that, My Lord?  
12  
13 THE COURT: No, no. I will do that.  
14  
15 MS. ROHRKE: Okay. Thank you.  
16  
17 **EXHIBIT D-1 - Amended - Notice and Claim - Tab 24, Two-page Document**  
18  
19 THE COURT: All right. Is there anything else or can I  
20 bring in the jury?  
21  
22 Mr. Stewart, Mr. James Stewart, why don't you just come up here and get on the  
23 stand because Mr. Gibbings is going to have some questions for you. Is that water  
24 glass is there, James?  
25  
26 MR. STEWART: It is. Thank you, My Lord.  
27  
28 THE COURT: Okay. All right. Deputy, bring in the jury.  
29  
30 THE SHERIFF: Yes, My Lord.  
31  
32 (JURY ENTERS)  
33  
34 THE COURT: Please be seated. Good morning,  
35 members of the jury. Good to see you. You will recall there was some discussion  
36 yesterday about D-1, which is tab 24, having basically three pages, the last two of  
37 which were identical. Ms. Rohrke has admitted that that is her error, and and so we  
38 have regularized in -- in the court record that D-1, tab 24, is just a -- it's just a  
39 two-page document. So you can, when you go back in the jury room, just simply  
40 discard the extra page. Okay? Thank you.  
41

1 So as you know, Mr. Stewart has outlined his case for you, gone through some  
2 videos, told you his story. It is now the opportunity for counsel for the five  
3 defendants to cross-examine Mr. Stewart.

4

5 When you are ready.

6

7 MR. GIBBINGS: Thank you, My Lord. One last  
8 administrative matter. Yesterday, we entered the mug shot of Mr. Stewart, and  
9 there was only one copy available for the jury. The deputy has the other copies --

10

11 THE COURT: All right.

12

13 MR. GIBBINGS: -- for the jury binders.

14

15 THE COURT: So that is -- that is an exhibit -- the mug  
16 shot is the exhibit from Mr. Stewart.

17

18 MR. GIBBINGS: Yes. Yes.

19

20 THE COURT: Was it P-1?

21

22 MR. GIBBINGS: Yes, it was.

23

24 THE COURT: So P-1 is a picture that Mr. Stewart  
25 tendered, showing his injuries after the arrest. The deputy will provide each of you  
26 with a copy. Thank you, deputy.

27

28 THE SHERIFF: (INDISCERNIBLE). Extra copy.

29

30 MR. GIBBINGS: Thanks.

31

32 THE COURT: When you are ready.

33

34 MR. GIBBINGS: Thank you, My Lord. At the outset, My  
35 Lord, I'd like to tender two documents pursuant to the provisions of *The Evidence*  
36 *Act*. These are court-certified documents.

37

38 THE COURT: Okay.

39

40 MR. GIBBINGS: The first is at tab 22. This is a --

41

1 THE COURT: Yes.

2

3 MR. GIBBINGS: -- a court-certified copy of an  
4 Information number 37292281. It's the Information of a Sergeant Bradford with  
5 respect to James Douglas Stewart, two charges, one, that: (As read)

6

7 On or about the 24th day of August, 2012, at or near Saskatoon,  
8 Saskatchewan, did wilfully obstruct Constable Keating, PC  
9 Number 738, a peace officer engaged in the lawful execution of  
10 his duty, by interfering with the lawful arrest of Jarvis Stewart,  
11 contrary to Section 129 (a) of the *Criminal Code*.

12

13 And charge 2: (As read)

14

15 On or about the 24th day of August, 2012, at or near Saskatoon,  
16 Saskatchewan, did assault Constable Schaefer, PC Number 55,  
17 and Constable McAvoy, Number 680, with attempt to resist the  
18 lawful arrest of himself, contrary to Section 270 (1)(b) of the  
19 *Criminal Code*.

20

21 It's a two-page document, sworn August 25 of 2012.

22

23 THE COURT: Okay. It's admissible as it is certified. So  
24 the Information under tab 22 is exhibited at D -- where are we at, Madam Clerk?  
25 D-2. And I should just explain to the jury, it's called an Information, but an  
26 Information is really the charges. When they give an Information, those are charges  
27 against you.

28

29 **EXHIBIT D-2 - Certified Copy of Information 37292281 - Tab 22**

30

31 THE COURT: Thank you, deputy.

32

33 MR. GIBBINGS: The next document, again, court-certified  
34 document, My Lord, is at tab 27. It's a court-certified copy of the proceedings  
35 which took place in the Provincial Court on May 3, 2013, with respect to James  
36 Stewart. And it indicates at the bottom of the document, found guilty, release of  
37 exhibits after appeal period ordered off the record. It's dated -- court-certified,  
38 rather, on January 7th of 2015.

39

40 THE COURT: Okay. The court document under tab 27  
41 will go in as D-3. This basically is simply an internal recording by the Court of the

1 conviction against Mr. James Stewart for obstruction, and the sentence he received,  
2 which is absolute discharge. Thank you, deputy.

3

4 **EXHIBIT D-3 - Copy of Provincial Court Information - Tab 27**

5

6 MR. GIBBINGS: I'll just wait until everybody gets  
7 organized.

8

9 **JAMES STEWART, Previously Affirmed, Cross-examined by Mr. Gibbings**

10

11 Q MR. GIBBINGS: Mr. Stewart, do you recall being stopped  
12 by a police vehicle at the -- at College Drive and Circle Drive on the 13th of  
13 January, 2012?

14 A Mm. Maybe. It's a long time ago.

15

16 Q Okay. Do you recall receiving three tickets on that occasion?

17 A Mm. Oh, yes, I do. Yes. Now, I am -- I'm familiar with that traffic stop, yes.

18

19 Q Okay. All right. I would like to have you look at document 7, please?

20 A M-hm. Oh, yes. Yeah.

21

22 Q This is a ticket number 7485339, issued on the 13th of January, 2012, issued to  
23 you, and the charge is that you operated -- operating an unregistered vehicle at  
24 College Drive and Circle Drive?

25 A Just -- just a couple things, Your Honour, My Lord. I'm not sure what this has  
26 to do with the incident, but more to the point in case, before we begin, Bob,  
27 would you just let the jury know that you walked out of mandatory mediation  
28 beginning -- just let the jury know. Just let the jury know that --

29

30 THE COURT: No, no. That's not what --

31

32 A No, no. But that's what they did. They -- they walked out of mandatory  
33 mediation.

34

35 THE COURT: But -- well, but -- thank you. So that's  
36 what you say. Mr. Gibbings doesn't have to say anything.

37

38 A Just let them know that you -- he doesn't have to say anything?

39

40 THE COURT: You just have to answer -- you just have  
41 to answer the questions.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

A Okay.

THE COURT: Answer the questions.

A So anyway. They walked out of mandatory mediation. So now they're going to come at me with this. But this is great. I'll talk -- I'll tell you all about it. So this is really what started it is -- was really what -- it was the final straw for me, and members of the Saskatoon Police who -- but yeah. Let's -- let's do this. This was a Constable Siemens (phonetic) --

THE COURT: Well, let's just do it --

A -- and Constable Ens. Yeah.

THE COURT: -- like, one -- one question at a time.

A Yeah. Perfect, let's go.

THE COURT: You are charged on this date with operating an unregistered vehicle?

A Yeah. It appears to be something like that. Yeah. Yeah.

THE COURT: Yes? Okay.

A Yeah.

MR. GIBBINGS: May I have it entered, My Lord?

THE COURT: Yes. Tab -- the document under tab 7, indicating offence of driving unregistered vehicle, will be exhibited as D-3 --

THE COURT CLERK: Four.

THE COURT: Four. Thank you, Madam Clerk. Seven.

**EXHIBIT D-4 - Copy of Ticket Number 7485339 for Operating an Unregistered Vehicle - Tab 7**

Q MR. GIBBINGS: Now I'd like you to look at document



1 number 8, Mr. Stewart. This is a copy of that same ticket, 7485339 that we saw  
2 at document number 7.

3 A M-hm.

4  
5 Q And it has words written on it.

6 A M-hm.

7  
8 Q Under protest and duress, I do not consent or wish to contract.

9 A M-hm.

10  
11 Q That is your handwriting?

12 A Absolutely.

13  
14 Q And that was put on that document, I think, in red ink?

15 A It probably was, yeah.

16  
17 Q Okay. And you sent this to the Provincial Court?

18 A Back to whatever the -- the original address was on it. I mailed it back to that  
19 address, yeah.

20  
21 Q Okay.

22 A Yeah.

23  
24 MR. GIBBINGS: Could I have that entered, please?

25  
26 THE COURT: So under tab 8 on the summons, the  
27 ticket summons that is under tab 7, we will put the note -- Mr. Stewart's protest to  
28 the summons.

29  
30 MR. GIBBINGS: Yes. It's tab 8, My Lord.

31  
32 THE COURT: Tab 8?

33  
34 MR. GIBBINGS: Yes.

35  
36 THE COURT: D-5.

37  
38 **EXHIBIT D-5 - Copy of Ticket 7485339 with Words Written Across - Tab 8**

39  
40 Q MR. GIBBINGS: Now, if you look at tab 11, please,  
41 Mr. Stewart? This is a ticket number 7485340, also dated January 13, 2012.

1 And you received this ticket on that same day?

2 A M-hm. Yeah.

3

4 Q And it was a charge of driving without a valid driver's licence?

5 A Valid, yeah.

6

7 Q Okay.

8

9 MR. GIBBINGS: Could I have that marked, please, My  
10 Lord?

11

12 THE COURT: A summons for driving without a  
13 driver's -- a valid driver's licence, under tab 11, D-6.

14

15 **EXHIBIT D-6 - Ticket 7485340 - Summons for Driving Without Valid Driver's Licence**  
16 **- Tab 11**

17

18 Q MR. GIBBINGS: And now under tab 14, Mr. Stewart?

19 A Yeah. Oh, yeah.

20

21 Q This is the copy of the same ticket, 7485340, and again, your handwriting  
22 appears on that document?

23 A Yeah.

24

25 Q And you sent it back to the address that was --

26 A The address, yeah.

27

28 Q Okay.

29

30 MR. GIBBINGS: Could I have that marked, please, My  
31 Lord?

32

33 THE COURT: Okay. Under tab 14 is a copy of the  
34 ticket, which was under tab 11, which contains Mr. Stewart's protest to the  
35 summons. D-7.

36

37 **EXHIBIT D-7 - Copy of Ticket 7485340 with Words Written Across - Tab 14**

38

39 Q MR. GIBBINGS: Now, under tab 15? This is ticket  
40 7485341, issued the same day, January 13, 2012, at Circle Drive and College  
41 Drive. This was a ticket you received on that day, Mr. Stewart?

1 A Oh, yeah.

2

3 Q And it says displayed unauthorized plate, correct?

4 A Yeah. Yeah, yeah.

5

6 Q Okay.

7

8 MR. GIBBINGS: Could I have that marked, please, My  
9 Lord?

10

11 THE COURT: Under tab 15, a ticket for displaying an  
12 unauthorized vehicle licence plate. D-8.

13

14 **EXHIBIT D-8 - Copy of Ticket 7485341 for Unauthorized Licence Plate**

15

16 MR. GIBBINGS: Perfect. Oh, yes. Under tab 17, My Lord,  
17 again, a copy of the ticket number 7485341.

18

19 Q MR. GIBBINGS: Have you seen that document before?

20 A Oh, yeah. It looks like a copy of mine, yeah.

21

22 Q Yeah. Again, your handwriting on the document?

23 A Oh, yeah. Absolutely.

24

25 Q And you sent it back?

26 A I sent it back.

27

28 Q Okay.

29

30 THE COURT: The document under tab 17,  
31 Mr. Stewart's protest to the ticket he received, which is under tab 15. D-9.

32

33 **EXHIBIT D-9 - Copy of Ticket 7485341 with Words Written Across - Tab 17**

34

35 Q MR. GIBBINGS: Now, if we could look under D-9? Or I'm  
36 sorry, tab 9, rather? Do you recognize this document, Mr. Stewart?

37 A Yeah. It looks like a copy of something I wrote.

38

39 Q Okay. I'm going to suggest to you that this -- when you sent the tickets back, as  
40 you've already indicated, this letter accompanied those tickets?

41 A M-hm. M-hm.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

Q Yes?

A M-hm. It says there's already offence ticket number seven --

THE COURT: You have to answer. "M-hm" doesn't come --

A Yes. Yes. Yes.

THE COURT: -- up in the -- yes.

A Yes, it's the -- the offence. Yes. Yes. Yes.

THE COURT: All right. Thank you.

MR. GIBBINGS: Okay. Could I have that marked, please, My Lord?

THE COURT: Okay. This is under tab 9, a letter from Mr. Stewart outlining his arguments against the traffic tickets. And that's D-10.

**EXHIBIT D-10 - Letter from James Stewart dated March 11, 2012 - Tab 9**

Q MR. GIBBINGS: I just want to refer to the second page of that document, Mr. Stewart, and the second-last full paragraph on that page that begins "therefore, I must demand"?

A M-hm. Yes.

Q Okay. So what you were doing there, I take it, was demanding that unless the vehicle -- it was a Honda Civic, was it?

A Yes, it was.

Q And they took possession of that Honda Civic?

A They certainly did.

Q And you were wanting it returned?

A Yes.

Q And unless they returned it, you were saying you would charge fees, fines, expenses, debts, other penalty which your schedule appears on the third page of that document?

1 A M-hm. Yeah. It was very threatening. Yeah, yeah, yeah.

2

3 Q Okay.

4 A Yes, yes.

5

6 Q After March 12, 2012, when you wrote this letter and sent it in, you did not  
7 appear in court in response to those tickets, did you?

8 A No, actually, I did. There was -- it was the Constable Siemens and Constable  
9 Ens, and they -- they stole the Civic from me because they didn't give me a  
10 receipt for it. You see, you have to give a receipt, which would be like a notice  
11 of seizure or a notice of impound. But they didn't do that. So I went to court,  
12 and I told the judge, and I said, They stole my car.

13

14 It was -- I'll -- I'll be perfectly honest with you. It was an unregistered car. At  
15 the time I was going through some financial difficulties. My truck broke down,  
16 and so I borrowed my girlfriend's older beater Civic, because I had to go to  
17 work, and I live in Hanley, and it's 60 kilometres away from Saskatoon. So I  
18 drove to work. And, of course, the little Honda Civic had a -- a problem with it.  
19 There was a slight problem with the frame, but in order to fix it all, to fix the  
20 little frame, it would be -- cost too much. So they wrote the car off. They  
21 registered the car as -- as unregistrable, and my -- my truck didn't work, and I  
22 needed to go to work.

