SUPREME COURT OF NOVA SCOTIA
Citation: *R. v. Young*, 2021 NSSC 220

Date: 2021-07-05
Docket: *Syd*, No. 504931
Registry: Sydney

Between:

Her Majesty the Queen

v.

Georgette Young, Lydia Saker, Nadia Saker, Angela MacDonald and Latatia Advertising Incorporated, The Spaghetti Benders Limited, 25132004 Incorporated, 25132002 Incorporated, Kishk Incorporated, Maddie and Bella's Children's Clothing Incorporated, Artisan Hair Loss Therapy Incorporated, Housewives in Heels Incorporated, Juliette and John Incorporated and New and Chic Incorporated

Ruling on s. 8 ***Charter*** Applications

Judge:	The Honourable Justice Robin Gogan
Heard:	June 21, 24, 25 and 26, 2021, in Sydney, Nova Scotia
Counsel:	Mark Donahue and Constantin Draghici-Vasilescu for the Crown Georgette Young, Angela MacDonald, Nadia Saker, Lydia Saker, self-represented Defendants

By the Court:

Introduction

[1] Georgette Young, Angela MacDonald and Nadia Saker are self-represented accused. They are among the co-accused in this proceeding charged with a multitude of offences contrary to both the ***Criminal Code of Canada*** and the ***Excise Tax Act***. The offences are alleged to have occurred between January 1, 2011 and July 31, 2015.

[2] On November 22, 2017, the Canada Revenue Agency ("***CRA***") carried out a series of coordinated searches of various residential properties. These searches were carried out under the authority of search warrants dated November 15, 2017 and obtained under s. 487 of the ***Criminal Code of Canada***. Georgette Young, Angela MacDonald, and Nadia Saker each allege that the search of their home was unreasonable and a breach of their right to be free from unreasonable search and seizure. They ask that evidence obtained as a result be excluded from evidence at trial.

[3] What follows is a decision on the various allegations of unreasonable searches. For the reasons given, I dismiss all applications.

Background

[4] As a starting point, some context is necessary.

[5] Prior to the trial commencing, a series of applications were made alleging infringement of guaranteed rights under the ***Charter of Rights and Freedoms*** (*Part 1 of the Constitution Act, 1982, being Schedule B of the Canada Act 1982 (U.K.), 1982, c. 11*., the "***Charter***").

[6] As noted in a prior ruling, these applications began with a Notice filed on March 29, 2021 which was amended on April 13, 2021. Another Notice was filed on April 22, 2021. Various ***Charter*** claims were made in these applications, along with a multitude of evidentiary and procedural issues. The applicants withdrew their request for s. 11(b) relief on May 7, 2021. The Crown conceded the need for a ***Jarvis*** hearing.

[7] In response to the remaining allegations, the Crown brought a ***Vukelich*** application. In an oral decision dated June 16, 2021, I granted the Crown application with one exception. I permitted certain applicants to proceed to an evidentiary

hearing on their allegations that the manner of the residential searches was unreasonable and contrary to s. 8 of the ***Charter***.

[8] The basis for permitting these claims to proceed was the summary of anticipated evidence provided by the applicants.

[9] Georgette Young alleged that her house had been broken into in the course of which she was physically assaulted causing her to urinate on the floor. She said this was observed by her husband John Young. She also said that the searchers listened to her walls, inspected light switches, and looked through her kitchen contents. Searchers followed her to her bedroom and bathroom.

[10] Nadia Saker alleged that searchers followed her to the bathroom, flipped her mattress, and generally conducted an intimidating and inappropriate search. Lydia Saker was present at two of the search locations and said that she saw police with "their hands on guns" during the search.

[11] Angela MacDonald alleged that she and her husband arrived home to "police and guns and everything". Her husband was "chased" and "dragged" back to the house. She said that she was forced to open her garage entry door and pushed out of the way so searchers could enter. Searchers followed her to the washroom and

she was “chased up the stairs with a gun” by “ten of them”. She said that her house was ransacked, torn apart, and she was harassed.

[12] On the basis of the statements made, I permitted those with standing to proceed to an evidentiary hearing on their claims of unreasonable searches.

[13] The ***Charter*** *voir dire* began on June 21, 2021. To be clear, the allegations proceeded as three separate and distinct applications. Angela MacDonald had standing to challenge and testified about the search of her home at 85 Terra Nova Drive, Kentville, Nova Scotia (the “***MacDonald search***”). Georgette Young had standing to challenge and testified about the search of 77 Stanley Street, North Sydney, Nova Scotia (the “***Young Search***”). John Young and Lydia Saker also testified in relation to the Young search. Nadia Saker had standing to challenge and testified about the search of 342 Leitches Creek Road, Leitches Creek, Nova Scotia (the “***Saker search***”). Lydia Saker provided evidence on the Saker search. The Crown responded to each allegation of unreasonable search with its own evidence.

[14] The evidence on these applications is important. I will review the significant parts. My review is not intended to be complete or exhaustive. This is a decision provided in an ongoing proceeding. I have reviewed and considered all of the evidence whether I refer to it specifically or not. What is more significant is what

emerges from the evidence as a whole - diametrically opposed versions of what occurred at each search site. I have decided to review the evidence by search location as a matter of convenience. I say for the record that this is not the order in which I heard the evidence.

[15] Before turning to the evidence, I note that this hearing was not about the validity of the search warrants. To the degree that I could extract any basis to challenge the validity of the search warrants from the applicants various ***Charter*** claims, I dismissed these as part of the relief granted to the Crown on its ***Vukelich*** application. As a result, this decision begins with the premise that valid search warrants were issued under s. 487 of the ***Criminal Code of Canada***.

[16] Three warrants are in evidence authorizing searches of the three relevant locations (*Exhibit VD 1* – MacDonald search warrant, *Exhibit VD 4* – Young search warrant, and *Exhibit VD 5* – Saker search warrant). These warrants permitted conventional searches of the homes of three of the accused for "evidence with respect to the commission of offences against the ***Excise Tax Act***". The warrants each contained detailed and specific lists of the things sought including books, records, documentation, electronic and digital information, and various types of electronic hardware and storage devices.

