

IN THE MATTER OF *THE TERRITORIAL COURT ACT*, RSNWT 1988,
c. T-2 AND IN THE MATTER OF A COMPLAINT REGARDING THE
CONDUCT OF THE HONOURABLE JUDGE DONOVAN MOLLOY

DECISION OF THE JUDICIAL COUNCIL FOR TERRITORIAL JUDGES
RESPECTING A REQUEST BY THE HONOURABLE JUDGE
DONOVAN MOLLOY FOR A CLOSED HEARING

Yellowknife, Northwest Territories

October 26, 2022

1 Proceedings taken at the Quality Inn & Suites,
2 Yellowknife, Northwest Territories.

3

4 October 26, 2022

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6 K.M. Shaner, J The Chair

7 J. Watson, JA Judicial Council Member

8 C Baile, CTAJ™, C Arb Judicial Council Member

9 S. Toner, CTAJ™ Judicial Council Member

10 P. Scott, PhD Judicial Council Member

11

12 J. Rossall, KC Counsel for the Judicial Council

13 E. Holmstrom Counsel for the Judicial Council

14

15 S. Renouf, KC Presenting Counsel

16 (Remote Appearance)

17 L. Anaka With Presenting Counsel

18 (Remote Appearance)

19

20 K. Teskey, KC Counsel for the Complainant

21 (Remote Appearance)

22 M. Chertkow The Complainant

23 (Remote Appearance)

24

25 R. Bradbury Counsel for D. Molloy, J

26 (Remote Appearance)

1 C. Bernier Senior Counsel, Department of
2 (Remote Appearance) Justice Canada Representing
3 Public Prosecution Service of
4 Canada

5
6 G. Saville Judicial Council Clerk
7 T. Kaga, CSR(A) Official Court Reporter

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9 (BEGINNING OF EXCERPT)

10 **Decision**

11 THE CHAIR: So we have considered the
12 question of the confidentiality and closing the
13 hearing. And, as a panel, we recognize that this
14 is medical information, it's sensitive, and that
15 there is a compelling social reason to treat that
16 as confidential. At the same time, under the
17 *Territorial Court Act*, these hearings are
18 presumptively public.

19 We believe, though, that there is a middle
20 ground and that it's not necessary to close the
21 hearing if we take steps to the extent possible
22 to protect the details of Judge Molloy's medical
23 information.

24 So what we are going to do is we're going to
25 have this application heard in public. We will
26 refer to the medical condition as "a medical

condition." We will not identify that medical condition.

And, as well, what we're interested in is, rather than the diagnosis, we're interested in the prognosis and how that will affect future hearing dates.

And then with respect to the materials that are filed, we will make an order that those are sealed for the time being or not made publically available, because that would defeat the purpose of just referring to the condition as "a medical condition."

Finally, we recognize there are members of the media here. And at some point in the future we expect that there may be similar applications for information to be -- pardon me -- to be sealed or for the hearing -- all or part of the hearing to be held in private. And so, certainly, we would recommend to members of the media that if they have concerns about that, they speak to their own legal counsel about the possibility of making representations.

(END OF EXCERPT)

1 **CERTIFICATE OF TRANSCRIPT**

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3 I, the undersigned, hereby certify that the

4 foregoing pages are a complete and accurate

5 transcript of the proceedings taken down by me in

6 shorthand and transcribed from my shorthand notes

7 to the best of my skill and ability.

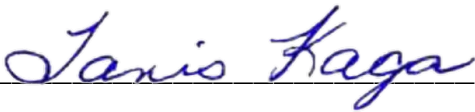
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9 Dated at the City of Calgary, Province of

10 Alberta, this 25th day of January 2023.

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15 Tanis Kaga, CSR(A)

16 Official Court Reporter

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