23

24 So I used her car. And I was, like, whatever, I'll drive the speed limit, I'll be  
25 safe, and I won't speed, and I won't do anything stupid. But the cops don't care.  
26 They just pull you over anyway. And then they -- they thug you, and like you  
27 said, you could read in that letter, they arrest you, and then they unarrest you,  
28 and they do whatever they have to do, and then they just take your stuff. And  
29 then when you go to court, which I did, and I told the judge at the provincial  
30 traffic court, I said, yeah, they stole it. They don't have any notice of seizure.  
31 And she said, I don't care. And I said, Well, then, check the number of the -- the  
32 vehicle registration, and they actually had written it wrong. So then she threw  
33 that out. She threw the -- the car out, the unregistered car, because it was a  
34 different car, but I never got it back. I never got it back. So yeah.

35

36 That started it all, basically, when you -- when you start dealing with police  
37 officers and safety and the traffic enforcement. And they -- they really just --  
38 they really have no concern for you. So you start taking the law into your own  
39 hands and thinking, hey, maybe I'll try to read this up and see, because they just  
40 treat you like -- like -- they treat you like a criminal the minute they -- the  
41 minute they get on you, they just treat you like a criminal. They don't have

1 any -- any -- any -- any compassion at all. You're instantly a criminal. And  
2 I'm -- I'm glad you --

3

4 Q Mr. -- Mr. Stewart --

5 A -- I'm glad you introduced that one, because that -- that -- then you can see  
6 they -- they arrested me, and then they unarrested me, and -- and took my car.

7

8 THE COURT: Just --

9

10 Q MR. GIBBINGS: Mr. Stewart.

11

12 THE COURT: -- just wait for the next question, okay,  
13 Mr. Stewart?

14

15 A Okay.

16

17 THE COURT: Thank you.

18

19 Q MR. GIBBINGS: You made that presentation to the Court,  
20 I believe, in September of 2012?

21 A Maybe. Yeah, I can't remember all the way back then.

22

23 Q Okay. There were a couple of appearances with respect to this matter, right?  
24 There was an initial appearance, and then it was adjourned?

25 A Yeah. For the charge of assault, the two charges of assault, and the charge of  
26 obstruction.

27

28 Q No, I'm talking about -- I'm talking about these tickets.

29 A Oh, these tickets?

30

31 Q Yeah.

32 A No, like I said, I went to -- I went to court, and they threw it out. They threw out  
33 the Civic. And I did the -- I did the -- my fine payment thing. Like, I -- I did all  
34 that. Like, I'm not -- this is, like -- it's after -- this is all after -- when they sent  
35 me the ticket back. When they sent the ticket back, because I -- I told the judge,  
36 like, you can't --

37

38 Q That's fine.

39 A -- you have the *Traffic Safety Act*. I can go get the *Traffic Safety Act*, and I'll  
40 read you the *Traffic Safety Act*.

41

1 MR. GIBBINGS: My Lord.  
2  
3 THE COURT: Just -- just wait for the next question, sir.  
4  
5 A Okay. Okay.  
6  
7 MR. GIBBINGS: Yeah.  
8  
9 A Anyway.  
10  
11 THE COURT: You are making your point, but just wait  
12 until the next question.  
13  
14 A Okay.  
15  
16 THE COURT: One at a time. Question, answer,  
17 question, answer.  
18  
19 A Thank you, My Lord.  
20  
21 Q MR. GIBBINGS: Were you ultimately served with -- at  
22 some point, were you served with warrants for your arrest with respect to those  
23 three traffic tickets?  
24 A No.  
25  
26 Q Okay. Okay. (INDISCERNIBLE) document -- document 1, please,  
27 Mr. Stewart?  
28 A Okay. Just a moment. Just a second.  
29  
30 Q Tab 1. Tab 1, I'm sorry.  
31 A M-hm. M-hm. Where is it?  
32  
33 Q Do you recognize this document?  
34 A Oh, absolutely. Yes, I do.  
35  
36 Q This is the document that you wrote?  
37 A Actually, on the title at the top, it says updated March 26th.  
38  
39 Q Right.  
40 A Yeah. Yeah.  
41

1 Q And this is a document you wrote?

2 A Yeah. Yeah, I wrote it. Yeah.

3

4 Q Okay. And this was a document that was in the glove box of the Celica?

5 A So -- so we're off the other, and we're now with the --

6

7 Q Yes.

8 A -- the new -- we're at the --

9

10 Q Yes.

11 A -- incident on --

12

13 Q Yeah.

14 A -- August 24th, 2012?

15

16 Q Yes.

17 A The white Celica? Yes. Yes, that was in the white Celica.

18

19 Q Okay.

20

21 MR. GIBBINGS: Could I have that marked, please?

22

23 THE COURT: All right. Under tab 1, statement dated  
24 March 26, 2012, by James Stewart. D-11.

25

26 **EXHIBIT D-11 - Statement dated March 26, 2012 - Tab 1**

27

28 Q MR. GIBBINGS: Now, I just wanted to look at a few parts  
29 of this, although the entire document will be reviewed by the members of the  
30 jury, I am sure. But the second -- on the first page, the second full paragraph, it  
31 says: (As read)

32

33 I, James, colon, Douglas of the clan Stewart, am a first-class  
34 private sovereign citizen as evidenced by my statement of live  
35 birth, parentheses, in close, close parentheses.

36 A Yeah. That was the one that was in the bag yesterday when we watched the  
37 video.

38

39 Q All right.

40 A That was -- that was the one in the bag.

41



1 Q (As read)

2

3 And not a second-class public municipal federal Canadian citizen.

4

5 I just want to understand that a little bit, Mr. Stewart. Are the police officers,  
6 then, in your worldview, a second-class public municipal federal Canadian  
7 citizen?

8 A Oh, they would be public or municipal or federal. Absolutely. That's what --

9

10 Q Okay.

11 A -- police usually are.

12

13 Q Okay.

14 A They're not usually private.

15

16 Q Okay.

17 A I don't think we have private police. Do we have privacy police, Your Honour --  
18 My Lord?

19

20 Q In the second paragraph, and this accords with what you wrote on those tickets  
21 that you sent back, you said: (As read)

22

23 I do not wilfully consent to any of your offers --

24 A M-hm. M-hm.

25

26 Q (As read)

27

28 -- I will not enter into any contract outside of my common law  
29 jurisdiction.

30

31 Correct?

32 A Oh, yeah. Absolutely. I wrote all this. It's great stuff.

33

34 Q Okay. If you go to the second page, one, two, three, four, five, the sixth full  
35 paragraph which begins with: (As read)

36

37 I, James, colon, Stewart.

38

39 Do you see that paragraph?

40 A Mm. Oh, yeah. Yes, I do, yeah.

41

1 Q And it says: (As read)

2

3 I am not a --

4 A Not effectively connected. That one?

5

6 Q Correct.

7 A Yeah. Go ahead.

8

9 Q The second sentence: (As read)

10

11 I am not a resident Canadian citizen. I am domiciled in a foreign  
12 jurisdiction to both the corporate state and federal governments.

13

14 Correct?

15 A Mm. Yeah.

16

17 Q That was your view?

18 A Yeah. I -- I wrote all this. It's a great little letter. Yeah.

19

20 Q Okay. In the next paragraph: (As read)

21

22 Additionally, I am not required to have a driver's licence, not  
23 required to have registration of my personal property, nor to  
24 surrender the lawful title of my duly conveyed property to the  
25 province as security against government indebtedness and the  
26 undeclared federal bankruptcy.

27

28 That was your view?

29 A I -- it's -- it's written there. Yes, I wrote that. Yeah, I wrote that. Yes.

30

31 Q And again, the fourth page of this document is a fee schedule?

32 A M-hm. Yes. Oh, yes. Yeah. Yeah.

33

34 Q Where you make -- you are indicating that if you should be -- you would be  
35 looking for damages for any interference in what you think were your rights --

36 A M-hm.

37

38 Q -- a thousand dollars an hour, 10,000 per action, et cetera?

39 A Yeah. Yeah. Yeah. Absolutely, yes.

40

41 Q Okay. You complained about the events of August 2012 to the Provincial

1 Public Complaints Commission?

2 A Yeah. Those guys.

3

4 Q Yes. But they -- they dismissed your complaint?

5 A They certainly did.

6

7 Q And what they said was your injuries were caused by your own action?

8 A Oh, yeah. They said all kinds of stuff.

9

10 Q But they said that?

11 A Yeah. Yeah.

12

13 Q Okay.

14 A This is the same public complaints commission that has -- 50 percent of all  
15 complaints in the province are from Saskatoon. And then all of those are, like, 1  
16 percent, are found to be founded, but they --

17

18 Q Perhaps you can limit yourself --

19 A -- throughout 98 --

20

21 THE COURT:

We will just -- we will just wait for the

22 next question.

23

24 Q MR. GIBBINGS:

-- to -- perhaps you would limit yourself

25 to answering the question --

26 A -- percent of all public complaints.

27

28 THE COURT:

Question, answer. Question, answer.

29

30 Q MR. GIBBINGS:

-- Mr. Stewart.

31 A Yeah. No, they totally dismissed my complaint. Absolutely, they dismissed my  
32 complaint. They said I was -- I caused my own facial injuries. Absolutely, they  
33 did.

34

35 MR. GIBBINGS:

Okay. Thank you, My Lord. I have no

36 further questions.

37

38 THE COURT:

Okay. If you had a lawyer, you would

39 now have the ability to have a re-exam, ask you a few follow-up questions. You're  
40 acting as your own lawyer, therefore you have the right -- do you have anything  
41 else you would like to add?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

A Well, can I add evidence at this time or can I add it as we go, like, speaking with the other witnesses, as we -- we continue?

THE COURT: Well, you can put in evidence through the other witnesses.

A I can? Okay.

THE COURT: If -- now, again, I assume defence is going to call witnesses, but I don't know. If there are witnesses on the stand, you can always put in evidence through them, if it's proper evidence.

A Okay. Or the defendants or whatever. Like, they'll --

THE COURT: But you -- do you have any statement you would like to make now? Any evidence? Anything relating some event?

A Okay. All right. Just a sec.

### **The Witness Re-testifies**

A Oh, yeah. I mean, this stuff is just letters. I mean, if you read the one, the last one, part B, it says: (As read)

Further, I hereby claim my fee schedule from my private conveyance, the silver Ford Ranger.

That was the silver Ford Ranger that was in the shop. But -- so obviously, like, I wasn't driving the Celica, but I'd had that in my silver Ford Ranger. But it's just basically protection. Maybe, like, put something up in front of these guys to maybe make them wait 30 seconds and maybe, you know, have -- have an idea that maybe what you're doing is not the right thing. But that's all that is. That's just me trying to write some gobbledygook to be, like, hey, like, I have no -- I have no protection against these guys. I'll just do whatever. And then when you go -- when you go to court to -- to deal with it, they don't care whether they did the job right or wrong. Like, I can go to the -- well, can I bring in the -- in the *Traffic Safety Act* now and make my statement where -- where you basically have to have a notice of impound and seizure or notice of impound and direction, and you can't --

1 THE COURT: Well, we will just leave it at that. When  
2 your -- when the vehicle was seized on the original ticket, you thought the police  
3 proceeded procedurally improperly?  
4

5 A Absolutely, Your Honour.  
6

7 THE COURT: Okay. And that you should have got a  
8 notice of seizure or some sort of document?  
9

10 A Among -- among other things.  
11

12 THE COURT: Yes. And you -- and that caused some of  
13 your resentment and --  
14

15 A And that just -- that was the original --  
16

17 THE COURT: Okay.  
18

19 A -- that was back in March, just --  
20

21 THE COURT: No, I think you have made that point.  
22

23 A Thank you, Your Honour -- My Lord.  
24

25 THE COURT: All right. You may step down. Thank  
26 you.  
27

28 (WITNESS STANDS DOWN)  
29

30 THE COURT: Okay. So that is the case -- was there  
31 questioning?  
32

33 MR. GIBBINGS: Yes. No read-ins.  
34

35 THE COURT: Pardon me? Was there questioning?  
36 Pre-trial questioning?  
37

38 MR. GIBBINGS: Yes. Yes, there was.  
39

40 THE COURT: Did Mr. Stewart engage in pre-trial  
41 questioning?

1  
2 MR. GIBBINGS: Yes, he did, My Lord.  
3  
4 THE COURT: Okay. Do you have anything to read in  
5 from the questioning that went on in pre-trial?  
6  
7 MR. STEWART: Are you talking about, like, the  
8 depositions?  
9  
10 THE COURT: Yes.  
11  
12 MR. STEWART: Absolutely, My Lord. Absolutely, I do.  
13 Absolutely. Ha-ha.  
14  
15 THE COURT: Now, I just -- I just caution you, you only  
16 want to read in questions and answers that advance your case, right? Because this is  
17 your evidence.  
18  
19 MR. STEWART: Yeah. Yeah. I don't have it here. Hang on  
20 a second. (INDISCERNIBLE).  
21  
22 THE COURT: I take it -- was it something said by a  
23 particular defendant?  
24  
25 MR. STEWART: Keating, your -- My Lord.  
26  
27 THE COURT: Okay.  
28  
29 MR. STEWART: Keating.  
30  
31 THE COURT: Have you got the transcript --  
32  
33 MR. STEWART: Yeah, just --  
34  
35 THE COURT: -- of Mr. Keating?  
36  
37 MR. STEWART: I do, yeah.  
38  
39 THE COURT: Okay.  
40  
41 MR. STEWART: I'm just trying to find the actual page. I

1 thought I'd written a note down.

2

3 THE COURT: Okay.

4

5 MR. STEWART: I've just got to find it real quick. Okay.

6 I've got it here.

7

8 THE COURT: Okay.

9

10 MR. STEWART: It's on page 34 of Constable Keating's

11 deposition.

12

13 THE COURT: Okay. Page 34 of --

14

15 MR. STEWART: Page 34.

16

17 THE COURT: -- of Constable Keating's -- and the date

18 of that questioning was?

19

20 MR. STEWART: Oh, July --

21

22 THE COURT: We call it questioning.

23

24 MR. STEWART: July 19th, 2018.

25

26 THE COURT: Thank you. Page 34. Line?

27

28 MR. STEWART: Six.

29

30 THE COURT: Line 6? Read the question. Say

31 "question" then read it.

32

33 MR. STEWART: Question --

34

35 THE COURT: Then say "answer" and then read it.

36

37 **Read-in by Mr. Stewart**

38

39 MR. STEWART: Sorry. Line 6.

40

41 Q Yes or no? Did you notice any physical injuries to me on the

1 evening of August 24th, 2012?