[17] All warrants were issued on November 15, 2017 authorizing a one day daytime search of the various locations. The warrants authorized three distinct search teams of listed individuals to carry out the searches.

Issue

[18] The issue here is whether the execution of any or all of the searches was unreasonable and a breach of s. 8 of the ***Charter***? If so, should the evidence obtained be excluded under s. 24(2) of the ***Charter***?

[19] Having heard the evidence on each application, I am of the view that in each case, the pivotal issue is credibility.

Positions of the Parties

The Applicants – Angela MacDonald, Georgette Young and Nadia Saker

[20] Each of the applicants provided written submissions. I have organized their positions somewhat in the summary that follows.

[21] Angela MacDonald is of the view that the search of her residence was unreasonable on the following basis: (1) the search team did not show identification or show her a warrant, (2) her husband was chased from the scene and dragged back and his red mustang was the subject of an unauthorized search, (3) she was

touched and pushed and subject to intimidating behaviour during the search and when she tripped going up her stairs officer Lutz grabbed for his gun, (4) there were unauthorized searches of personal computers, (5) she was followed to the bathroom and allowed to use it only after a search, and only with searchers waiting in the hallway outside with the door open, and (6) the search involved listening to the walls with a stethoscope, tapping the walls, "flipping" mattresses, and searching her child's bedroom. MacDonald cited a number of authorities in support of her position.

[22] Georgette Young is of the view that the search of her residence was unreasonable on the following basis: (1) the search team did not properly identify themselves and did not show her the warrant, (2) they forcefully entered the home causing her injury, (3) the search involved the use of stethoscopes to listen to the walls, long angled mirrors to look behind the walls, wall tapping, searches of her flour and sugar jars, kitchen contents, childrens' bedrooms and unrelated business documents, (4) both she and her husband were told to cooperate or "they would come back with the media", (5) there were unauthorized searches of personal computers, and (6) searches were not conducted by police officers. Young provided similar authorities to those relied on by MacDonald.

[23] Nadia Saker is of the view that the search of her residence was unreasonable on the following basis: (1) the search team did not show identification or a warrant, (2) the ITO to obtain a warrant was not sworn by a police officer, (3) there were unauthorized searches of personal computers and she was bullied into providing computer passwords, (4) she was threatened with media attention, (5) there were searches of inappropriate places (kitchen contents including sugar and flour dishes) with inappropriate techniques (wall tapping, listening with a stethoscope) and (6) computer analyst Mike Lemmon was present in her home but not named on the warrant. Saker relied on similar authorities to MacDonald and Young.

The Crown

[24] The Crown began its submission by noting that the applicant's written submission had gone beyond the scope of the s. 8 hearing. In response however, the Crown noted that s. 487 of the ***Criminal Code*** permits warrants to be issued on the information of "public officers". The lead investigator, Michael Boudreau, is a public officer. On the issue of unauthorized computer searches, each of the warrants contained express provisions authorizing these searches (see paras 11-15 of *Exhibit VD* 4, paras 3-7 of *Exhibit VD* 1, and paras 3-7 of *Exhibit VD* 5).

[25] Respecting the manner of the searches, the Crown divided the applicants' complaints into three categories: (1) identification of searchers/display and review of warrants, (2) physical assaults/threatening behavior, and (3) over broad searches (ie. use of stethoscopes and mirrors, tapping walls and flipping mattresses, flour and sugar bowls, light switches and children's bedrooms). It is the submission of the Crown that the manner of each search was nowhere close to a breach of s. 8 of the ***Charter***. It made detailed responses to each search that are addressed later in these reasons.

[26] The Crown's authorities are of assistance in analyzing all of the applications. These include ***R. v. Chungkuong***, 2012 ONSC 3488, ***R. v. Whiten***, 2010 ONSC 388, ***Neumann v. Canada (Attorney General)***, 2011 BCCA 313, ***R. v. Bain***, 2017 ONSC 4549, ***R. v. Osanyunlusi***, 2006 CarswellOnt 3817, ***R. v. Strachan***, [1988] 2 S.C.R. 980, and ***R. v. J.E.B.***, 1989 CanLII 1495 (NSCA).

Analysis

General Principles on all the Applications

[27] Each of the applicants allege a breach of her right to be free from unreasonable search and seizure. They seek ***Charter*** relief. The relevant sections of the ***Charter*** provide:

> **8.** Everyone has the right to be secure against unreasonable search or seizure.
>
> **24.(1)** Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.
>
> **(2)** Where, in a proceeding under subsection (1), a court concludes that the evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

[28] Each of the applicants bears an onus to establish a breach of her s. 8 ***Charter*** right on a balance of probabilities.

[29] A search conducted under a valid warrant must be said to be reasonable unless the search itself is conducted unreasonably (***R. v. Collins***, [1987] 1 S.C.R. 265; ***R. v. Genest***, [1989] 1 S.C.R. 59 and ***R. v. Whiten***, 2010 ONSC 388).

[30] It is only where a search is conducted in a manner that unnecessarily and unreasonably disregards the property rights of the occupants that it infringes s. 8 of the ***Charter*** (***R. v. Chungkuong***, *supra*, at para. 42). Other courts have articulated non-compliance with the s. 8 standard as "wilful, flagrant and reprehensible" conduct (***R. v. Gogal*** (1994), 27 C.R. (4th) 357 (O.C.J.) and 'deliberate and unnecessary damage to property" (***R. v. Thompson***, 2010 ONSC 2862).

[31] A search must be conducted under the control of a person named on the warrant. Assistance by officers not named in the warrant does not make the search unlawful (***R. v. Strachan***, [1988] 2 S.C.R. 980, ***R. v. Lebroq***, (1984), 35 Alta. L.R. (2d) 184 (Q.B.) and ***R. v. J.E.B.*** 1989 CanLII 1495 (NSCA). The warrant must be present when executed.

