

**COURT OF APPEAL FOR ONTARIO
IN RESPECT OF AN APPEAL TO THE SUPREME COURT OF CANADA
(On appeal from the Court of Appeal for Ontario)**

BETWEEN:

DONALD BEST

Applicant
(Appellant)

- and -

**RICHARD IVAN COX, ERIC IAIN STEWART DEANE, ESTATE OF COLIN DEANE,
KINGSLAND ESTATES LIMITED, FIRST CARIBBEAN INTERNATIONAL BANK
(BARBADOS) LTD., PRICE WATERHOUSE COOPERS EAST CARIBBEAN FIRM, et. al.**

Respondents
(Respondent)

AFFIDAVIT OF DONALD BEST

I, Donald Best, of the City of Barrie, as Appellant in the proceedings before this Court and Applicant in this motion, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am impecunious, and came to be that way as described herein. I also explain why I did not file an Affidavit in this regard earlier, my state of employment, my incarceration and its effects on my health, and my appeal to the Supreme Court of Canada.

Overview

2. I am 59 years old and was born in Canada.

3. Until November 11, 2009, I had always lived in Ontario, where for four decades I raised a family and also assisted to support and sometimes physically take care of elderly and ill family members.

54. I promised each person who loaned me money that I would honour their request for anonymity, and that I would never expose them or their families to the same abuses, attacks and injustices suffered by my witnesses, my lawyers, me and our family members.

My Incarceration & Risk as a Former Police Officer

55. On January 15, 2010, Justice Shaughnessy convicted me of Contempt of Court and sentenced me in absentia to three months in prison.

56. The Respondents claimed in their factum before the panel and in their oral submissions that they do not want me in jail. However, they did not seek to adjust the Court's decision that has the effect of dismissing my appeal and thereby putting me in jail.

57. I served 45 days prior to my bail being granted by the Appeal Court of Ontario. I have been on bail without incident. However, if my appeals fail, I will have to serve another 45 days in jail as the order was without remission.

58. As a former police officer, and a career undercover investigator in both the public and private sectors for over three decades, jail holds very real dangers for me and also for my family members who are known to be alone while I am incarcerated. The fact that I have been, and am now publically known on the internet to have been, extensively involved in major investigations against many criminal organizations exacerbates the dangers over and above those normally faced by incarcerated former police officers.

59. Similarly, the fact that the defendants, supporters, lawyers and law firms distributed to the public and publicized my Identity Information, photo, and other information on the internet, along with calls for criminals to find me, exacerbates the dangers for my family and me.

60. As a specific example, starting in 2000 I was involved in a years-long undercover investigation that culminated with the 2004 arrest by the US Secret Service of an organized crime figure 'M' involved in large-scale computer hacking, identity theft, credit card fraud, satellite piracy, importing of narcotics and international money-laundering of millions of dollars from the USA, Mexico and Canada through the Caribbean. I was present at his arrest in Florida and was the major witness at his trial, where he was sentenced to seven years in prison. During that period the US Secret Service provided my lawyer and me with personal bodyguards. Both of us were directly threatened in no uncertain words both inside and outside of court. The Judge and

US federal prosecutor were also at risk and protected. Since the 2009 publication of my Identity Information, members of 'M's' family have published veiled threats online against me, and in 2012 'M' himself called the home of my former lawyer and terrified his family. The police are involved.

61. On May 3, 2013 I was taken into custody to serve a 3-month sentence, and I immediately learned that it is impossible for the courthouse security and jail staff to keep secret that a prisoner is a former police officer. I was transported to Lindsay jail (Central East Correctional Centre 'CECC') in a separate compartment of an OPP prisoner transport truck, but could hear shouts of "Hey cop! You'll be sorry", "You're a f***ing dead man" and other similar threatening comments from my fellow prisoners in the other compartments.

62. Upon arriving at the jail, I found that other prisoners already there were aware of the imminent arrival of a former police officer, before I even arrived. Upon my arrival and at other times during my incarceration, prisoners pointed, waved and made various facial and hand gestures, including gestures to indicate that I would be beaten, stabbed, have my throat slit, raped or forced to provide oral sex.

63. The receiving jailer explained to me that there was no room in Protective Custody where they would have liked to have placed me, so I would have to be housed in Segregation, which I soon discovered is the Punishment Unit where violent or disobedient prisoners from the general population are sent for various internal sentences and punishments for bad behavior or infractions of the rules. The receiving jailer also warned me that the Segregation unit was 'noisy' but there was no other place to put me.

64. I was placed into what is effectively solitary confinement, where I learned that the cells and the routine are very different from regular prison. I know this because of what the guards told me, and also because I had a window and could see the inside of regular 2-man cells across a courtyard.

Medical Condition

65. I was diagnosed several years ago with an enlarged heart due to a virus attack, and experienced initial stage congestive heart failure at that time. With treatment my condition improved. I continue under medical care and need daily-prescribed medicine My next medical

appointment is Tuesday, March 25, 2014.

66. I am required to take my medicines each morning, but for whatever reasons the prison medical personnel came to the punishment block with no regular hours. Sometimes they arrived in the early morning, sometimes at noon and sometimes in the evening. Consequently instead of taking the medicine at regular 24-hour intervals, I had no control and was forced to take my medicine at irregular intervals that ranged from 10 hours to 30 or more hours. As well I was unable to sleep due to the cell lights being on 24 hours a day, the steel bed, and the noisy environment of the punishment block I could feel the cumulative negative effect upon my heart and health.

67. By May 18, 2013 after being incarcerated for 15 days, my heart congestion seriously returned for the first time in 3 years and worsened due to all the factors related above. My breathing became laboured due to fluid retention, and I had to sit upright all night as when my heart was first damaged. I was seriously concerned and wrote a letter asking for medical attention. Attached hereto as Exhibits: **Exhibit 'CC'** is a copy of May 4, 2013 request to prison for heart medicine. **Exhibit 'DD'** is a copy of May 18, 2013 letter to prison requesting urgent heart care.

68. After some days I was seen by the prison doctor, and after more days was taken from the prison to the local hospital for a day visit for tests and treatment. I was not provided with a cardiologist despite my request and then my demand. My heart troubles and inability to sleep on my back continued until I was released on bail pending this appeal. After release, my heart condition once again eventually became manageable due to the heated environment, ability to sleep in normal conditions and return to a regular and proper schedule of medicines. However, permanent damage is possible depending on the nature of medical care if incarcerated.

Appeal to the Supreme Court of Canada

69. I have filed an Application for Leave to Appeal to the Supreme Court of Canada detailing the merits of my appeal and that it meets the test for public importance. Attached hereto as **Exhibit 'EE'** is the March 21, 2014 Notice of Application filed on my behalf.

70. I swear this affidavit in support of a Motion to Stay, and Application for Leave to Appeal and for no improper purpose.

Sworn before me at the City of Toronto, in the Province of Ontario, on the 24th of March, 2014.



Commissioner for Taking Affidavits, etc.



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DONALD BEST