2 A After your arrest?

3

4 Q Yes.

5 A No.

6

7 Q Yes or no? Did you observe any blood on my face after my  
8 arrest?

9 A No.

10

11 Thank you, My Lord.

12

13 THE COURT: Thank you, Mr. Stewart. So that would  
14 appear to be your case, then? Other than what you elicit in cross-examination, of  
15 course?

16

17 MR. STEWART: Yeah. Absolutely, yes. Yes, yes, My  
18 Lord.

19

20 THE COURT: Yeah. All right. Very good. So over to  
21 you, Mr. Gibbings.

22

23 MR. GIBBINGS: Ms. Rohrke will lead the evidence for the  
24 defence, My Lord.

25

26 THE COURT: Pardon me?

27

28 MR. GIBBINGS: Ms. Rohrke will lead the evidence for the  
29 defence, My Lord.

30

31 THE COURT: Okay. Very good. Ms. Rohrke.

32

33 MS. ROHRKE: My Lord, perhaps I could just have five  
34 minutes to get our witness? And -- can we adjourn for a brief five minutes?

35

36 THE COURT: Yes. I think we will take more than that  
37 because it takes about five minutes to get the jury to the room, right? Come on.  
38 We'll take 15 so you can be super-ready. How's that?

39

40 MS. ROHRKE: Perfect. Thank you, My Lord.

41



1 THE COURT: Thank you.  
2  
3 (JURY RETIRES)  
4  
5 (ADJOURNMENT)  
6  
7 THE COURT: Thank you very much. Please be seated.  
8 When you are ready, Ms. Rohrke.  
9  
10 MS. ROHRKE: I am ready, My Lord, yes.  
11  
12 THE COURT: Okay. Are you excluding your witnesses  
13 until they have finished their testimony?  
14  
15 MS. ROHRKE: Yes, they have been excluded, My Lord.  
16  
17 THE COURT: Well done. There will be an order to that  
18 effect. Are you ready to call your first witness?  
19  
20 (WITNESSES EXCLUDED)  
21  
22 MS. ROHRKE: I am, My Lord, yes.  
23  
24 THE COURT: Please do so.  
25  
26 MS. ROHRKE: Our first witness will be Dave  
27 McGillivray.  
28  
29 THE COURT: Oh. I am sorry. Maybe we should get the  
30 jury in.  
31  
32 Come on up, sir.  
33  
34 That was my fault, Ms. Rohrke.  
35  
36 THE COURT: (INDISCERNIBLE). Thank you.  
37  
38 (JURY ENTERS)  
39  
40 THE COURT: When you are ready. Okay. And the  
41 witness you have called, Ms. Rohrke, is?

1  
2 MS. ROHRKE: Mr. Dave McGillivray, My Lord.  
3  
4 THE COURT: Okay.  
5  
6 THE COURT CLERK: I'll have you stand for a moment, please.  
7 Will you swear on the Bible or affirm?  
8  
9 MR. MCGILLIVRAY: The Bible is fine.  
10  
11 THE COURT CLERK: All right. Please take the Bible in your  
12 right hand and state your full name.  
13  
14 MR. MCGILLIVRAY: My name is Dave McGillivray.  
15  
16 THE COURT CLERK: Spell your first and last name for the  
17 record.  
18  
19 MR. MCGILLIVRAY: D-A-V-E M-C-G-I-L-L-I-V-R-A-Y.  
20  
21 **DAVE MCGILLIVRAY, Sworn, Examined by Ms. Rohrke**  
22  
23 THE COURT CLERK: Thank you. You may be seated.  
24 (INDISCERNIBLE).  
25  
26 Q MS. ROHRKE: Good morning, Mr. McGillivray.  
27 A Good morning.  
28  
29 Q You're employed by the Saskatoon Police Service?  
30 A That's correct.  
31  
32 Q And can you tell me what your position is with them?  
33 A I am the manager of the support and operations area in the Information  
34 Technology area.  
35  
36 Q Okay. And can you tell me how long you've been with the Saskatoon Police  
37 Service?  
38 A I've been with them 24 years.  
39  
40 Q Okay. And what does your job entail? If you can kind of give us an overview of  
41 that?

1 A Everything related to computers, infrastructure, the databases, the in-car  
2 notebooks, and camera systems.

3

4 Q So you have been involved with the implementation of the in-car camera  
5 systems?

6 A Yes.

7

8 Q And can you explain what those are, for the jury, please?

9 A The in-car camera system is a small computer called a video processing units  
10 tied to multiple cameras, multiple triggers. It records things onto the SD card,  
11 local in the vehicle, and when it returns back to the police station main  
12 headquarters, it uploads that into our back end database.

13

14 Q So can you perhaps talk about when all of this came to pass and when these  
15 in-car camera systems kind of originated and what that process was.

16 A For sure. The in-car camera followed our in-house detention system. That was  
17 kind of our first -- first project that we did. So we learned a lot about the video  
18 system from that and parlayed that into the in-car camera. So that was an  
19 offshoot of the Stonechild inquiry. That was a mandate that they wanted those  
20 cameras installed in.

21

22 Q So you first installed cameras in Detention, and then subsequently they were  
23 looked at as being put into the police cars?

24 A That's correct.

25

26 Q And approximately what year would that have been?

27 A We started looking at them in 2003.

28

29 Q Okay.

30 A We did the Detention facilities in 2006, 2007. We started our in-car camera  
31 2008, and it took multiple years to get the right product, and we went through  
32 two requests for proposal processes during that time until we finalized the  
33 product.

34

35 Q So when you say you started in 2008, what does "started" mean?

36 A Started was -- we did some demos, demo product. We did some proof of  
37 concept, which was not -- not operational video. And then we decided on a  
38 small number of vehicles to try a pilot project. That pilot project, we wanted to  
39 extend over a winter period and a summer period. So we did almost a year of  
40 the first requests for proposal. Unfortunately, the product we selected, that  
41 company went out of business right as the product -- or the pilot project was

1 finalized. So we were forced into restarting over again to --

2

3 Q So what --

4 A -- do a --

5

6 Q Oh, I apologize. Continue.

7 A Do a new -- a new request for proposal for a second generation of cameras.

8

9 Q Okay. So when would that first request for a proposal gone out, do you think?

10 A That one went out in 2008. I think it -- the final conclusion was December of  
11 2010, and then we restarted in 2011 with the -- the second proposal for that  
12 project.

13

14 Q So the second proposal or the second request for proposal, when was that sent  
15 out to tender?

16 A I don't know the exact date. But I know that we finalized product at the end of  
17 2011. So --

18

19 Q Okay.

20 A -- we received the test units in November of 2011.

21

22 Q And what were those test units?

23 A The test units were four Panasonic Arbitrator systems, the Mark II.

24

25 Q Okay. And how many test units would you have received at that stage?

26 A We received four, installed four in four vehicles, kind of dedicated them to eight  
27 officers per platoon.

28

29 Q Okay.

30 A We were on a four-platoon shift, so 32 officers were trained on the -- the pilot  
31 project.

32

33 Q So you have four test --

34 A Yes.

35

36 Q -- cameras?

37 A Yeah.

38

39 Q And when would have those been installed?

40 A Those were installed -- the server went in January 31st of 2012. The cars started  
41 to be installed February 2nd of 2012 through to February 15th, approximately.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

Q But there's only four cars that were installed?

A That's correct.

Q Out of -- and this -- you may not know the answer to this. How many police vehicles would the SPS have?

A There's probably 64 marked vehicles.

Q Okay.

A We've got 93 laptops that can go into vehicles.

Q Okay. So four out of maybe 93 vehicles were installed at that stage?

A Correct.

Q Okay. And can you talk about in that pilot project, when did it run from?

A Again, we wanted to run the pilot project with the new device through a winter period and a summer period. So we started it in February, when it was colder outside, at the --

THE COURT: February what year?

A February of 2012.

THE COURT: Thank you.

A At the old police building where the police cars were outside the majority of the time. So we wanted to definitely test and stress the elements on all the electronics in the system.

Q MS. ROHRKE: Okay.

A And get feedback, make sure things were correct.

Q And do you know specifically what vehicles those four units were installed in?

A They were vehicles 111, 132, which are regular Patrol members' patrol cars, and then traffic vehicles 478 and 477.

Q Okay. And can you talk to me about that vehicle 477? What kind of vehicle was it?

A That, I'd have to look. I'm assuming it was at that time a Crown Victoria or possibly a Ford Explorer.

- 1 Q And I'm sorry. What -- what was it used for?  
2 A Oh, it was a Traffic Unit.  
3  
4 Q Okay. Do you know if it was marked or unmarked?  
5 A It was unmarked.  
6  
7 Q It was unmarked? So what did that installation involve in an unmarked vehicle?  
8 What was it -- what was included in that?  
9 A Throughout the -- the pilot project, it was concerned that the VPU unit would be  
10 put in, a forward-facing camera would be placed in, and then there would be  
11 three switches, one for each door, and one manual for the officer in the dash to  
12 press.  
13  
14 Q And that vehicle 477, it would have had a forward-facing camera?  
15 A Yes.  
16  
17 Q And do you have any knowledge as to whether it had any other cameras  
18 installed in it?  
19 A I -- throughout the project, it was -- it was possible that they could have  
20 installed one at one point, but by the end of the pilot, all the rear-facing cameras  
21 in the unmarked vehicle, the decision was made not to install them.  
22  
23 Q And why was there no rear -facing cameras in these unmarked --  
24 A Because there was no Silent Patrolman in those unmarked vehicles, which  
25 would include our K9 units or Traffic units.  
26  
27 Q And perhaps -- can you just explain to the jury what a Silent Patrolman would  
28 be?  
29 A A Silent Patrolman is the Plexiglas plastic between the front cab, the front seat,  
30 and the back seat. It's just kind of a physical barrier to protect the officers.  
31  
32 Q Now, I want to talk about during that pilot project. You said that only four  
33 vehicles were equipped with these in-car camera systems. And that pilot project  
34 would have run in August of 2012?  
35 A It was wrapping up in August of 2012, so --  
36  
37 Q So in August of 2012, how many vehicles would have had in-car camera  
38 systems?  
39 A We -- on the 2nd of August, we received in a shipment of -- of additional units.  
40  
41 Q M-hm.

- 1 A But they didn't start being installed until August 28th, so ...  
2
- 3 Q Until August 28th?  
4 A Yes.  
5
- 6 Q Okay. So as of, say, August 24th, 2012, we were still dealing with only four  
7 vehicles having these --  
8 A We had four vehicles at that time, yes.  
9
- 10 Q Thank you. And can you talk to me about the training that was provided with  
11 respect to these in-car camera systems? Was that training through you? Who  
12 provided the officers their training?  
13 A The training was done originally by Panasonic themselves. They came out and  
14 trained the pilot core group. And then it was a train the trainer mechanism, so  
15 the people in the pilot group were then responsible for delivering training to the  
16 other officers.  
17
- 18 Q And so in August of 2012, would you have any idea how many officers had  
19 actually had training during this pilot project?  
20 A I believe there was only the eight per platoon, so that would be 32 in total.  
21
- 22 Q 32 officers total for the Saskatoon Police Service?  
23 A Correct.  
24
- 25 Q And can you tell me during this pilot project, did you have any issues? Were  
26 you aware of any issues with respect to the in-car camera systems?  
27 A There was all sorts of issues, for sure, and that's why we do a pilot is to shake  
28 the bugs out, make sure that the officers give feedback. We experienced a high  
29 percentage of accidents in the pilot vehicles, and we -- we were very concerned  
30 about that, because of distracted driving, if that was a concern. As it turned out,  
31 through our investigation, it was not a distracted driving situation. It was just  
32 bad luck with -- the curse of the pilot project for those cars, which put more  
33 strain on our radio shop, to make sure that the parts were in the right vehicles.  
34
- 35 Q Okay.  
36 A And not getting mixed around.  
37
- 38 Q And were there any other issues that you had with the in-car camera systems  
39 during that pilot project?  
40 A The in-car camera system, we learned a lot from it. So the -- the microphones  
41 were definitely an issue. They only had a fixed battery life, and it was not as

1 long as the shift was. And so they had to have supplementary charging in  
2 between. So chargers were installed in the vehicles. Microphones were docked  
3 in, and they would continue to charge the battery so that they wouldn't drain out.

4

5 Q Okay.

6 A We also found that if the car was parked for too long, the battery would drain  
7 even in the charger. So we had to put chargers in the Property Control area.  
8 That's where the officers now sign their microphones out from us.

9

10 Q Okay. And can you talk about the frequency of the microphones at all?

11 A For sure. The older system used a ISM frequency, industry, science, medical,  
12 about a 2.4 gigahertz range. That's a non-licensed band, used for cordless  
13 phones, radio patrol cars, some Wi-Fi antennas, and microwave ovens. And so  
14 we experienced a lot of interference with those first generation of microphones.  
15 And they couldn't get too far away from the patrol car before they started to get  
16 scratchy and have interference.

17

18 Q And when you say first generation of microphone, is that the microphone that  
19 would have been installed in these vehicles in August of 2012?

20 A Yes. Yes, indeed. As with any technology, there's an evolution, and we have  
21 iterative deployments.

22

23 Q And can you speak to how many microphones were installed in each vehicle?

24 A Each vehicle was equipped with two microphones, a passenger and a driver,  
25 and two chargers. So they can charge both microphones at the same time.

26

27 Q So there are only two microphones in a vehicle at once?

28 A The -- the test vehicles, there was only two vehicle -- or two microphones in the  
29 unmarked vehicles. In the marked vehicles, there was an additional microphone  
30 in the back camera location.

31

32 Q Okay. And these two -- you said there was one for the driver and one for the  
33 passenger. So where would these microphones be placed?