[32] Reasonableness is contextual and does not take into account the unintended consequences of the search. In ***Neumann v. Canada (Attorney General)***, 2011 BCCA 313, the plaintiff argued that that he had been the subject of an unreasonable search. The validity of the search was not challenged on appeal. The evidence at trial was that the search was routine. But it was uncontested that the search profoundly affected the plaintiff who had been traumatized and humiliated and went on to suffer depression and Post Traumatic Stress Disorder. In his reasons for a unanimous court, Ryan, J.A. noted at para. 7:

> [7] The arrival of police officer's at one's home armed with a warrant to search is doubtless an upsetting and frightening event for anyone who experiences it. It was more so for Mr. Neumann who was born under a dictatorship in East Germany and who had escaped to West Berlin at the age of four with his family. That said, the search warrant is an important and accepted enforcement tool utilized by those charged with investigating crime. If a search warrant is lawfully obtained and executed, those subject to it cannot seek compensation for its unintended repercussions … Thus, there was no evidence … of a *Charter* breach to go to the jury.

[33] The discomfort brought on by a search of one's home has been widely recognized. In ***R. v. Whiten***, *supra*, the applicant contended that the search by CRA officers was overly broad and unprofessional. In finding otherwise, Harris, J. noted at para. 29:

> [29] … Undoubtedly, the search of one's home brings with it some discomfort, however, searches must be conducted in a manner that avoids unnecessary discomfort and embarrassment. The evidence demonstrates that the search was executed in a professional manner and within the confines of the judicially authorized search warrant. Watson and Freeman both fairly articulated the justification for searching in the manner in which they did. They found that investigators often find documents, thumb drives, disks, and other evidence in strange or unexpected places …

[34] In each of these applications, the critical issue is one of credibility. Each of the applicants make serious allegations about the conduct of the searches. The assessment of credibility in the context of a ***Charter*** application must be distinguished from a trial assessment. In ***R. v. Sturko***, 2013 ABPC 211, this distinction was addressed:

> 9 The application of the balance of probabilities test to a *Charter* voir dire has been the subject of appellate authority, as well as recent Provincial Court contemplation. In *R. v. Creig*, 2012 ABQB 79, in a summary conviction appeal decision, the court dealt with the issue of the burden of proof on a Charter application and in particular, credibility assessments on the voir dire. The court in *Creig* quoted the Supreme Court of Canada in *R. v. Collins*, [1987] 1 S.C.R. 265, as follows (at paragraph 14):
>
> > "The appellant, in my view, bears the burden of persuading the court that her Charter rights and freedoms have been infringed or denied. That appears from the wording of s. 24(1) and (2), and most courts which have

> considered the issue have come to that conclusion … The appellant also bears the initial burden of presenting evidence. The standard of persuasion required is only the civil standard of the balance of probabilities and, because of this, the allocation of the burden of persuasion means only that, in a case where the evidence does not establish whether or not the appellant's rights were infringed, the court must conclude that they were not.

10 The court in *Creig* further cited with approval, the following passage from *R. v. Russell*, 2008 ABPC 166, where the court summarized the principles that apply when assessing the credibility of an accused in a *Charter* voir dire as follows:

> "This courts view on the assessment of credibility of an accused testifying in a *Charter* voir dire was fully expressed in *R. v. Kokov*ic, 2004 ABPC 190. In that case, I decided that the principles enunciated in the Supreme Court of Canada in *R. v. W.(D.*), (1991) 63 C.C.C. (3d) 397, do not apply. The accused on a *Charter* application carries both an evidentiary and a legal or persuasive burden of proof on the balance of probabilities. Guilt or innocence is not in issue at this stage of the proceedings, and the reasonable doubt principle has no application. If the evidence of the accused conflicts with that given by an investigating officer, the Court must determine the probabilities of who is telling the truth. It is much the same as the Court assessing credibility in a civil case. If the Court is left in the position of not knowing who to believe, the application cannot, in law succeed. The defence will have failed to discharge its evidentiary burden.

[35] In this case, the evidentiary and persuasive burden remains on the applicants throughout. Each of them must establish on a balance of probabilities that the manner of the searches was unreasonable on the basis of credible and reliable evidence.

[36] I acknowledge here that there are allegations in the MacDonald and Young searches of assaults by police. If I accepted the evidence on this point, the burden would shift to the Crown to establish, on balance, that the actions of the public

officers conducting the search were objectively reasonable (see s. 25(1) of the ***Criminal Code of Canada*** and ***R. v. Nasogaluak***, 2010 SCC 6). However, as I will explain, I have not been persuaded that any assaults occurred.

[37] Before turning to an analysis of the credibility of the various allegations, I say now that I find no basis to find the searches unreasonable because they were informed by Michael Boudreau who is a "public officer" for the purpose of s. 487 of the ***Criminal Code***. Neither do I find any merit to the complaint that the computer searches were unauthorized. Finally, I find no basis to claim any infringement as a result of the fact that a computer analyst moved from one search location to another when his assistance was requested. The evidence of the analyst that he assisted but did not participate in any seizures was uncontested.

Review and Assessment of the Evidence

[38] I turn now to my analysis of the impugned searches. Broadly speaking, the allegations made by the applicants included over broad and abusive search methods, unauthorized searchers, excessive force and assault, intimidation, bullying, harassment and threats. The particulars can be discerned from the evidence of each of the applicants.

[39] As indicated, the real question to be addressed is the credibility of the various allegations made respecting each of the searches. For the benefit of the self-represented applicants, I set out the basis for these assessments as summarized in ***Sturko***, *supra*, at paras 15 – 18:

