

IN THE ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

against

RUTH DOERKSEN

&

ANAGAILE SORIANO

BEFORE THE HONOURABLE MR. JUSTICE R. KHAWLY.

AT TORONTO, ON MAY 16TH, 2003.

REASONS FOR DISCHARGE

CHARGE: Criminal Negligence Causing Death

APPEARANCES

COUNSEL FOR THE CROWN

COUNSEL FOR ACCUSED DOERKSEN

COUNSEL FOR ACCUSED SORIANO

MR. H. GOODY.

MS. M. EDWARDH.

MS. E. McINTYRE.

IN COURT ROOM #G.

OLD CITY HALL

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THE COURT: I wish to thank Mr. Goody for his comments.

MR. GOODY: Thank you.

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THE COURT: It is to his lasting credit that, having reassessed his case, he is now inviting the Court to discharge Ms. Doerksen and Ms. Soriano of the criminal charges that they have been facing since November, 2001.

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Mr. Goody is a senior experienced Crown Counsel who, over the years, has earned an enviable reputation for honesty and fairness in his prosecution of criminal cases.

He is proving it again today by arriving at a decision that must have been rendered even more difficult by the context of this particularly tragic case.

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On the Defence side: Ms. Edwardh is well known for her skilful and tenacious advocacy. Her terse response to this unusual development I view as equal parts appreciation for Mr. Goody's actions and controlled indignation for what her client has had to endure.

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Ms. McIntyre, whose urbane manner only serves as a smoke screen for thorough preparation and incisive questions, has tapped into Ms. Edwardh's reaction.

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I also must presume that those reactions are a reflection of the mixture of anger and relief felt by Ms. Doerksen and Ms. Soriano by the lifting of criminal sanctions against them.

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As Mr. Goody has stated we have heard almost five weeks of testimony. There has been until this unexpected development a ban on the media on the reporting of any of the evidence which is automatically lifted once the Court discharges the two defendants.

The public, therefore, has the right to ask what has happened in the past five weeks that has lead to this. Hopefully Mr. Goody's comments will assist in providing answers for it would be improper for this Court to make any definitive comments at this point in the proceedings.

I have indeed heard many witnesses already but there were several more weeks of evidence to come.

In light, however, of certain information that Mr. Goody obliquely referred to and which only came to light once this matter began I will say this - the manner in which some of these revelations surfaced can perhaps shed light on how determination to affix accountability for perceived wrong doing can unleash forces that then become difficult to control. Such forces are synonymous with two powerful locomotives converging on the same track.

One carries within it the rage and demand for criminal responsibility for a life cut so short. The other, in its mighty boilers, carries one of the lynch pins of our democracy namely, the requirement of "proof

beyond a reasonable doubt" of criminal wrong doing.

When these two leviathans finally collided some eighteen months later in this forum, part of the resulting cacophony included accusations of documents being withheld and tampered with.

I must conclude that it is partly as a result of sifting through this wreckage that the Crown is now asking the Court to terminate the proceedings.

In truth, however, and I can say this without reservation, there are no winners in this.

Stand up, please, Ms. Doerksen and Ms. Soriano - given that the Crown is not calling any further evidence there is most definitely insufficient evidence to meet the requirements of United States v. Sheppard - accordingly on the charge against you, you are discharged.

Now if I may be allowed a personal note. A hearing is like inviting... a long hearing, in particular, is like inviting family for Sunday dinner. Only then do you know how disfunctional your family really is.

I have the benefit and privilege of having an ace reporter, Yolande Harrison; an extremely knowledgeable clerk, Mr. Kevin Barnes, Mr. Goody's assistant who did excellent work, Detective Constable Greenaway and I cannot forget Ms. Campbell - I don't

see where she is - from Sick Kids' Hospital who produced witnesses so quickly and, in fairness, so efficiently.

I must also say that it has been a privilege working with Counsel. Not only are they professionals, not only do I believe what I said about them earlier but they moved the process along very efficiently and I am very grateful for that, despite the fact that Ms. Edwardh one day called me a dragon which, to be honest, when I mentioned that to my wife and my mother, they didn't seem surprised.

MS. EDWARDH: Your Honour, thank you very much for your patience with us too.

MS. McINTYRE: Thank you, Your Honour.

THE COURT: All right, thank you all.

THIS IS TO CERTIFY that the foregoing is a true and accurate transcript of my recordings to the best of my skill and ability.

Yolande Guerra Harrison
YOLANDE GUERRA HARRISON,
OFFICIAL COURT REPORTER.

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