34 A They were lapel microphones, so they were -- the battery and unit is placed in  
35 the charger until they get out of the vehicle, and then they would clip it to their  
36 collar --

37

38 Q Okay.

39 A -- (INDISCERNIBLE).

40

41 Q So they would be worn by the officer?



1 A Yes. They are --  
2  
3 Q Okay.  
4 A -- cordless microphones that feed back into the VPU unit.  
5  
6 Q And there were no other microphones in -- in an unmarked Traffic Unit?  
7 A To my knowledge, there was only two microphones --  
8  
9 Q Thank you.  
10 A -- attached to the system.  
11  
12 Q So you -- you were talking about this first generation of Arbitrator. Is that  
13 ultimately the Arbitrator that you went with or the SPS went with?  
14 A In 2012, there was only Mark II available to us. And we had a fixed budget. So  
15 the first 60 -- 63 units were Arbitrator Mark II.  
16  
17 Q Okay. I'm going to ask you to look in the binder in front of you and turn to tab  
18 18, please.  
19 A For sure. All right.  
20  
21 Q So this is a document that was --  
22  
23 THE COURT: I am sorry. I missed it, Ms. Rohrke.  
24 Which tab?  
25  
26 MS. ROHRKE: I apologize, My Lord. 18.  
27  
28 THE COURT: No, my fault. All right. I am with you.  
29  
30 Q MS. ROHRKE: So this is a document that the plaintiff  
31 has provided to us and has relied on throughout these proceedings. Can you just  
32 take a look at this and let me know whether this -- in your experience, whether  
33 this Arbitrator 360 was the Arbitrator that was installed in 2012?  
34 A This was not. This is the next generation, the Mark III unit.  
35  
36 Q Okay.  
37 A We do have ten of these installed in our vehicles now.  
38  
39 Q Right.  
40 A Because of growth and -- and our -- the Traffic Unit --  
41

1 Q Okay.

2 A -- was added to our columns.

3

4 MS. ROHRKE: Sure. My Lord, I would ask this be  
5 marked as an exhibit, please.

6

7 THE COURT: Okay. Advertisement for camera under  
8 tab 18, D-12. Am I right on that, Madam Clerk?

9

10 THE COURT CLERK: Correct.

11

12 THE COURT: Thank you.

13

14 **EXHIBIT D-12 - Advertisement for Panasonic Camera - Tab 18**

15

16 Q MS. ROHRKE: So -- and again, just to clarify, so these  
17 cameras may have been installed at a later date in some vehicles, but as of  
18 August of 2012, this was not what was in the --

19 A This was not, no. This didn't exist in 2012. It was released in 2014.

20

21 Q Thank you. So I just want to talk a little bit about how these camera systems  
22 work.

23 A Sure.

24

25 Q Can you talk about -- I understand the recording. How does the recording work?

26 A They're a complex system.

27

28 Q Okay.

29 A The camera itself has some memory, and so it's always recording on a  
30 30-second loop, without audio. So it's called a pre-event where it's kind of a  
31 buffer. So when a trigger happens, if the lights go on, if the accelerometer goes  
32 on, if the microphone gets keyed in, or a door opens, the memory jumps back 30  
33 seconds and puts that into the memory card as part of the permanent record,  
34 with no audio. So any clip you watch, the first 30 seconds will not have any  
35 audio to it until that trigger is keyed in or recorded. And then you will have  
36 whatever audio is available to the system recorded after that point.

37

38 Q Okay.

39 A It buffers in its local storage. So the older ones had smaller storage. The newer  
40 ones have larger storage. It will buffer for the entire shift in that location. And  
41 then when it drives into the range of the headquarters Wi-Fi system, it is

1 ingested into the back-end system at that time. So unfortunately, we don't have  
2 live video available for any tactical purposes. It's all forensic.

3

4 Q Okay. And in your experience, if an in-car camera system failed to record audio  
5 in 2012, typically what reasons have you seen for that?

6 A Oh, multiple reasons. So one, the officer didn't sign a microphone out from  
7 Property Control and just drove the car without having it. Two, the battery  
8 would have been dead because it was left in the charger, and it would have to  
9 take the shift to charge it up. Three, the interference that we had talked about  
10 from some exterior system blocking it off. But the most likely one is that the --  
11 it's much like a cordless phone where you have to dock it into the cradle in  
12 order to make a connection to synchronize. The same thing has to be done with  
13 the microphone. And if it's not done and they take it out, then it can't transmit, it  
14 can't receive, and it can't record. So that was the -- that's a user training issue.

15

16 Q Right.

17 A They have to be more familiar with how to use those microphones, so ...

18

19 Q And were these four test vehicles always assigned one of the officers who was  
20 trained for it?

21 A That was the intention. Unfortunately, throughout the summer, we had very few  
22 vehicles in the Traffic area. They happened to be at 1st Avenue, where our IT  
23 section was, and we knew that they were having many, many difficulty --  
24 problems with vehicles down for repair or accidents, that type of thing. So we  
25 had numerous occasions where an untrained officer was taking one of the pilot  
26 vehicles out because that was the only vehicle that was available to them.

27

28 Q Okay. So you indicated that after an event where something was recorded, when  
29 that car drove underground in the old police station, there would be a Wi-Fi  
30 connection, and it would be uploaded?

31 A We had underground Wi-Fi hot spots, plus above ground. There just wasn't  
32 enough room in the old building to have the entire fleet upload at the same time.

33

34 Q Okay.

35 A So we had to cover off the -- the back lot of the old police station.

36

37 Q Okay. And after -- and I don't know much about computers, so I apologize if  
38 I'm using the wrong terminology. So after that file is uploaded to the computer  
39 in the police station, then what happens to it?

40 A It's ingested into the Arbitrator repository. So we have a -- at that time, it was a  
41 400-day cyclical repository of storage that the data would stay in, and if there

1 was any need to retrieve that information, we'd pull it off from our audio-video  
2 disclosure people, and they would make permanent copies of it.

3

4 Q Okay.

5 A Otherwise, it just gets overwritten, much like a really big reel of ...

6

7 Q So would there be any access to these videos for police officers? Could they  
8 look at these videos once they were in the system?

9 A The officer can look at his own video in the patrol car. He can go back to the  
10 work station at the building and access the -- the back end client and be able to  
11 view his own video, as well.

12

13 Q Okay.

14 A Unless he's a supervisor with access to view other people's video.

15

16 Q So these audio -- or these video files, is there any way to delete the audio from  
17 the car or from -- once it's uploaded into the SPS big computer?

18 A No. The Panasonic device is purpose-built to make sure that it can be replicated  
19 and be a tool of truth. So what the Panasonic engineers have done is they've  
20 created a -- a special algorithm on the chip in the camera itself, in the VPU, that  
21 encodes the audio-video and all the rest of the telemetry, the information of it,  
22 and every 27 and a half seconds, every frame of that video, it stamps that hash  
23 onto that -- that video. So it kind of does a little -- a check to make sure it's  
24 valid. That is done at the camera. Then it's uploaded on the system, and that --  
25 that check hash is what they call it is kept with that video. And so any frame of  
26 that video can be confirmed that it's -- it hasn't been tampered with.

27

28 Q So I'm going to try to put that in layman terms because I don't understand what  
29 hash is.

30 A Okay.

31

32 Q So the file basically -- if you mess with it, it's not going to -- it's no longer  
33 usable? Or --

34 A If you mess with it, the -- the player would be able to detect that it's -- it's been  
35 changed in some way.

36

37 Q Okay. So would have there been any way for one of the officers to delete audio  
38 from one of their videos?

39 A No. They -- they didn't have access to that. The back-end client didn't have  
40 access to it in the car or in the -- in the headquarters area.

41

1 MS. ROHRKE: My Lord, those are all the questions I  
2 have for this witness.

3  
4 THE COURT: Thank you, Ms. Rohrke. I appreciate that.  
5 Mr. Stewart, do you have any cross-examination?

6  
7 MR. STEWART: Absolutely, My Lord.

8  
9 THE COURT: Very good. Please proceed when ready.

10  
11 MR. STEWART: My Lord, is it okay if I sit? Or --

12  
13 THE COURT: Yes. No, it's okay. It's okay.

14  
15 MR. STEWART: Thank you, My Lord.

16  
17 **Mr. Stewart Cross-examines the Witness**

18  
19 Q MR. STEWART: Dave?

20 A Yes.

21  
22 Q Do you prefer Dave or David?

23 A My birth name is David. I prefer Dave.

24  
25 Q Dave. Dave. My name is James, Dave. Thank you for being here today.

26 A Yes.

27  
28 Q Lots of crazy things, these cameras, hey? Lots of -- lots of technology with  
29 these cameras. Like, lots and lots.

30 A There's lots of technology everywhere in the police service.

31  
32 Q M-hm.

33 A This is just one of the silos we have that --

34  
35 Q Yeah. Do you have anything here today that shows why the audio is missing?

36 A No, I do not.

37  
38 Q Do you have anything today that shows, like, your test pilot project, like a  
39 specific, like, installation of this car or, like, record? Say, like an oil change, but  
40 in this case, you know, this car was installed with this camera with this serial  
41 number for this warranty, and this car was installed with this camera. Do you

1 have anything like that with you here today?

2 A I don't have anything with me currently. That information is through our Vini  
3 (phonetic) and radio shop area.

4

5 Q Okay.

6 A But what I do have is our help desk ticketing system, which would show that  
7 we would have to remove the laptop from the car when it went to the third-party  
8 installer to have the camera installed. But that was really done after August  
9 28th, and so I don't see it being relevant.

10

11 Q I'm sorry. You don't see what being relevant?

12 A The -- the install records of the -- the whole fleet of systems.

13

14 Q No, I'm not asking for the whole fleet. I was just asking for the test phase.

15 You --

16 A Well --

17

18 Q -- you -- I don't have that. I don't have any installation records. So that's fine.

19 A Yeah. For sure.

20

21 Q Dave, I have a letter here from -- it's dated March 10th, 2017. It's from my  
22 friend, Mr. Robert Gibbings.

23

24 MR. STEWART: Do you want me to put it into evidence  
25 now or do you want me to --

26

27 THE COURT: What --

28

29 Q MR. STEWART: Basically, it just says right here, it says,  
30 you bring attention to a number of things, and I'll -- I'll just paraphrase, but I'll  
31 get to this point. In -- Mr. Robert Gibbings here replied to me, because I was  
32 inquiring about these cameras and the missing audio, and it's amazing how  
33 this -- all this audio just magically disappeared. We don't have a single  
34 explanation for it. It's just, poof, vanished. And there's a letter that says: (As  
35 read)?

36

37 In November 2011, four Saskatoon Police Service cars were  
38 outfitted with in-car camera units as a pilot project. One of those  
39 cars was number 477. That was the car that Jay Keating was  
40 driving the night of the incident. The units were installed by  
41 Panasonic Canada, Incorporated, through their installer and at

1 Panasonic's expense.

2

3 Now, you're just going to have to clarify for me, Dave, because --

4

5 THE COURT: Now, what -- just hang on a minute. The  
6 best way to do is having heard that, do you agree with that statement?

7

8 A I don't agree with the time frame. I --

9

10 Q MR. STEWART: M-hm.

11 A -- I agree that the units were delivered in November of 2011.

12

13 Q M-hm.

14 A But the installation actually happened February 2nd of 2012.

15

16 Q The installation of the test phase?

17 A Yes.

18

19 Q But you don't have any proof of that?

20 A All I have is just the -- the records that the radio shop had.

21

22 Q I'm sorry, the what?

23 A From the radio shop, when they --

24

25 Q The radio shop would have records of the installation?

26 A Yes. They were installed with Panasonic, so they were training them how to  
27 install at the time.

28

29 Q And you don't have any -- any of those records with you here today?

30 A It's out of my department, so it's --

31

32 Q It's out of your department. Interesting.

33 A Yes.

34

35 Q Interesting. This goes on further. It says: (As read)

36

37 The pilot project was for a period of six months, at the conclusion  
38 of which the City of Saskatoon agreed to purchase in-car camera  
39 units for 54 of its vehicles. That resulted in the enclosed purchase  
40 order.

41

1 And I'd like to include this in evidence as a purchase order.

2

3 THE COURT: So what to do is present it to the witness  
4 and ask him if he recognizes the purchase order.

5

6 MR. STEWART: Okay. Fantastic. I'll --

7

8 THE COURT: Okay.

9

10 MR. STEWART: -- put this to you, Dave.

11

12 A Sure.

13

14 THE COURT: Just hang on. Hang on.

15

16 A And this looks like a purchase order from the City of Saskatoon for a 40 -- or 54  
17 units and 42 cradles for a second mike.

18

19 Q MR. STEWART: Okay. Thank you.

20 A As well.

21

22 THE COURT: Thank you. Did you want to exhibit that,  
23 Mr. Stewart?

24

25 MR. STEWART: Yes, I do. I just have a couple of things  
26 I'd like to read from it.

27

28 THE COURT: Oh, okay. Sure. Go ahead.

29

30 Q MR. STEWART: Thanks, Dave. So you were saying that  
31 the car was the -- or the Panasonic Arbitrator was the second or the third  
32 generation?

33 A It's called a Mark II, MK2.

34

35 Q The Mark II. So this is an order date of June 25th, 2012, and it says the date  
36 required is July 15th, 2012, and the terms are net 30 days. It says: (As read).

37

38 Item -- the supply and installation of in-car camera units and  
39 accessories as follows, colon: A total of 54 complete units shall be  
40 ordered, two orders have 20 units per order, and one order of 14  
41 units shall be released as notified by Saskatoon Police Service.



1 Supplier must ship only when notified. Basis of pricing: Pricing  
2 is per unit. One front camera, one internal and external  
3 microphone, cradle, cables, memory card, hard drive, rear camera,  
4 brackets, DVR, desktop charger, lapel mike, mike carrier,  
5 collision sensor, two release points, trunk tray, additional battery,  
6 separator, circuit breaker, mounting brackets.

7  
8 There's also a second cradle and mike for car, and that's an item quantity of 42  
9 because I believe that you can have four microphones in this car, and that would  
10 give you one for each driver and passenger; is that correct? You have an  
11 internal microphone, an external microphone, lapel microphone, and potentially  
12 a second cradle and microphone for a car because it says, in brackets, requires  
13 two mikes per car. So that be would the driver and the guy riding shotgun  
14 would each have a lapel microphone. Is that correct?

15 A That is correct.

16  
17 Q That's correct.

18 A Based on the pilot project, what we learned from it, those are the items that  
19 were --

20  
21 Q Yes. The -- the pilot --

22 A -- ordered from Panasonic.

23  
24 Q -- project that we have no information on whatsoever here today, correct?

25  
26 THE COURT: Well, no. He has outlined --

27  
28 MR. STEWART: Oh, I know he's outlined it. But there's  
29 nothing here that shows me. He can outline it all, but there's --

30  
31 THE COURT: But he has outlined his experience with  
32 the pilot project.

33  
34 MR. STEWART: Yeah. I understand he has. But I'm -- I'm  
35 just stating that I have nothing here that shows anything about a pilot project. So,  
36 like, I'm very, very well aware that he can tell me lots about -- about leprechauns  
37 and ponies and -- and when cars are installed with cameras. But until you actually  
38 give me something that says this was a test phase or this was a pilot project or this  
39 was anything, to -- to even --

40  
41 THE COURT: We are not getting into argument.