> 15 Many factors go into a credibility assessment. Importantly, the court should look first to the content of the witness's evidence alone. Is it internally consistent or inconsistent? Is the witness's evidence logical and make some semblance of sense or is it fanciful and defy and sense of logic or common sense, given the events that the witness is describing? Does the witness focus on the question and reply directly to the question or does the witness make gratuitous comments that maintain a certain theme directed at minimizing culpability or demonstrating the witness in a positive light?
>
> 16 The form of a witness's evidence is also an important factor that goes to the credibility assessment. Is the witness responsive or unresponsive to questions? Does the form of the witness's testimony change as between examination in chief and cross-examination? Does the witness answer questions freely or in an evasive manner? Is the witness flip and dismissive or are questions answered with care and consideration? Is the witness open or confrontational with counsel? Does the witness try to manage the flow of evidence or do they answer questions faithfully?
>
> 17 Credibility also includes an assessment of the reliability of a witness's testimony. Credibility is the determination of whether a witness is credible in the sense of testifying without animus or favour and whether the witness is attempting to misrepresent facts or attempting to freely explain what occurred. Credibility also includes a consideration of the reliability of a witness's testimony. Reliability involves an assessment of whether the witness's evidence accurately recounts the events testified to. Reliability involves a consideration of the ability to recall, the ability to recount that memory, the ability of the witness at the time of the event to absorb what occurred, the level of cognitive awareness of the witness at the time of the incident, including sobriety, trauma, surprise, fatigue or other mental impairment.
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> 18 Because this case involves the assessment of contradictory explanations of events … it is important to bear in mind that all witnesses are presumed to be telling the truth. It is only after their evidence is tested on cross-examination and carefully assessed within the evidence as a whole that the court can begin the process of assessing credibility.

[40] Given the prominence of the credibility assessment, the evidence is reviewed in some detail.

The MacDonald Search

[41] I begin with the search of the MacDonald residence at 85 Terra Nova Drive in Kentville, Nova Scotia.

[42] Angela MacDonald testified that she arrived home to searchers in her yard with dark clothing indicating "CRA criminal investigations". Neighbours were watching. Her husband tried to leave but was chased down the street and dragged back by a police officer. In the meantime, she was approached by a women who said that she was Jennifer Jones from "CRA". This women presented a card with the name Jennifer Jones on it. As she entered her garage, she said that searchers were standing up against her back. They pushed there way into her home ahead of her and begin running around through the house. She acknowledged being asked about firearms and documents. She went upstairs and was followed by Jennifer Jones, Constable Kevin Lutz, and another searcher. She said that they were pushing her and touching her and that she tripped. In response, she said that Cst. Lutz went to grab his gun and if he was going to shoot her. This happened twice on the way

up her stairs. Cst. Lutz stomped his boots on the stairway and then "grabbed his gun as if she was going to be shot".

[43] Ms. MacDonald said that she needed to go to the washroom. They inspected the washroom and then allowed her in. Searchers waited for her outside the washroom. She then described a search throughout the premises that included "going all through her husband's mustang", removing light switch plates, and light bulbs. She acknowledged meeting with Jennifer Jones in her living room near the end of the search. Ms. MacDonald said that she was told that they would be back to charge her and the media would be there. The search was over by three o'clock in the afternoon.

[44] When cross-examined, Ms. MacDonald maintained that she didn't know who these people were or what they were doing. She denied being shown the warrant or having it explained to her. Later when pressed further, she admitted being told by Jennifer Jones that she was there to do a search but denied that her memory of the event had faded. Ms. MacDonald maintained that the police officer had reached for his gun. She did see people taking photographs. She confirmed that there was no damage caused by the search. Nevertheless, she claimed that the search was "very abusive". Police grabbed guns and roughhoused her, chased her, made her sit like

an animal, and waited “outside the bathroom door”. She admitted that when her computer was returned, no member of the media came along.

[45] In response to the allegations raised in the evidence of Angela MacDonald, the Crown called CRA employees Jennifer Jones, Bruce McCabe, and Michael Lovell as well as police officer Cst. Kevin Lutz. All of these individuals were part of the search team conducting the MacDonald search.

[46] Jennifer Jones is an investigator with the CRA. She testified generally about search process and specifically about the MacDonald search. She explained that CRA staff do not have firearms and come to the search with a badge, vest, notebook and pen along with the content of a “search kit”. This kit contains things needed to carry out a search and is comprised mostly of office supplies. She explained a search protocol that involves search planning and review of search procedures in advance as well as the process followed on the day of the search. She said that the search teams work in pairs and are accompanied by police officers to maintain peace and ensure security at search sites. Searchers take photographs before and after the search and take notes of the search process. She also described the seizure process. The search concludes with a final walk through of the location with the resident. There is a conversation about the conduct of the search and complaints are recorded. A copy of the search warrant is left at the location.

[47] Jones was the CRA Officer in Charge of the MacDonald search. She described a routine search. She did not speak to MacDonald until they were at the garage door. At that point, Jones was accompanied by McCabe, Lovell and two police officers. Jones advised MacDonald that she was with CRA and there to execute a warrant. She recalled MacDonald saying that she "knew why they were there and they weren't going to find anything". There was nothing else of note about entry to the MacDonald home.

[48] Once inside the kitchen, Jones placed the search warrant on the kitchen island and reviewed it with MacDonald. When this was complete, she endorsed the warrant. She confirmed her handwritten note on the last page of the original warrant indicating that this part of the process was complete at 10:05 am on November 22, 2017 (*Exhibit VD1* at page 4). This was followed by a walk through of the search site with MacDonald during which time Jones was advised that most of what they were looking for was in her daughter's closet. Once the walk through was complete, photographs were taken, and rooms labelled. The searchers began the search in the daughter's bedroom. Jones said that she recalled MacDonald's husband Stephen appearing angry about the search but beyond that there was nothing out of the ordinary.

[49] Once the search was underway, MacDonald said that she needed to use the washroom. The washroom was searched by McCabe. MacDonald was then allowed into the washroom. Jones and McCabe waited outside for MacDonald. MacDonald was advised that she could move throughout the rooms of the house as the search was completed.

[50] Jones said she remembered the stairway in the MacDonald home being narrow and she herself had tripped on one of the steps during the day. She did not see a police officer reach for his gun at any point. She had no recall of ever touching MacDonald. She had no reason to touch her and any contact would be accidental. She described the search as straightforward. MacDonald was cooperative and provided computer passwords voluntarily. She said MacDonald was asked about any complaints before they left and none were noted. There was no discussion about the media at any point. A copy of the search warrant was left behind. Notes of the search were provided to Michael Boudreau who was the lead investigator.

[51] When cross-examined, Jones confirmed that the walk through protocol involved the Officer in Charge, the Assistant Officer in Charge, the computer analyst and possibly a police officer accompanying the resident. She denied having a listening device or stethoscope in the search kit. She denied requiring a bathroom door to remain open during use (an allegation not made by MacDonald in her

evidence). Jones denied having any need to search inside walls or use any tools that would enable such a search.