1  
2 MR. STEWART: -- to even --  
3  
4 THE COURT: Mr. Stewart. So just --  
5  
6 MR. STEWART: To even --  
7  
8 THE COURT: Question, answer, question, answer.  
9 Right?  
10  
11 MR. STEWART: Yeah.  
12  
13 Q MR. STEWART: So tell me again why the microphone  
14 didn't work.  
15 A I'm not sure why the --  
16  
17 Q You're not sure.  
18 A -- microphone didn't work.  
19  
20 Q Okay. There's one more thing in this Panasonic, this Arbitrator 360. And you  
21 said this was -- this was different than these other ones that were somehow  
22 being installed; is that correct?  
23 A The brochure in front of me is a newer model. So it was --  
24  
25 Q The newer model.  
26 A -- 2014 model.  
27  
28 Q 2014 model? Interesting. Okay. But this still says here that -- that in -- in car  
29 477, there should have been an internal microphone, an external microphone,  
30 and an officer lapel microphone. Is that correct?  
31 A No. That's not correct.  
32  
33 Q That's not correct? Constable Keating testified he was wearing a microphone.  
34 So then do you only have one other microphone in the car?  
35 A There would be two lapel microphones in that vehicle. So --  
36  
37 Q Two --  
38 A -- one for the driver, one for the passenger.  
39  
40 Q For car 477?  
41 A For car 477.

- 1  
2 Q But there was no actual just camera microphone? It was just two officer lapel  
3 microphones; is that what you're saying?  
4 A That's -- that's correct.  
5  
6 Q So the camera itself doesn't have a microphone? Is that what you're saying?  
7 A Only the rear camera. The front camera, it was -- it does not have a camera  
8 microphone.  
9  
10 Q The rear camera had a microphone, but, of course, it wasn't installed in that car?  
11 There was no rear camera installed in that car?  
12 A That's correct.  
13  
14 Q Correct.  
15 A The decision was made to install only in Silent Patrolman vehicles where there  
16 might be a care and custody issue with a person in the back seat.  
17  
18 Q And so are you aware today if car 477 has a rear camera in it?  
19 A Today? I do not believe it does. If -- I don't --  
20  
21 Q You don't know?  
22 A Not -- not to my knowledge, no.  
23  
24 Q You can say you don't know. No, you can say that. That's very fine. That's very  
25 fine. What was the other thing I was going to ask you? Were you aware during  
26 my case -- my trial, my criminal trial, that audio was not available for the -- for  
27 the police to -- to bring forward as evidence? Were you aware of that at that  
28 time?  
29 A I have actually had no firsthand knowledge of the case. I am only in  
30 infrastructure and data side of things. So I only have secondhand knowledge of  
31 the case as of today. So ...  
32  
33 Q Okay. All right. The -- the Panasonic Arbitrator here on this sheet, it says it's a  
34 warranty of three years. How long is the warranty on the -- on the test phase  
35 vehicles? Like, for instance, 477? If there was a problem, the warranty would be  
36 on there, how long was that warranty and was -- were you actively using  
37 warranties because -- for all these issues? You said you had multiple problems  
38 and whatnot. So were you actually fixing these -- these cameras on -- on a  
39 warranty?  
40 A As the IT section, we were called for any failure breakage, and we would  
41 activate the warranty based on those. Some of these issues were not

1 warranty-based. They were batteries not being charged or officers not knowing  
2 how to be worn and they weren't synchronized. And so it was a training issue  
3 more than a warranty issue.

4

5 Q Okay. So just for the record, during my criminal trial, the Judge Barry Singer  
6 said that the audio is -- is missing for some unexplained reason. And --

7

8 THE COURT: Well -- yes.

9

10 MR. STEWART: No, it's okay. And -- and --

11

12 THE COURT: Mr. McGillivray is tech department. He  
13 can't comment on it.

14

15 Q MR. STEWART: Absolutely. Absolutely. So I would just  
16 like to know if you were able to actually go back and look and find out what  
17 happened to the audio. There was audio -- obviously, there was audio, but  
18 somehow it got deleted or destroyed or maybe didn't get recorded, but do we  
19 have anything that would, you know, corroborate that? Like an error statement,  
20 a printout, something that -- maybe a -- maybe a tech support guy, a  
21 troubleshoot guy, came in and -- and troubleshooted the camera to see. Was  
22 there -- was there anything like that done?

23 A Nothing is recorded at that time.

24

25 Q No? Yeah.

26 A Because of the -- the camera system.

27

28 MR. STEWART: Thanks very much, Dave. That's -- I have  
29 no further questions.

30

31 THE COURT: Thank you. Any re-exam, Ms. Rohrke?

32

33 MS. ROHRKE: No, My Lord.

34

35 THE COURT: You are free to go, Mr. McGillivray.  
36 Thank you for your assistance today.

37

38 A Thank you very much.

39

40 (WITNESS STANDS DOWN)

41

1 THE COURT: Now, did you want to enter that invoice  
2 as an exhibit, Mr. Stewart?  
3  
4 MR. STEWART: Yes, My Lord.  
5  
6 THE COURT: Okay. That will be -- Madam Clerk, what  
7 P exhibit are we at?  
8  
9 THE COURT CLERK: Two.  
10  
11 THE COURT: P-2. All right. Right at the beginning. So,  
12 Mr. Stewart, you will have to give it to my clerk.  
13  
14 MR. STEWART: Do you want the accompanying letter, as  
15 well?  
16  
17 THE COURT: No. No, just the invoice.  
18  
19 MR. GIBBINGS: No.  
20  
21 THE COURT: Thank you.  
22  
23 **EXHIBIT P-3 - City of Saskatoon Purchase Order 331049**  
24  
25 THE COURT CLERK: (INDISCERNIBLE).  
26  
27 THE COURT: No. Yes. We changed that to the disk.  
28 The disk will be -- it will be a number of items on it that we were going to mark  
29 individually, but will now be -- it will be P-2, I think. What --  
30  
31 THE COURT CLERK: Okay.  
32  
33 THE COURT: I believe that is P-1.  
34  
35 THE COURT CLERK: P-1 is the photograph.  
36  
37 THE COURT: Okay. P-2 will be the disk with multiple  
38 incidents of video and audio that Mr. Stewart went through in his chief. So the  
39 invoice will be P-3, Madam Clerk.  
40  
41 THE COURT CLERK: Thank you, Sir.

1  
2 THE COURT: Thank you. All right. I would typically --  
3 as you know, judges are used to working hard, so I would typically invite you to  
4 call another witness.

5  
6 MS. ROHRKE: My Lord, I'm happy to call our next  
7 witness. I just need to grab him out of the courtroom, if that's okay.

8  
9 THE COURT: Oh, go ahead, then. No problem at all.

10  
11 MS. ROHRKE: My Lord, our next witness will be  
12 Constable Jay Keating.

13  
14 THE COURT CLERK: Swear on the Bible or affirm?

15  
16 CONSTABLE KEATING: I'll swear.

17  
18 THE COURT CLERK: Take the Bible in your right hand and  
19 state your full name.

20  
21 CONSTABLE KEATING: It's Gordon James Keating,  
22 G-O-R-D-O-N, surname is K-E-A-T-I-N-G.

23  
24 **GORDON JAMES KEATING, Sworn, Examined by Ms. Rohrke**

25  
26 THE COURT CLERK: Thank you. You may be seated. There's  
27 some freshwater.

28  
29 A Thank you.

30  
31 THE COURT CLERK: (INDISCERNIBLE).

32  
33 A Thank you.

34  
35 Q MS. ROHRKE: Good morning, Constable Keating.

36  
37 A Good morning.

38 Q Just to confirm, you are one of the named defendants in this action?

39 A I am.

40  
41 Q And you are employed by the Saskatoon Police Service?

- 1 A That is correct.  
2
- 3 Q And can you advise of your rank?  
4 A I'm a Detective-Constable in the Guns and Gangs Unit.  
5
- 6 Q And how long have you been with the Saskatoon Police Service?  
7 A December 7th, 2009.  
8
- 9 Q And can you kind of just give us an overview of what areas you've worked in  
10 since that time?  
11 A Starting in December of '09, I started on Patrol. I was there for approximately  
12 two years. I went to weekend support for just under a year. That's another unit  
13 in Patrol. I then went to Traffic Services in 2012. I was there for three years. I  
14 then went back to Patrol, where I spent most of my time in the central district.  
15 And then I commenced my spot in the Guns and Gangs Unit January of last  
16 year.  
17
- 18 Q And when did you start with Patrol in 2012? Do you have any idea what month?  
19 Or Traffic, sorry.  
20 A January 1st.  
21
- 22 Q January 1st? Okay. And have you received any commendations or anything for  
23 your service while you've been with the Saskatoon Police?  
24 A I have. I received a superintendant's award for an investigation in regards to a  
25 homicide, and this past October, I received a silver medal of bravery from the  
26 Canadian Community Association for a fire I was involved in on 20th and  
27 Avenue I, when I helped get a man out of the basement.  
28
- 29 Q So prior to working with SPS, were you employed as a police officer anywhere  
30 else?  
31 A I was. I was employed for a short period of time with the Glasgow Police  
32 Service in Nova Scotia from May 2009 until I commenced my employment  
33 here.  
34
- 35 Q Okay. And in approximately 2012, can you advise what rank and position you  
36 held with SPS?  
37 A I was a constable at that time. I was assigned to the Traffic Services division.  
38
- 39 Q So can you talk about what's involved with the Traffic Services division, what a  
40 shift typically looks like?  
41 A A shift there is -- we follow a platoon schedule. So that's two days, two nights.

1 Our shifts were 12 hours from 6 AM from to 6 PM for day shifts. And our night  
2 shifts changed. So from -- if our night shift fell from a Sunday to a Wednesday,  
3 it was noon to midnight. Thursday, Friday, and Saturday, we worked from 3 PM  
4 in the afternoon until 3 in the morning.

5

6 Q And what kind of things would you do when you were on shift? I'm assuming,  
7 aside from speeding and those kind of things, there were other things that you  
8 were looking for in Traffic?

9 A Our primary focus was the enforcement of the *Traffic Safety Act* and other  
10 vehicle legislation.

11

12 Q Okay. And I understand that you were on duty on August 24th, 2012?

13 A I was.

14

15 Q What was your shift that day?

16 A That was a 3 PM to 3 AM 12-hour shift.

17

18 Q So 3 PM -- okay. 3 PM to 3 AM. And on that evening, were you working alone  
19 or were you working with a partner?

20 A I was working alone that evening.

21

22 Q Were you -- did you typically work alone?

23 A It depended on staffing levels and what was going on.

24

25 Q Okay. Were you in uniform at that time?

26 A I was.

27

28 Q For the entire shift?

29 A I was.

30

31 Q What uniform were you wearing?

32 A At that time, I would have been wearing the standard-issued blue cargo pants  
33 with the red stripe. I would have been wearing a blue short-sleeve Saskatoon  
34 Police-issued uniform shirt which has the Saskatoon Police Service patches on  
35 the -- or flashes on both sides. I would have been wearing my ballistic vest,  
36 which was blue, as well. And then I would have had my -- my badge fixed to  
37 my vest. And then my duty belt with all of my -- my tools and weapons on it.

38

39 Q Okay. And were you operating a vehicle that day?

40 A I was.

41



- 1 Q What vehicle were you operating?  
2 A I was operating Traffic Unit 477.  
3  
4 Q And what kind of vehicle is that?  
5 A That was a Crown Vic. It was tan in colour. It's an unmarked vehicle.  
6  
7 Q Unmarked vehicle?  
8 A Yeah.  
9  
10 Q And would that vehicle have had a Silent Patrolman?  
11 A It doesn't. It did not. At that time, Traffic units didn't have Silent Patrolman in  
12 them.  
13  
14 Q What are Silent Patrolmans used for?  
15 A That's an area where you put arrested persons in the back of the police vehicle.  
16 It separates them from the officers.  
17  
18 Q And if you don't have a Silent Patrolman in your car, would you transport  
19 somebody?  
20 A No.  
21  
22 Q Okay. Was that vehicle equipped with emergency lights and sirens?  
23 A It was.  
24  
25 Q And a loud hailer?  
26 A It was.  
27  
28 Q And can -- since this was an unmarked vehicle, can you talk about the lights,  
29 like, what kind of emergency lights it would have had?  
30 A Sure. If you can envision that this is the front of the police car and I'm in the  
31 driver's seat, on the side mirrors on both sides, there was flashing red and blue  
32 strobe lights. And the front marker lights, which are the -- typically where the  
33 orange lights are on your vehicle, those had strobe lights in them, as well. The  
34 headlights were set up for wig-wags, we call them, so they alternate from high  
35 to low beams as you're driving. And then in the centre of the windshield, so it  
36 would have been to my right, was a set of large red and blue flashing lights. On  
37 the back of the vehicle in the rear deck where the back windshield is, there was  
38 also red and blue lights there. There was a large amber directional arrow in the  
39 top of the windshield. And the back reverse lights where the two white sections  
40 are next to where the licence plate is, there was a red and blue strobe light there.  
41 And then the back brake flashed in the same wig-wag style as the front

1 headlights do.

2

3 Q Okay. And on that day, August 24th, 2012, did car 477 have any audio or video  
4 equipment installed in it?

5 A It was equipped with an in-car camera system, yes.

6

7 Q And as of that date, do you have any idea what camera system was installed,  
8 what -- what was included in that car?

9 A It was the Panasonic --

10

11 Q Sorry. I should have asked that better. Did it have a forward-facing camera, to  
12 your knowledge?

13 A It had a forward-facing camera, yes.

14

15 Q Did it have any cameras in the back?

16 A No.

17

18 Q Why?

19 A I don't know.

20

21 Q You don't know?

22 A I didn't -- I didn't install them.

23

24 Q Okay.

25 A I just operated the vehicle.

26

27 Q And did -- were there any microphones?

28 A There was two microphones that were in docking stations, and then you take  
29 them out, and you affix them to your vest in the little holder, and those were the  
30 microphones that were -- were available in that car.

31

32 Q When you say there's two microphones, would you wear two at the same time  
33 or would you just wear --

34 A You just wear one.

35

36 Q You just wear one. Okay. And so as of August 2012, had you received any  
37 training on this?

38 A I had not, no.

39

40 Q You had not? So how did you come to be driving car 477?

41 A That was Cruise Weekend. Both -- they had modified some shifts, so we were

- 1 just taking out whatever vehicles were available. So I took out 477.  
2
- 3 Q So you happened to take car 477. And how did you come to realize it had audio  
4 in it or --
- 5 A I was aware that 477 and 478, which is an unmarked white Crown Victoria,  
6 were both test vehicles for these camera systems. So I was aware that they both  
7 had camera systems in them.  
8
- 9 Q Okay.
- 10 A I didn't receive any formal training, I should say. I was shown how to log into  
11 the system, and that was -- that was it.  
12
- 13 Q By log in -- sorry. Can you describe how you log into the system?
- 14 A Sure. On the onboard computer system that's in the car, when you start your  
15 shift, you have to get up to the screen that -- that allows you to run plates. It  
16 allows you to sign in, it allows you to see where everybody is and where you get  
17 dispatched from. Also, when I was in Traffic, I also pulled up the SGI system.  
18 And then also, the in-car camera system screen would pop up, and you were --  
19 you had to sign in to it. So to do that, I just put in my badge number, and that  
20 was also my password.  
21
- 22 Q But that was the extent of your training in how to use --
- 23 A That was the extent of my training.  
24
- 25 Q Okay. So --
- 26 A Because it had to be turned on when the car came on.  
27
- 28 Q So subsequently, after that August of 2012, did you ever receive training on the  
29 in-car camera system?
- 30 A I received more instruction on how to play back videos and to look at videos  
31 when you're not in the car and at the station, and a couple other things, but there  
32 was no formal course for it, no.  
33
- 34 Q Okay. And on that August 24th, 2012, date, had you ever driven a vehicle with  
35 in-car camera systems before?
- 36 A I had driven 478 that had an in-car camera, but I had never logged into it. And  
37 because of that reason, I only drove for approximately an hour because the other  
38 systems wouldn't work. So I had to bring it back to the station.  
39
- 40 Q So this was essentially your first time trying to figure out how to separate this?
- 41 A That is correct.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

Q So on the evening of August 24th, 2012, did you come in contact with the plaintiff, James Stewart?

A I did.

Q Can you describe for us generally what happened?

A I was operating unmarked PC 477. I was travelling eastbound on 8th Street, approaching the Shoppers Drug Mart where Grovenor is. I was in the -- the left lane, but not the left turning lane. And this Celica was in the left lane. And I immediately noted on the plate the continuous sticker was -- was odd. The font didn't look right. The sticker didn't look to be the right size, and it appeared to be taped on. I queried the plate, which was 131HFG, which was a Saskatchewan licence plate, and it came back to being -- belonging on a Honda Civic. I then -- to make sure it wasn't my error, I entered it again, and it again came back to belonging on a Honda Civic. At that point in time, I pulled into the left turning lane to go into the Shoppers Drug Mart.

Q I'm going to get you to turn to document 19 in the book in front of you. Can you tell me what that is?

A This is a photocopy of Saskatchewan licence plate 131HFG. On there, there's a stamp that says the occurrence number. That's my badge number. I did make this photocopy.

Q And is that --

A Or not -- sorry, not this particular photocopy, but I did make a photocopy of this licence plate.

Q That's the licence plate that you queried that --

A It is.

Q Okay.

MS. ROHRKE: My Lord, I'm going to ask that that be entered as an exhibit.

THE COURT: No problem. Under tab 19, photocopy of licence plate on the subject's car, Exhibit D-13.

**EXHIBIT D-13 - Photocopy of Licence Plate on Subject's Car - Tab 19**

Q MS. ROHRKE: I'm just going to wait until the jury gets

1 a copy of this document, and then I'm going to ask you to kind of identify the  
2 concerns you had with that licence plate.

3 A Sure.

4

5 THE SHERIFF: (INDISCERNIBLE).

6

7 THE COURT: Thank you, deputy.

8

9 Q MS. ROHRKE: So can you once again just describe the  
10 concerns you had with respect to that plate?

11 A Yes. At that time, we still had stickers on the back of the licence plates. In this  
12 continuous sticker, the font appeared to be off to me. It appeared to be too  
13 small. And the sticker itself, the -- you can actually see in this photocopy, it  
14 should be taking up that whole area of that little box in the bottom right-hand  
15 corner of the plate, and it's -- it's also too small.

16

17 Q So as an officer in the Traffic Unit, how often on a shift, approximately, would  
18 you query licence plates?

19 A I query plates constantly, as I was --

20

21 Q So that was one of your roles?

22 A That's correct.

23

24 Q So it wasn't unusual for you to query this plate when you had a concern?

25 A No.

26

27 Q And what came up when you queried that plate?

28 A That this plate belonged to a Honda Civic and not on a Toyota Celica.

29

30 Q And it was on a Toyota Celica?

31 A It was.

32

33 Q Okay. So then at that point, if you can just kind of take me from that point to the  
34 point that you parked your car.

35 A I waited for the -- the light to turn green. And as the Celica proceeded  
36 eastbound as it made its way into the intersection, I activated my emergency  
37 lights and chirped the siren. And by that, in the control panel for the -- the  
38 lights is up here. So there's a little toggle switch, and there's three positions. The  
39 first position that you turn it to, it'll just turn on the rear lights of the police car.  
40 The second position will turn the rear lights and the front lights on. The third  
41 position activates all the lights and the siren. So my practice, when I was in

1 Traffic, to garner the attention of the person that I was going to pull over, I'd  
2 flip it all the way over to the third, let the siren chirp for a second, and then  
3 put it back to two, which kept the front and back lights going. That's what I  
4 did.

5  
6 The vehicle turned in left into the parking lot. It then made a right-hand turn  
7 into the break in the median and then made a left-hand turn, and then parked in  
8 a parking stall. And then I positioned PC 477 kind of at an angle behind the  
9 car.

10  
11 MS. ROHRKE: My Lord, can I have permission to  
12 approach the witness? I just have a visual that might assist the jury.

13  
14 THE COURT: Yes. You can approach at any time.

15  
16 MS. ROHRKE: Thank you.

17  
18 Q MS. ROHRKE: So, Constable, what I have here -- what I  
19 have here is a printout of an image of what I believe is D-3, a road map  
20 (INDISCERNIBLE)?

21 A Yes, that's correct.

22  
23 Q What I'm going to ask you to do is I have a white square. If you can put that on  
24 the image where the plaintiff parked his car at Shoppers Drug Mart.

25 A I guess it's (INDISCERNIBLE).

26  
27 Q Okay.

28 A It's one of these.

29  
30 Q And then I have another little blue sticky that has 477 written on it, your car  
31 number. And you can start by indicating to the jury where you would have,  
32 approximately, on 8th Street, queried the plate.

33  
34 THE SHERIFF: Sorry. Can everybody in the jury actually  
35 see?

36  
37 UNIDENTIFIED SPEAKER: I can see.

38  
39 A So this is the left-hand turn lane I was talking about where the vehicle was  
40 originally -- it was in. I was originally in this left lane, and then as I -- right  
41 about here, I queried the plate, noted that it was on the wrong vehicle, and then

1 pulled 477 in behind here.

2

3 Q MS. ROHRKE: And at what stage would have you  
4 chirped your lights or activated your lights.

5 A It's as they went through the -- I was directly behind them. And as Mr. Jarvis  
6 Stewart made his left-hand turn, I was right here, and (INDISCERNIBLE) I  
7 turned the lights on in this area.

8

9 Q Okay. And then can you use that little sticky to indicate where you would have  
10 pulled your vehicle up?

11 A Right here.

12

13 Q I realize my stickies are probably not quite to scale. Thank you.

14

15 THE COURT: Sorry, Ms. Rohrke. Can I interrupt for  
16 one question?

17

18 MS. ROHRKE: Yes, My Lord.

19

20 THE COURT: When you queried the plate, did a name  
21 of the owner of the car come up?

22

23 A It could -- the registered owner would have come up, yes.

24

25 THE COURT: Okay. And who was the registered  
26 owner?

27

28 A I don't have that.

29

30 THE COURT: Okay. But you -- it was not the -- it was  
31 not Mr. Stewart?

32

33 A No.

34

35 THE COURT: All right. Sorry to interrupt.

36

37 MS. ROHRKE: So, Constable -- that's all right, My Lord.

38

39 Q MS. ROHRKE: So, Constable Keating, when you queried  
40 that plate, that plate didn't belong to the Toyota Celica?

41 A That's correct.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

Q Okay. So you parked your car in behind the Celica, and then can you tell me what happened after that point?

A At that point, the front driver's side door and the front passenger door opened, and two males exited. At this point in time, I used my loud hailer, which is essentially a large speaker that I can speak through. I have a little microphone. I picked it up. I -- I told both of them to get back into the vehicle. At this point in time, the front passenger, who was later identified as James Stewart, told me to fuck off, and they continued walking past. I again said to get back in the vehicle. They continued to walk back towards the -- the back of the Celica. And at this time, I exited PC 477.

Q So, Constable Keating, are you able to hear him say those words to you?

A Well, my window was down.

Q Your window was rolled down?

A Yes.

Q Okay. And why was it important for them to stay in the vehicle? Why did you give that direction?

A Staying in the vehicle is -- is twofold. One, it's for officer safety purposes. I had better control of the individuals that are in the vehicle, if they're in the vehicle when -- if they're outside the vehicle, situations like this then arise.

Q Okay.

A If they're inside the vehicle, I have better control because I can see where people are, where their hands are, what's in the vehicle. Two, if we're on a busy roadway, it's better that the occupants of the vehicle stay inside the vehicle because, as people drive by with police cars, their attention is usually drawn towards them. And it's -- there's been instances where there's been close calls where people that get out of the vehicle at traffic stops are almost hit. So it's really twofold. It's, one, for my personal safety, and for the safety of the occupants of the vehicle.

Q And would that be a direction you would give at all of your traffic stops?

A It is.

Q Okay. So after you give them these commands, you said you gave them the commands twice before you exited the vehicle?

A That's correct.



1 Q And then what happened?

2 A Then I got out, and I started talking with Mr. Stewart, who began ranting about  
3 how I didn't have a right to pull him over.  
4

5 Q Sorry. I'm going to interject for two seconds. Which Mr. Stewart?

6 A Jarvis Stewart, who was the driver of the vehicle. Mr. James Stewart had  
7 already walked around and was now behind me. So if -- if you can imagine, I'm  
8 looking at Mr. Jarvis Stewart. Mr. James Stewart is now over here in this area.  
9 So speaking with Mr. Jarvis Stewart, I'm giving him commands to provide his  
10 driver's licence, registration. He continues to go on about how he's travelling on  
11 the roads, not using them, he doesn't have to give me his documents, he doesn't  
12 believe in our laws, I have no right to detain him, am I a peace officer or a  
13 police officer. As I'm listening to this, I state to him, If you don't have a licence,  
14 just give me your name and your date of birth, I can look it up on the system.  
15 Meanwhile, Mr. James Stewart is in the back, yelling and swearing at me,  
16 calling me a fucking asshole, telling me to fuck off, continuing about how we  
17 don't have any right to detain them, and circling around.  
18

19 Mr. Stewart, Jarvis Stewart, then tries to walk by me. And then I tell him as he's  
20 walking by that if he doesn't provide the information I've requested, that I'm  
21 going to arrest him for obstruction. At this point in time, he makes a hard  
22 180-degree turn, comes back towards me. I can tell now he's got his fist  
23 clenched. He's got an agitated look on his face. His teeth are clenched. These  
24 are all indicators to me that it's possible that we're going to get into a physical  
25 altercation. Mr. Stewart continues on about how he doesn't have to provide any  
26 of this stuff to me, doesn't believe in the laws, and I have no right to detain him,  
27 again tells me to fuck off, and then proceeds to walk away towards Shoppers  
28 Drug Mart.  
29

30 At this time, I make the decision that I'm arresting Mr. Jarvis Stewart for  
31 obstruction. I tell him this. I place one of -- his left hand behind his back. I get  
32 the one cuff on. He tries to pull his right arm away, but I easily take his right  
33 arm and -- and handcuff him. So now Mr. Jarvis Stewart is in my custody, and  
34 I've arrested him for obstruction. I can't put him in my vehicle, though, because  
35 PC 477 doesn't have a Silent Patrolman.  
36

37 Q So I just want to take a break there. And I realize you're using last names out  
38 of -- as a sign of respect. It's a little bit confusing when they both have the same  
39 last name.

40 A Sorry.  
41

- 1 Q So can we perhaps just kind of differentiate between what Jarvis was saying  
2 during this period and what James was saying during this period?
- 3 A Yeah. Mr. Jarvis Stewart, who was the driver of the vehicle, was telling me that  
4 he didn't have to give me his documentation, he didn't abide by the rules.  
5 Mr. James Stewart, who was the passenger, was over here to my left, closer to  
6 the Shoppers Drug Mart. He's circling around in what I would describe as an  
7 agitated state, yelling at me that I don't have a right to pull them over, to let him  
8 go, and calling me a fucking asshole, and telling me to fuck off. So that's all  
9 going on in this area over here. I have Mr. Jarvis Stewart right here. So he's  
10 (INDISCERNIBLE) -- so Mr. James Stewart is circling over here, yelling at  
11 me, and Mr. Jarvis Stewart is right here, and I now have him in custody.  
12
- 13 Q And when you say that James Stewart was in an agitated state, can you describe  
14 that?
- 15 A He's circling around to my left, yelling at me, calling me a fucking asshole,  
16 telling me to fuck off, and he's screaming. To me, that's an agitated state. That is  
17 out of the norm for a normal traffic stop.  
18
- 19 Q And can you describe his body language at all?
- 20 A When Mr. -- when he saw that his brother, Jarvis Stewart, was under arrest,  
21 Mr. James Stewart started walking towards me. He now had clenched fists, as  
22 well, and his teeth was clenched, and he was walking directly towards me. This  
23 gave me concern that Mr. Stewart was going to try and engage me in a physical  
24 confrontation while I had his brother, Jarvis Stewart, in custody.  
25
- 26 Q And what, if anything, at that stage were you saying to James Stewart?
- 27 A I was telling James Stewart to get back. He kept coming towards me. Then he'd  
28 back off. And then he'd circle back around, yelling and screaming. He'd come  
29 back towards me, yelling to let his brother go, and then he'd go back. And then  
30 when he came back, he came so close that at one point I thought he was coming  
31 directly towards me -- directly at me. I lifted my right foot approximately four to  
32 six inches off the ground because I was prepared to kick him backwards if he  
33 got any closer, because I still had Jarvis outside of a police vehicle, in custody.  
34 He then went back towards the Shoppers Drug Mart, and he was about at the  
35 awning when he continued to yell and rant. And then he came back around, and  
36 the second time I lifted my foot up again, and I was prepared to kick him if he  
37 got too close.  
38
- 39 Q And when you say he continued to yell and rant, just the same things that you  
40 said before?
- 41 A The same things, yes.