[52] Bruce McCabe was the Assistant Officer in Charge of the MacDonald search. He was designated to take notes during the process. He gave evidence consistent with his colleague Jones. He remembered going into a kitchen area to review the warrant and he recalled the walk through process. There were no tense moments. He recalled MacDonald declining a final walk through of the home and having no complaints about the process.

[53] He remembered MacDonald asking to use the washroom. He did a cursory search of the room before allowing her in. He waited for her outside the bathroom door because the washroom was near other rooms that hadn't yet been searched. There was nothing unusual about this search. He said he "definitely" does not recall anyone reaching for a gun. There was no stethoscope in the search kit and he's never seen one used in a search.

[54] MacDonald asked him about her trip to the washroom. He said that the washroom door was closed while he waited outside in the hallway. He recalled MacDonald asking whether the media would be there and he replied no. He denied

asking her to “come to his office and talk”. He had his identification hanging on a lanyard around his neck.

[55] Michael Lovell was also part of the search team. He was the Computer Forensic Analyst (“**CFA**”) assigned to the MacDonald search. He was with Jones as she met MacDonald at her garage door and entered the home. He was there when Jones provided the warrant to MacDonald. He was part of the initial walk through of the home as it was his job to identify any computers that would need to be searched. After the walk through, he set up at the kitchen table to do his work. He described the search as routine. He could not remember any thing unusual. He denied there being any “commotion”.

[56] The final Crown witness on the MacDonald search was Cst. Kevin Lutz. He was a member of the Kentville police and assisted in the MacDonald search. He did not search but rather stood by to ensure peace and safety. He was there with another police officer.

[57] He recalled entering the home and going up the stairs with the homeowner. He didn’t note anything about going up the stairs and didn’t recall why they were going upstairs. He recalled the stairway being narrow. He said it was not an urgent situation and there was no reason to rush. He did not recall any physical contact.

He did not initially recall MacDonald falling or losing her balance on the steps. He did not recall anyone pushing her. He did recall her tripping but couldn't say why. He did not recall stomping his feet. He said that he absolutely did not reach for his firearm in any way. He recalled there being tension but nothing unusual given the situation. He understood why MacDonald would be upset with being the subject of a search.

[58] The evidence of Cst. Lutz was consistent when cross-examined. He was asked about his recall (which he said was vague) and his notes on the search (which he said were brief). He didn't remember whether Jones identified herself. He did recall her having a search warrant and believed that the warrant was explained to MacDonald in the kitchen "on a tabletop". He did not search the garage and did not see anyone else search it. There was no reason for him to look in the vehicle in the garage.

[59] He absolutely denied grabbing his gun. There was no reason to grab it. His first reaction if MacDonald tripped and fell would be to assist her. He denied having any reason to be threatened by her.

[60] Having heard the evidence and observed the witnesses, I have several observations. MacDonald was clearly upset about the search and was emotional recounting it. Her account of the events was dramatic. While I have no doubt that

she found the series of events traumatic, the concern that arises is that the shock and surprise impacted her perception of events and the reliability of her evidence. I am open to accepting that MacDonald felt that people were close to her, pushing her and moving quickly around her. After considering all of the evidence, I am not persuaded that these things actually happened.

[61] I was concerned about the evolving nature of MacDonald's account. The Crown aptly described it in submission as "mythology". She was given every opportunity to recount the series of events. At times, aspects of her evidence were delivered insistently and unequivocally. But she did not say at any point in her testimony that she was not allowed to close the bathroom door while searchers waited in the adjacent hallway. This aspect of the allegation only became clear as she cross-examined other witnesses. I consider that she is a self represented accused that was delivering her direct testimony without any prompts. I note that however, that the ground was covered again when she was cross-examined. When this allegation eventually arose as she questioned others, it was conveyed as something particularly egregious. I don't accept that she forgot. I find her account to be an ever evolving and increasingly dramatic tale. And I consider that she has a stake in the outcome of this application.

[62] In stark contrast was the evidence of the CRA searchers and Cst. Lutz. These witnesses were all testifying about events that took place in their professional capacities. The CRA witnesses described with consistency that they prepared and carried out a standardized search process that was recorded with both notes and photographs. All of them had experience with searches. It did not make sense that they would not follow the process that was dictated by their training and experience. All recounted a routine search process with no unusual aspects. They had no agenda. They said MacDonald was generally cooperative and indicated where things would be found.

[63] I listened carefully to the evidence of Cst. Lutz. He was a seasoned police officer with no relationship whatsoever with the CRA searchers. He was asked to assist and only met the CRA search team just prior to the search. There is no obvious reason that he would protect these searchers if he observed an unusual process or a chaotic situation. To the contrary, he testified that there was nothing urgent about the events as they unfolded. I infer what he observed was a orderly and uneventful process.

[64] Cst. Lutz admitted to being the officer on the narrow stairway with MacDonald. Although he didn't initially recall her falling, by the end of his testimony he felt he had some memory of this event. But he absolutely denied

reacting by reaching for his gun. He said his first reaction to a person falling would be to provide assistance. His evidence about this kind of instinctive reaction was compelling and I find no reason to question it. I also consider the evidence that there were other searchers in that location and none recalled a police officer "going for his gun". They did not know Cst. Lutz and would not be accustomed to dramatic searches or stand off situations. It doesn't make sense to me that a police officer pulling his gun out, or even remotely gesturing in this fashion, wouldn't be a jarring and notable event for CRA employees searching for corporate account documentation.

[65] It will come as no surprise that I am left with serious concerns about MacDonald's credibility. I do not accept her evidence. I prefer the evidence of the CRA witnesses who say that they met MacDonald at her garage door, identified themselves, and explained that they had a warrant to search. I accept that the warrant was reviewed, the search process explained, and the usual process followed and recorded. The standard nature of the search and its documentation enhances the reliability of the accounts given by the searchers. There was consistent evidence that a final walk through was offered to MacDonald and no complaints noted. It defies any logic that she wouldn't voice her complaints of outrageous conduct at the first opportunity.