1 MS. ROHRKE: My Lord, I'd like to play that audio that  
2 we listened to yesterday, if that's all right?  
3

4 THE COURT: Sure.  
5

6 MS. ROHRKE: It just might take me a moment to set it  
7 up.  
8

9 THE COURT: All right. We will count on the fact that  
10 you are technically proficient and just sit here.  
11

12 MS. ROHRKE: Oh, My Lord, I don't think we should  
13 count on that fact, but I will do my best.  
14

15 THE COURT: It's just audio. That is correct,  
16 Ms. Rohrke? Just audio?  
17

18 MS. ROHRKE: This one is just audio.  
19

20 MR. STEWART: M-hm. I know.  
21

22 (AUDIO/VIDEO PLAYED)  
23

24 MR. GIBBINGS: Might I suggest, perhaps, that perhaps we  
25 could break here, and we'll sort that out, have a break?  
26

27 (AUDIO/VIDEO PLAYED)  
28

29 THE COURT: It sounds so close.  
30

31 (AUDIO/VIDEO PLAYED)  
32

33 Q MS. ROHRKE: I'm going to play the  
34 (INDISCERNIBLE) for you.  
35 A Sure.  
36

37 Q Can you hear (INDISCERNIBLE) --  
38

39 (AUDIO/VIDEO PLAYED)  
40

41 Q MS. ROHRKE: So that was your first call --

1 A That is, yeah.

2

3 Q -- Constable Keating? And what precipitated making that call?

4 A I was fearful that James Stewart was going to assault me, and I had Jarvis  
5 Stewart in custody, and I couldn't get into an altercation with a second person if  
6 I had somebody in custody, so I needed backup.

7

8 Q Okay. I'm just going to play the rest.

9

10 (AUDIO/VIDEO PLAYED)

11

12 Q MS. ROHRKE: So that was your second talk?

13 A Yeah. That's when I was asking them to get there fast, please.

14

15 Q Why did you ask them to get there fast?

16 A Because I was afraid I was going to get into a confrontation with -- a physical  
17 confrontation with James Stewart.

18

19 Q Had you ever placed a call like that before?

20 A I'd called for backup before, and usually I have a pretty good idea of a  
21 situation I'm going into, that I'm going to need an extra car, but no. Not like  
22 that.

23

24 Q No? Was it unusual for you to call and not identify yourself?

25 A The reason I didn't identify myself, and I only realized it after, was that it all  
26 happened so fast, I just called in for help. And the thing is is that up in  
27 Communications, when you log on, you're assigned a portable radio. When you  
28 log on to the computer system that I had mentioned before at the beginning of  
29 my shift, I have to put in my car number, and I have to put in my portable  
30 number. So when I key in that portable number, it shows up up in  
31 Communications which portable radio it is, so they know that it's me. And then  
32 they can look and see where I can on GPS. So they knew that it was me, and I  
33 was calling into Shoppers Drug Mart on 8th Street.

34

35 Q But suffice it to say, you had a personal safety concern at that point?

36 A Absolutely, I did.

37

38 Q So at that stage, after you called for backup, what are you, if anything, saying to  
39 the plaintiff?

40 A I'm continuing to tell him to get back until the backup arrived.

41

- 1 Q Did you ever at any point warn him of -- that he was breaking any laws?  
2 A I continually told him just to get back because my primary concern at that time  
3 was my safety.  
4
- 5 Q Okay. And then what happens next?  
6 A Constable Schaefer and Constable McAvoy arrived in unmarked PC 474, which  
7 is a blue Crown Victoria, identical to the tan-coloured one that I had just  
8 described. The lights are in the same place. There's no in-car camera in that one.  
9 They arrived. I believe they parked -- came to rest just about at the concrete  
10 median. When you make the right-hand turn, they stopped there. At this time,  
11 when they pulled into the parking lot, James Stewart yelled out "Here come the  
12 fucking heroes."  
13
- 14 Q And do you recall that verbatim?  
15 A I do. And then he began walking westbound, through the parking lot, so  
16 towards -- I don't know what that is. Is that a Wendy's there and everything?  
17 Westbound towards that -- the next store to the -- to the west. When McAvoy  
18 and Constable Schaefer got out of their vehicle, I immediately pointed at James  
19 Stewart, and I said, Arrest him for obstruction. I said it loud and clear. And then  
20 they went to arrest Mr. James Stewart.  
21
- 22 Q Did you ever at any point say the phrase, quote, Take him down?  
23 A No.  
24
- 25 Q Is that something you would typically say?  
26 A No.  
27
- 28 Q So after you advised them to arrest him for obstruction, then what happens?  
29 A Mr. James Stewart continued to walk westbound. Mr. -- or sorry, Constable  
30 McAvoy and Constable Schaefer quickly got to his location. And then a  
31 physical altercation ensued between Constable McAvoy, Constable Schaefer,  
32 and James Stewart.  
33
- 34 Q Are you able to provide any more detail about that? Anything that the other two  
35 officers said or -- or James Stewart said?  
36 A They ended up on the ground. And Mr. James Stewart was kicking his legs and  
37 flailing his arms out. At that time, Constable Hounsell and Constable Boyce  
38 arrived on scene, and I handed Jarvis Stewart off to them, because they had a  
39 marked patrol unit, and they could put him in the back. Once he was in the  
40 custody of Hounsell and Boyce, I quickly ran over to help McAvoy and  
41 Schaefer, because they were struggling with Mr. Stewart.

1  
2 When I got there, he then took both of his hands and tucked them under his --  
3 his stomach. That's very concerning for police officers, when we can't see your  
4 hands, because we don't know if you have weapons in your waistband or in  
5 your pockets. So at this point, we're now very concerned for our -- for the safety  
6 of all three of us. We're telling him to show us his hands and to stop resisting.  
7 He doesn't. He keeps kicking and flailing his feet. He keeps his arms tucked  
8 under. We eventually get his arms out. And then we get one arm cuffed, and  
9 then the other one.

10

11 Q Okay.

12 A And then that was it.

13

14 Q So can you describe what physical involvement you had with the plaintiff's --  
15 when you --

16 A I assisted in getting his -- the handcuffs on his -- on his wrists.

17

18 Q Okay. Did you ever at any point kick the plaintiff when he was on the  
19 ground?

20 A No. Absolutely not.

21

22 Q Did you ever at any point punch the plaintiff when he was on the ground?

23 A Absolutely not.

24

25 Q Did you ever at any point pick the plaintiff's face up and slam it into the  
26 ground?

27 A Absolutely not.

28

29 Q I'm going to ask you to turn to our document -- I apologize, My Lord. 25. So  
30 that's the mug shot of the plaintiff.

31 A That is James Stewart, yes.

32

33 Q Yes. Did any of the -- did any of your physical interaction with Mr. Stewart  
34 cause any of the alleged injuries that are in that photo?

35 A No.

36

37 Q Did you ever touch his face or his head?

38 A No.

39

40 Q So after you get the plaintiff in handcuffs, then what happens?

41 A He was brought to Constable Smith's vehicle. And then we -- because neither

1 one of them would provide their names or date of birth, we didn't have identities  
2 for them. So Constable McAvoy began looking through the vehicle. And then I  
3 began reading them their *Charter* rights and cautions.

4

5 Q Okay. So I just want to go back a little bit. Who placed the plaintiff in  
6 Constable Smith's vehicle? Was it you?

7 A No.

8

9 Q Okay. And let's go to their -- their -- specifically the plaintiff's *Charter* rights.

10 A Yes.

11

12 Q Who read the plaintiff -- or did you read the plaintiff any --

13 A I read him his *Charter* rights and caution and his police warning.

14

15 Q And where did that occur?

16 A In the back of Constable Smith's police car.

17

18 Q And what is included in his *Charter* rights and his police warning?

19 A I don't have the --

20

21 Q The card?

22 A -- the card here with me.

23

24 Q Okay.

25 A But he --

26

27 THE COURT: But typically -- street officers typically  
28 have a card, and they read from that?

29

30 A We read it verbatim, yes.

31

32 Q MS. ROHRKE: Okay. And that includes advising him of  
33 his rights to counsel?

34 A That's correct. Even though I have it memorized, I still read it verbatim.

35

36 Q Okay.

37

38 MR. STEWART: M-hm.

39

40 Q MS. ROHRKE: And what, if anything, was the plaintiff's  
41 response during that?



1 A As I was reading him his *Charter* rights and caution, after I explained to him  
2 that he was under arrest for the obstruction as well as the resisting the police  
3 officers, he looked at me and said that -- called me a fucking hero. He said,  
4 quote, you're a fucking hero, end quote. I then read him his *Charter* rights  
5 and caution and asked him if he understood. He told me to fuck off. And then I  
6 read him his police warning. I asked him if he understood. He again told me to  
7 fuck off. And that was the end of my interactions with the plaintiff, James  
8 Stewart.

9

10 Q Sorry, and what was his response to the rights to counsel?

11 A To fuck off.

12

13 Q So basically the same response for all of them? Okay. So after you put the  
14 plaintiff in the back of Constable Smith's police car --

15 A I didn't put him in the back.

16

17 Q I apologize. After he was put in the back of Constable Smith's --

18 A Yes.

19

20 Q -- police car, what happened to him? Do you have any knowledge?

21 A They were transported to SPS Detention --

22

23 Q Okay.

24 A -- which would have been at the old building there on 4th Avenue.

25

26 Q And then what did you do at that stage?

27 A We continued to look for any sort of identification for the two of them, because  
28 we still didn't have names. And that's when Constable McAvoy came across the  
29 SOTs that I believe you have previously put in, and the affidavits for the James  
30 and Jarvis Stewart.

31

32 Q So by the time -- so how many times would you say that you asked the plaintiff  
33 for his identity?

34 A Numerous. I asked Jarvis Stewart several times for his driver's licence and  
35 registration, and I explained to him that he -- if he couldn't provide that to me,  
36 that if he provided his name and date of birth, I could look it up on the computer  
37 system.

38

39 Q And what was his response?

40 A He never gave me -- he continued to rant and rave about how I didn't have the  
41 right to pull him over, how he was travelling on the roads, not using them, how

1 he didn't abide by our laws, and didn't -- I didn't have a right to detain him.

2

3 Q And what about the plaintiff, when you asked him for his identification?

4 A I asked him. There was no response. And then he was transported. Other  
5 officers dealt with James Stewart more than I did.

6

7 Q So once you -- you indicated that somebody else obtained documents from the  
8 Toyota Celica?

9 A That's correct. Constable McAvoy.

10

11 Q And what were those documents?

12 A They were SOTs or summary offence tickets that you hand out for traffic  
13 offences. They were made out to Jarvis Stewart.

14

15 Q Was anything else located in the Toyota Celica?

16 A The affidavits of Jarvis and James Stewart.

17

18 Q Which were already entered into evidence?

19 A That's correct.

20

21 Q So at that stage, you had these documents that had their names on them?

22 A We had names. Then, using the SGI system, I was able to pull up their SGI  
23 photos.

24

25 Q Okay. By the time you had their names and you confirmed their identity, where  
26 was the plaintiff and his brother?

27 A They were being transported to SPS Detention.

28

29 Q Okay. So they were no longer under your control?

30 A That's correct.

31

32 Q So I'm going to ask you to turn to tab 1, which I believe has already been  
33 entered into evidence. Is this one of the documents you're referring to that --

34

35 THE COURT: When you refer the constable to  
36 documents which have already been entered, the record is cleaner if you indicate  
37 what exhibit it is.

38

39 MS. ROHRKE: I apologize, My Lord. I believe this  
40 might be D-6.

41

1 Q MS. ROHRKE: Tab 1 of the binder. So it would be  
2 James Stewart's right to travel or affidavit.

3  
4 THE COURT CLERK: D-11.

5  
6 MS. ROHRKE: D-11? Okay.

7  
8 Q MS. ROHRKE: Constable, is this the document you  
9 were referring to or one of the documents that was located?

10 A It is. And as you can see on the bottom, I've stamped it there with the  
11 occurrence number and my badge number.

12  
13 Q So that -- that 738 is your badge number?

14 A That is me, yes.

15  
16 Q Did you review this document while you were at the site or at the Shoppers  
17 Drug Mart?

18 A I did read it at the Shoppers Drug Mart, mostly for the purposes of getting the  
19 name. I didn't read it word-for-word, no.

20  
21 Q Did you have any concerns with this document once you read it?

22 A I found it odd. I had never seen a document like this before. And I -- I wasn't  
23 100 percent sure what it all meant.

24  
25 Q Okay. So at the time that you arrested the plaintiff at the scene, did you ever  
26 consider whether you might release him from the scene on an appearance day  
27 notice instead of transporting him downtown?

28 A That was never a thought. We -- we couldn't confirm their identity, so we  
29 couldn't release them on documents without knowing who they were.

30  
31 Q Okay. So maybe just talk about how that works in terms of not being able to  
32 identify somebody and an appearance day notice.

33 A In order to release somebody on appearance notice, you have to believe that  
34 they're going to show up for court and that you actually -- you're dealing with  
35 the person they say they are. Our interactions with Mr. James Stewart and Jarvis  
36 Stewart did not leave me feeling comfortable that either one of them was  
37 providing them -- well, they didn't provide us with a name. So I couldn't firm  
38 their identity. Also, based on their actions at the time, telling us that they didn't  
39 believe in our laws, and that they weren't -- we had no right to detain them, I  
40 wouldn't -- wouldn't have been comfortable releasing them on a document  
41 myself, no.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

Q So an appearance day notice is a document that would require them to come back to court based on the charge that you were going to lay?

A That's correct.

Q Okay. So if you can't release them on an appearance day notice from the scene, what's the alternative?

A You bring them to Detention, where they can be released by the Detention sergeant on an OIC, or they can be held for a justice of the peace.

Q Okay. Can you just explain what an OIC is?

A It's an officer in charge release document.

Q Okay.

A Sometimes it contains conditions, such as keep the peace, be of good behaviour, no alcohol, don't go to certain places, depending on what the charges are.

Q So once you -- or once the plaintiff was placed in the back of Constable Smith's police car, can you describe or -- what, if any, injuries did the plaintiff have?

A I didn't note any injuries to the plaintiff.

Q Did you note any -- any blood anywhere?

A I did not.

THE ACCUSED: M-hm.

Q MS. ROHRKE: At any time during that altercation on August 24th at the Shoppers Drug Mart, did you witness any officer strike or kick the plaintiff?

A No.

Q So after the vehicle is searched and you find those documents, then what happens?

A Then Acting Sergeant Spot (phonetic), who was the acting sergeant that night for Traffic Services, he showed up on scene. Because the vehicle was impoundable, based on the -- the driver's SGI history, he agreed to stay with the vehicle until the tow truck arrived, and I proceeded down to SPS Detention.

- 1 Q And what -- what happened once you got back to Detention?
- 2 A I got there at approximately 8 PM. And I went in, and I was informed at that  
3 time by the Detention staff that Jarvis Stewart had outstanding *Traffic Safety*  
4 *Act* warrants, and that -- so I went to his cell, where I informed him of those,  
5 and re-read him his *Charter* rights and caution.  
6
- 7 Q That was Jarvis, though, not James?
- 8 A That was Jarvis, yes.  
9
- 10 Q Okay. So I just want to go back. You said you arrived back at approximately 8  
11 PM. Suffice it to say, you would have prepared notes on that evening?
- 12 A I did, yes.  
13
- 14 Q Are those notes prepared during the course of the interaction or are they  
15 prepared at the end of the night?
- 16 A They were prepared after both Mr. Stewart and Mr. James Stewart were in  
17 custody.  
18
- 19 Q So it's not as though, during the course of the arrest, you're stopping and making  
20 notes?
- 21 A No. As I'm calling for backup, I'm not noting it in my notebook at the time that  
22 I'm calling for backup. It's all done afterwards.  
23
- 24 Q So any time that's noted in your police notes or in any of your reports, would  
25 that be accurate?
- 26 A Yes. My -- my times should be accurate, yes. Most of it goes based off what  
27 Coms records.  
28
- 29 Q Okay.
- 30 A So when I call it in, I say that I have somebody under arrest, they'll say the time,  
31 and they note it in the call. So I can go back and -- and use those times.  
32
- 33 Q Would all of your times be recorded by Coms or --
- 34 A No. Some of them are off my watch. Other ones are off the computer screen in  
35 the car.  
36
- 37 Q But they would be your best guess?
- 38 A Yes.  
39
- 40 Q Okay. So once you arrive back at Detention, where was the plaintiff, James  
41 Stewart?

1 A He was in a cell.

2

3 Q Did you have any further interaction with him that evening?

4 A I did not, no.

5

6 Q Okay. So and perhaps you can just kind of advise us. What's -- what's the  
7 protocol? Once an individual who's arrested arrives back at Detention, who then  
8 provides the instruction with respect to what happens to that individual?

9 A The Detention sergeant.

10

11 Q And who was the Detention sergeant that evening?

12 A That would be Sergeant Mitzel.

13

14 Q And where is Sergeant Mitzel?

15 A Today?

16

17 Q Yeah.

18 A Sergeant Mitzel passed away January 2017.

19

20 Q Okay. So suffice it to say, control of the plaintiff was passed on to Sergeant  
21 Mitzel once he entered Detention?

22 A That's correct.

23

24 Q Do you know what happened to him after that point? Or did you have any  
25 involvement with what happened to him after that point?

26 A Sergeant Mitzel told me, based on the -- the charges, that they would be held for  
27 JP and instructed me to put that into the prosecutor case summary -- or sorry,  
28 the notes to prosecutor.

29

30 Q So I'm going to ask you to turn to document -- document 20, please? Is that the  
31 request that you're referring to?

32 A Yeah. This is my -- sorry. Does everybody have a copy?

33

34 Q I will give them as a copy as soon as you identify it.

35 A This is my notes to prosecutor from my general occurrence report for  
36 2012-81887.

37

38 MS. ROHRKE: (INDISCERNIBLE). Pardon me?  
39 (INDISCERNIBLE). Sorry, My Lord. Just give me one second.

40

41 MR. STEWART: M-hm. (INDISCERNIBLE).

1  
2 MS. ROHRKE: My Lord, I would ask that this be  
3 entered as an exhibit.  
4  
5 THE COURT: The document under tab 20 is notes to  
6 prosecutor prepared by Constable Keating on August 24th, 2012. D-14?  
7  
8 MR. STEWART: (INDISCERNIBLE) maybe he killed  
9 himself.  
10  
11 **EXHIBIT D-14 - Saskatoon Police Service - Note to Prosecutor August 24, 2012**  
12 **- Tab 20**  
13  
14 THE COURT: Are you winding towards a close,  
15 Ms. Rohrke?  
16  
17 MS. ROHRKE: My Lord, I was just looking, and I still  
18 have, like, two or three more pages of question for Constable Keating.  
19  
20 THE COURT: All right. We will go past 12:30. Carry  
21 on.  
22  
23 MS. ROHRKE: Okay.  
24  
25 THE COURT: My thought is we will let you finish your  
26 chief and then break --  
27  
28 MS. ROHRKE: Okay.  
29  
30 THE COURT: -- so that Mr. Stewart can have a chance  
31 to think about his cross.  
32  
33 MS. ROHRKE: Sure. Thank you, My Lord.  
34  
35 Q MS. ROHRKE: So you said you prepared this  
36 document?  
37 A I did, yes.  
38  
39 Q And what is the purpose of this document?  
40 A That's to advise the -- the reader sergeant, as well as the prosecution, what the  
41 intentions of the Detention sergeant are.

1  
2 Q But it's the intention of the Detention sergeant?  
3 A That's correct.  
4  
5 Q So -- and can -- can --  
6  
7 MR. STEWART: (INDISCERNIBLE).  
8  
9 THE COURT: Hey. Mr. Stewart.  
10  
11 MR. STEWART: Sorry.  
12  
13 THE COURT: Come on. What is this, high school?  
14  
15 MR. STEWART: You know, I -- sometimes, My Lord, I --  
16 I wonder the same thing, if it's high school. So he's saying -- he's saying.  
17  
18 THE COURT: In any event. No more laughter. Okay?  
19 Come on.  
20  
21 MR. STEWART: I'm just -- I need to question. So is he  
22 saying that he's responsible for writing this, this is --  
23  
24 MS. ROHRKE: My Lord, perhaps --  
25  
26 MR. STEWART: -- saying -- or is he --  
27  
28 THE COURT: But that is --  
29  
30 MR. STEWART: Okay. Yeah.  
31  
32 THE COURT: -- when you go into cross, that's what  
33 you ask him.  
34  
35 MR. STEWART: My Lord, I understand. Yeah.  
36  
37 THE COURT: Carry on.  
38  
39 Q MS. ROHRKE: So we've already established that once  
40 somebody is in Detention, you don't have any control over what happens to  
41 them or --



- 1 A That's correct.  
2
- 3 Q Okay. So who would have told you to write this document?  
4 A Sergeant Mitzel.  
5
- 6 Q And is this typical, that you would write a note to prosecutor after an arrest?  
7 A Yes.  
8
- 9 Q But it's -- whose direction is it?  
10 A Sergeant Mitzel --  
11
- 12 Q How --  
13 A -- directed me, when we had a conversation in Detention, that Mr. James  
14 Stewart and Mr. Jarvis Stewart would both be held to see a justice of the peace,  
15 and they would not be released on an OIC or an officer in charge recognizance  
16 or undertaking.  
17
- 18 Q And to be clear, on the hierarchy of police officers --  
19 A Sergeant Mitzel outranked me, yes.  
20
- 21 Q He outranked you? So he was your superior, and you were to follow  
22 instructions?  
23 A That's correct.  
24
- 25 Q So after you prepared that document or -- how do you prepare it? Do you  
26 actually type it or --  
27 A No. I -- I am a terrible typer. We dictate all of our stuff through a phone  
28 system.  
29
- 30 Q Okay.  
31 A And then the -- the employees in Central Records, they type up all of our reports  
32 for us.  
33
- 34 Q Okay. So subsequent to dictating that, what happened? Or what did you do?  
35 A I went back to my duties in Traffic Services. It should be noted, though, while I  
36 was in Detention dealing with Mr. Jarvis Stewart, I did serve him summary  
37 offence tickets. So upon telling him that he was also being arrested under his  
38 *Traffic Safety Act* warrants, we did issue him more tickets, as well.  
39
- 40 Q Okay. But that was Jarvis Stewart, not James Stewart?  
41 A That was Jarvis Stewart, yes.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

Q Okay. I'm also going to get you to flip to tab 21, please. Can you tell me what that document is?

A These are Saskatoon Police Service charge checklists. This is -- these forms are filled out every time somebody is arrested and/or charged, and then their charges are put in there. Their name, their date of birth, address, the officers that are involved, and then it's signed off by the Detention sergeant.

Q And is this the one in relation to James Stewart?

A The first one I have in here, yes, is for James Stewart.

MS. ROHRKE: Okay. My Lord, I would ask that this be marked as an exhibit, as well.

THE COURT: Under tab 21, Saskatoon Police Service charge checklist, dated August 24th, 2012, D-15.

**EXHIBIT D-15 - Saskatoon Police Service Charge Checklist - Tab 21**

MS. ROHRKE: (INDISCERNIBLE) sort of. Where'd you put the 21? You messed with my system. So ...

Q MS. ROHRKE: So in looking at this document, there's a box checked that says "held in custody."

A That's correct.

Q Now, that --

MR. STEWART: (INDISCERNIBLE).

Q MS. ROHRKE: -- that -- what's beside that? Detention, NCO approval?

A That's correct.

Q What does "NCO" mean?

A Noncommissioned officer.

Q So that was approved by whom?

A Sergeant Mitzel.

Q Does your signature appear anywhere on this document?

- 1 A No. This is my handwriting that fills out the sheet.  
2
- 3 Q Yes.  
4 A And Sergeant Mitzel is the one who signed it.  
5
- 6 Q And who -- if -- under anyone's direction, did you fill this out, or was this under  
7 your own direction?  
8 A I fill out the top part where it says Mr. Stewart's name, the charges, the officers  
9 involved, and then the discussion with Sergeant Mitzel is where the release  
10 process part is. That's where he needed that they be held.  
11
- 12 Q Okay. That was not your decision?  
13 A No.  
14
- 15 Q So subsequently, what, if any, charges were laid against the plaintiff, to your  
16 knowledge?  
17 A Obstruction, as well as resisting police officers.  
18
- 19 Q I'm going to get you to turn to tab 22 in that binder, which I believe is already in  
20 evidence, but I apologize, Madam Clerk. I don't have the --  
21
- 22 THE COURT: Okay. What number is tab 22? You can  
23 do a little homework tonight.  
24
- 25 THE COURT CLERK: D-2.  
26
- 27 Q MS. ROHRKE: D-2. Thank you. So that appears to be the  
28 Information charging the plaintiff?  
29 A That's correct. James Douglas Stewart, for wilfully obstructing myself, as well  
30 as assaulting Constable Schaefer and Constable McAvoy with the intent to  
31 resist arrest.  
32
- 33 Q Did you swear that Information?  
34 A No. That Information was sworn by Sergeant Bradford.  
35
- 36 Q What time did your shift end that day, if you happen to recall?  
37 A 3 PM to 3 AM.  
38
- 39 Q 3 AM? Okay. At any time during your interaction with the plaintiff, did you use  
40 profanities towards him?  
41 A No.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

Q So to be clear, you were wearing a microphone that day?

A I was. It was actually -- it was attached to my vest, and it's got a little leather pouch that loops around and the microphone fit in it. So it's attached to my vest.

Q And to your knowledge, at that time on August 24th, 2012, did you believe the microphone was working?

A I did, yes.

Q So you thought this interaction was being recorded?

A That's correct.

Q So suffice it to say, you thought that if you were going to use profanities at the plaintiff, that was going to be recorded?

A That it would all be recorded, yes.

Q Now, though, are you aware that there is no audio for that --

A I am aware.

Q -- video? Okay. After the incident, did you access that video via -- from the car at any point?

A I can't. What happens is when you drive the car back to the station, it's automatically downloaded. So I couldn't replay it even if I wanted to.

Q Did you have any involvement in transferring that audio or video from your car 477 to the main computer at SPS?

A No.

Q Would you know how to do that if somebody asked you to?

A No, I wouldn't.

Q Did you delete any audio from that video?

A No.

Q Would you know how to do that, even if you wanted to?

A No.

Q I believe we've covered this, but I just have kind of a few housekeeping questions now, My Lord.

1 THE COURT: Very good.

2

3 Q MS. ROHRKE: During the course of the stop, did you ask  
4 Jarvis Stewart for his licence and registration?

5 A I did.

6

7 Q Did you advise him of the reason for the stop?

8 A That the licence plate didn't match the vehicle, yes.

9

10 Q At any point did the plaintiff ask you if you were a peace officer, quote, serving  
11 his best interests?

12 A No. He continued to ask me if I was a peace officer or a police officer over and  
13 over again, but he never asked me if I was serving his best interests.

14

15 Q Did you respond to that when he asked you?

16 A I told him I was a police officer for the City of Saskatoon.

17

18 Q Do you recall Jarvis giving a direction to James to, quote, call a superior  
19 officer?

20 A No, I do not.

21

22 Q Were there witnesses around during this incident at the Shoppers Drug Mart?

23 A There may have been people around. There was people walking through the  
24 parking lot. However, at the conclusion, after we searched the vehicle, I didn't  
25 see any pedestrians walking around at that time, no.

26

27 Q Did you take any witness statements?

28 A I did not.

29

30 Q Why wouldn't have you taken a witness statement at that stage?

31 A I didn't even see anybody to take a witness statement from.

32

33 Q Okay.

34

35 MR. STEWART: M-hm. (INDISCERNIBLE).

36

37 Q MS. ROHRKE: Prior to the interaction on August 24th,  
38 2012, had you ever had any interaction with the plaintiff? Did you know him  
39 prior to that date?

40 A I didn't know James Stewart or Jarvis Stewart.

41

1 Q Did you know who he was prior to --

2 A I didn't.

3

4 Q -- getting that? No?

5 A I did not.

6

7 Q Did you or do you have any malicious feelings towards the plaintiff?

8 A I do not.

9

10 Q Or his brother, Jarvis?

11 A I do not.

12

13 MS. ROHRKE: My Lord, I have no further questions.

14

15 THE COURT: Very good, Ms. Rohrke. This would be a  
16 good time to break for lunch for the jury to enjoy lunch. What time should we  
17 reconvene, Ms. Rohrke? 2:00?

18

19 MS. ROHRKE: That's fine with me, My Lord.

20

21 THE COURT: Does 2:00 work for you, Mr. Stewart?

22

23 MR. STEWART: Yes, My Lord.

24

25 THE COURT: Deputy, let the jury go.

26

27 (JURY RETIRES)

28

29 THE COURT: Please be seated. So at 2:00, Mr. Stewart,  
30 you will come back, and you will cross-examine Mr. Keating, Constable Keating.  
31 You know, when the lawyers talk among themselves about who's a good lawyer,  
32 they always read that the best lawyers are determined by cross-examination,  
33 because cross-examination, good cross-examination, is the toughest thing. You  
34 have got to plan these. So when you come back in at 2, I want you to have a plan. I  
35 am going to start here. I am going to go there, and I will have a big finish here. Are  
36 you with me?

37

38 MR. STEWART: Yes, My Lord.

39

40 THE COURT: Beginning, middle, end, your mantra.  
41 Right?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

MR. STEWART:

Yes, My Lord.

THE COURT:

Okay. You will use this time to prep?

MR. STEWART:

Already prepped, My Lord. Ready to go.

THE COURT:

Excellent. In that case, 2:00.

(WITNESS STANDS DOWN)

---

PROCEEDINGS ADJOURNED UNTIL 2:00 PM, APRIL 30, 2019

---