[66] I do not accept that MacDonald was forced to use the bathroom with the door open, nor do I believe that a police officer grabbed his gun at any point. There was no evidence that her husband's mustang vehicle was searched or that her husband was "chased" and "dragged" back to the search location. I do not accept that searchers used stethoscopes or mirrors in the search or that any inappropriate search methods were employed. I do not accept that MacDonald was threatened with media attention if she didn't cooperate.

[67] I am not persuaded that any aspect of the MacDonald search was unreasonable. I accept only that it was a thorough search and that MacDonald found the timing and extent of it shocking and upsetting.

The Young Search

[68] Georgette Young testified about the search to her home at 77 Stanley Street, North Sydney, Nova Scotia.

[69] She recalled sitting in her kitchen at the computer paying bills when there was a knock at her door. In was just after 9:00 am in the morning. Her husband John Young was home as well. She went to the door and recalled seeing three men on her front step. Michael Boudreau introduced himself, giving his name, and saying he was with CRA criminal investigations. She recalled that he handed her a business

card with his name and a picture of a badge on it (*Exhibit VD 6*). She said she thought "something wasn't right" and "felt she was being conned" … "you hear things in the media and this doesn't look right at all". She did not want them in her house. She was of the view that she didn't know who they were and didn't trust them.

[70] Young testified that she tried to push the door closed. As she did this, the three men pushed back. She could see them pushing. They put so much pressure on the door that she urinated. As the door pushed open she was "hard whacked" in the head by it and fell backwards to the floor. Her husband came and helped her up. She said her husband cleaned the urine from the floor. She needed to change. One of the men, maybe two, followed her upstairs to her bedroom but allowed her to close the door and change. She then returned downstairs. She then saw people at her kitchen table.

[71] Young testified that she told the searchers where she kept her receipts. She directed them to a location in her laundry room. She observed the computer forensic analyst doing his work. There were two searchers looking through things in her kitchen. Young complained that "they were going through it all" even though she told them where she kept the relevant documents.

[72] Young said that she observed a man using a stethoscope on her upstairs walls. She said that searchers put a long handled scope with a mirror into her bathroom walls through the light switch openings. She observed searchers taking pictures of all the rooms. She said that Boudreau kept asking her if she had anything she wanted to say. Young did not answer Boudreau's inquiries. She reviewed various photographs taken by searchers (*Exhibit VD 2*) to explain her evidence about the search. She referenced the pictures of her attic to demonstrate areas where searchers were listening with a stethoscope and inserting the mirror behind the walls.

[73] Young took issue with searches of her sugar and flour and kitchen cupboards. She said that one of the female searchers in the kitchen said that she "should cooperate or this is going to the media". She observed her mattress being "flipped" and searches of her children's bedrooms.

[74] On cross-examination, Young was asked about what happened at the front door. It is a steel door with no window. She denied seeing a police officer at the front door. She admitted that Boudreau identified himself and showed a business card. She admitted that "he appeared to be a CRA investigator" but he also "appeared to be a fraudster". She maintained that he "broke into her house" before he explained why he was there. She admitted that she was preventing the men from entering her house by holding and pushing the door. She was "leaning into the door"

with her face close to it when it was pushed open by Boudreau and the two other men with him.

[75] Young said she had bruising on the right side of her head from the impact with the door. She didn't take photos and didn't get any medical attention. Later when she questioned her husband, Young framed the question by asking what he saw because she "couldn't really remember" if she had a bruise.

[76] When asked about the threat of media coverage, Young said that there were others around including her husband "who would have heard it". She admitted that she wasn't influenced by this threat. She felt that this search was not about receipts, or companies, "it was about something much bigger". She had a feeling, and could tell by the "suspicious look" on Boudreau's face.

[77] Young denied that the search warrant was shown to her or explained. She just inferred that they were looking for receipts, and told them where to find the documents, in the absence of any explanation about exactly why CRA searchers were in her house. She maintained that all she saw was Boudreau's card and badge.

[78] John Young testified about the search. He is Georgette Young's husband. He remembered being at the kitchen table when there was a knock at the door. He stayed at the table while his wife she answered the door. He said he heard a commotion

and went to the front door. He helped his wife up from the floor. The front door was open and three men came inside. He was told that his wife had urinated on the floor. He recalled that a man gave him a card saying that he was Michael Boudreau. This man was followed by ten or twelve others. He didn't recall "a cop" being there.

[79] Young provided his observations of the search that followed. He said that he saw people listening to the walls with a stethoscope. They were putting a "long mirror device" into openings in the walls. There were people searching in the kitchen and a person at the kitchen table searching a laptop computer.

[80] Young was asked if Boudreau said anything to them and he responded that it was Boudreau who told them to cooperate or "they would go to the media". He did not see a search warrant. Young said that his wife "was hit pretty hard" when the searchers entered their house. This comment notwithstanding that he hadn't seen the events himself.

[81] On cross-examination, Young said he was testifying from memory but had discussed things with his wife to assist his memory of the events. He maintained that he picked his wife up off the floor by the front door and had to clean up her urine. He said he "couldn't recall" if he was told about or shown a search warrant. He admitted to being asked about valuables and going to get a few things in response

to this instruction. Young had some noticeable discomfort and hesitation answering questions from the Crown.

[82] Young was shown the search warrant and the endorsement of service at 9:20 am (*Exhibit VD 4* at page 4). He said he did not recall being shown the warrant but said "it was possible". On re-direct, Young contradicted his earlier answer by saying that he did not see a warrant, was not served with a warrant, and it was never explained to him. I pause here to note a clear inconsistency on a key point.

[83] Lydia Saker testified. She is the mother of Georgette Young and a co-accused in this proceeding. Saker's home was not the subject of any search warrants. She said that she arrived at her daughter's home when the Young search was underway. She testified about what she saw. She said that she was approached by searchers in dark jackets that came at her "like terrorists". She said they told her that she couldn't stay there. She said she was treated like a criminal. She went to her car and tried to calm down as she felt like she was having a panic attack.

[84] On the Young search, the Crown offered the evidence of Michael Boudreau, Mike Lemmon and Troy Stevens.

[85] Boudreau was the Officer in Charge of the Young search, the Lead CRA investigator in this matter, and the informant on the various search warrants. Stevens was the Assistant Officer in Charge. Lemmon was the CFA.

[86] Boudreau testified to a routine search of the Stanley street location. He described the entry process and his interaction with Georgette Young. He said that he, Stevens, Lemmon and CBRPS officer MacLeod went to the front door. Boudreau knocked and Georgette Young opened the door. Boudreau introduced himself, showed his identification, and explained that he had a search warrant to execute. The warrant and a copy were in a file folder in his hands.

[87] It was Boudreau's recollection that Young wanted to negotiate a delay of the search. He explained that it would be proceeding. At that point, she tried to close the door. Stevens was able to get his foot in the opening to prevent the door closing. He, Stevens and MacLeod pushed the door open to gain entry. Lemmon was behind them. When asked to describe the push, Boudreau said that it was three pushing against one on the other side. It wasn't a violent or hard push. They pushed enough to open the door enough to walk through.

[88] Upon entry, Young advised that she had urinated. They cleared a washroom and allowed her to change. Afterward, they all returned downstairs to the kitchen

where they met John Young for the first time. Boudreau introduced himself to Young and explained why they were there. They sat at a dining table in the kitchen and reviewed the warrant. Boudreau described the review process. He was shown a copy of the warrant and confirmed that it was his endorsement on the warrant saying it was served on John and Georgette Young at 9:20am (*Exhibit VD4* at page 4).

[89] Boudreau asked Georgette Young if she wanted to talk to them. She said no. They asked where they could locate the books and records. She advised that there were documents in the laundry room. After that discussion, the search began with entry photographs. Boudreau denied any other discussions with Georgette Young. He recalled Lydia Saker arriving for a brief period.

[90] When the search was complete, there was a final set of photographs taken. There was a final walk through of the entire home with Georgette and John Young. Neither made any complaints or expressed concerns about the search process then or since. A copy of the search warrant was left behind.

[91] Boudreau was cross-examined about entry to the home. He confirmed showing Young his badge when she opened the door. He didn't remember providing a business card. He confirmed that three of them pushed the door open in response

to Young trying to close the door. He wasn't aware of any injury to her head. When they entered, he recalled Young screaming that she had soiled herself. There was no mention of a head impact or injury.

[92] In terms of the rest of the search, Boudreau said that he knew nothing about stethoscopes or tapping on walls. He couldn't say if the search kit contained a telescopic mirror.

[93] Jeff Stevens testified that he recalled the Young search. He was with Boudreau and officer MacLeod at the front door. Mike Lemmon was behind the group. Stevens said when Georgette Young opened the front door, Boudreau introduced himself and indicated he had a warrant. Young tried to close the door. He was able to get his foot in the door and then pushed it open again. It was a "quick push" and not a lot of force was used. Once the door was open, it was his observation that Young had stumbled back a few steps and "peed her pants". She needed to change. He and Boudreau escorted her, searched the bathroom, and gave Young privacy to change.

[94] When Young was finished, they all returned downstairs. They met John there and gathered around table where Boudreau reviewed the warrant and asked about weapons and valuables. John Young gathered some valuables that Georgette Young

kept in her possession during the search. After the search was underway, Stevens recalled Lydia Saker arriving. He introduced himself to her. He said that she was only in the house for about five minutes. Stevens did not recall Georgette Young being injured in any way.

[95] After the search was complete, he and Boudreau walked through the house with John and Georgette Young. The Youngs were asked if they had any concerns or complaints. None were noted.

[96] Stevens testified that he had done hundreds of searches and this search stood out because of the entry. He had never had that kind of difficulty getting into a location. After entry, this was "like any other search". He had no recollection of a conversation involving the issue of media exposure.

[97] Stevens was cross-examined by Young. He confirmed he was wearing a CRA vest as he stood at the front door. Boudreau explained who they were and had a warrant. There was a police officer with them at the door. Stevens was asked about what he could see as he pushed the door open. He said he saw Young "stumble back". He did not see her fall or hit her head. He appeared genuinely surprised at the suggestion. He responded by saying "you did not indicate you hit your head".

[98] Stevens was asked about various search techniques. He did not see anyone, nor did he, tap walls or use a stethoscope or mirror. He had never used a stethoscope in a search. It was his evidence that there are no stethoscopes or magnets in their search kits. He did not recall anything unusual about his search of the bathroom. He said that they would search anywhere in the house where documents could be found.

[99] Mike Lemmon was the CFA on site. He was one of four who were at Georgette Young's front door. He was a few feet in the background. His observations were consistent with those of Boudreau and Stevens. He confirmed the presence of a police officer at the front door. The rest of them were wearing CRA vests. He added that having the door pushed close after being advised of a warrant raised the concern about the destruction of evidence. He observed Boudreau and Stevens explaining the warrant at the dining table.

[100] Lemmon said that he has done more than two hundred and fifty searches in his career. The Young search was usual and normal other than Georgette Young "peeing herself". That aspect of the search made it memorable.

[101] Lemmon was questioned by Young. He did not see the door hitting her in the head. He recalled being told that she had "peed". He recalled John Young coming

with a mop and bucket to clean it up. He maintained that Boudreau and Stevens sat at a table with her explaining the warrant. He estimated that he was in the kitchen working from about 9:45 am to about 11:30 am. He was aware of searchers working around him but was focused on his work and not watching or listening to them.

[102] Turning to the findings from the evidence, I begin by observing that the evidence of Lydia Saker did not assist. She did not see or testify to any of the key complaints. In her brief time inside the Young home, she did not note any of the unusual search methods. She did not hear anyone make threats about media attention and did not observe the events at the front door. She did not testify to Georgette Young having any facial injuries. She offered gratuitous characterizations of the searchers. Her evidence had only a hint of relevance in the overall assessment.

[103] Similarly, John Young was of limited assistance. Georgette Young had testified that her husband was a witness to the events at the front door but he was not. He only appeared after the fact. She also said that her husband had heard a female searcher threaten media attention. But it was John Young's evidence that it was Boudreau that made the threat to bring media. When cross-examined, it was plain and obvious that he was uncomfortable answering the Crown questions. When re-directed, he contradicted himself. His entire testimony rang hallow and was

influenced by what he thought his wife wanted him to say. I found it not credible on key points.

[104] Turning to Georgette Young's evidence, I admit finding it difficult to characterize in simple terms. She was an unfocused witness that was argumentative and evasive at times. She was also dramatic and seemed to relish repeating the more sensational aspects of her testimony. I was concerned about an associated tendency to exaggerate for impact, effect, attention or entertainment. There was consensus in the evidence that the events at the front door resulted in Young urinating. She had to change after this and her husband had to clean up. Beyond that bit of consensus, there was considerable disharmony.

[105] I observe points in Young's testimony that did not accord with common sense and seemed inherently irrational, highly implausible, and incredible. These included the allegation that searchers used of stethoscopes to listen to her walls and long handled mirrors to search behind the walls. Although admitting that Boudreau identified himself, presented a card, and explained why he was there, she maintained that she felt she was being "conned". This in the face of multiple people wearing CRA search vests accompanied by a police officer. She denied seeing a warrant or knowing why the searchers were there but directed them to her laundry room where she kept the documents and otherwise complained that they were searching through

unrelated documents. She maintained that she didn't know who they were or why they were there but concluded it was about more than "receipts" because of a suspicious look on someone's face. She said that she was "hard whacked" by the door on entry but did not complain about it, alert the searchers to it, seek medical attention or otherwise record the injury.

[106] As with the MacDonald search, the evidence of the search team members stands in stark contrast. It was consistent and professional. They testified to a largely standard search process that was extensively documented in various ways. It was entirely credible. Universally, the only unusual event noted was Young "peeing herself" at the front door. There was no similar recollection of Young complaining of a head injury and no observation of an injury.

[107] After considering the full body of evidence on the Young search, I am unable to conclude that any aspect of the search was unreasonable. I accept that Boudreau identified himself and explained why he was there. I do not accept that there was any rational basis for Young to conclude that she was being conned by those at her front door. In fact, I find that explanation incredible. I am persuaded that her real response was to try and negotiate a delay to the search. When this was unsuccessful, she panicked, tried to close the door, and urinated. At that point, she was obstructing a legal search and there was an immediate concern for the destruction of evidence.

The searchers were authorized to open the door and enter. I accept that the push was quick and used only enough force to counteract Young's attempt to close the door. I do not accept that she suffered a head injury in the course of these events.

[108] Young's evidence is no basis to conclude that the warrant was not shown nor the search process reviewed. To the contrary, it appears that the Youngs cooperated at the time by pointing out where documents could be found and retrieving valaubles. I accept that she participated in a final walk through with Boudreau and no present complaints were noted, then or since. I am not persuaded that there were any threats made to return with the media in the absence of cooperation. I don't accept the evidence that that searchers employed bizarre search methods.

[109] In the end, I am not persuaded that there was anything unreasonable about the conduct of Young search.

The Saker Search

[110] I move on now to the Saker search which involved the home of Nadia Saker at 342 Leitches Creek Road, Leitches Creek, Nova Scotia.

[111] Nadia Saker testified about the search of her home. She recalled drinking coffee in her kitchen around nine o'clock in the morning when there was a knock at

the door. She looked through a window in her door and could see people outside in dark jackets. A person named Christina said that she was there with CRA. Saker left the door and called her sister.

[112] After speaking to her sister, she let the searchers in but asked them to wait in her porch while she called a lawyer. She couldn't reach a lawyer. She said that there was a discussion about getting her a lawyer. But she was also told that they were legally entitled to come inside. She let them in to search. A person explained the process of a walk through of the rooms and photographs. Saker was asked by a police officer if there were firearms. She was asked if there was a place where documents or receipts would be kept. They did the walk through together.

[113] She needed to use the washroom and walked upstairs with the police officer. She could see searchers in various rooms. She said that she saw someone listening to a wall with a stethoscope device. People were searching her kitchen items and they were unzipping her couch cushions. An officer waited outside while she used the washroom.

[114] She discussed the search of her computer devices and the arrival of Mike Lemmon. She noted that he was not listed on the search warrant. He asked for her passwords and she gave them to him. She said this request was made in an

aggressive manner. She and her mother went outside for a while and played with her dog. The returned inside as the search was ending. Lemmon was already gone. Saker said the Officer in Charge explained that it was in her interest to cooperate or they would be going to the media.

[115] Nadia Saker denied ever being given a search warrant. On cross-examination she was shown the search warrant for her residence (*Exhibit VD5*). She was shown the endorsement confirming service at 9:10 am in the morning of November 22. She maintained that she never saw a warrant.

[116] Saker was asked why some of her allegations were similar to allegations made by her sisters. She acknowledged speaking to her sisters about the events but not "rehearsing" her evidence.

[117] Lydia Saker testified that she arrived at her daughter's house after the search was underway. She observed men dressed in black searching through kitchen cupboards. She saw someone working at the kitchen table. She had a conversation with a police officer. She saw searchers taking photographs and using a stethoscope on the walls. She and Nadia went outside for a period. She said that she observed a searcher looking in her car. When they returned inside, most of the search was over.

[118] On the Saker search, the Crown offered the evidence of Christina Loureiro, Jeff Rafuse, and CFA Lemmon.

[119] Christina Loureiro was the Officer in Charge of the Saker search. She was assisted by Rafuse. Prior to the search, they met with local police to review the warrant and search plan. Following that meeting, she, Rafuse and a police offcier went to the search site. She testified that she knocked at the side door and Saker answered. She presented identification, the warrant, and explained that she was there to conduct a search. Saker wouldn't let them in. She wanted to make a phone call to a lawyer but couldn't reach one.

[120] From that point, she described an uneventful entry and search. They entered the kitchen and sat down to review the warrant. Loureiro explained to Saker (in the presence of Rafuse and the police offcier) what they were looking for and the process they would follow. Loureiro endorsed the warrant as confirmation that the review was complete at 9:10 am (*VD 5, at page 4*).

[121] From there, the search proceeded as planned. Photographs were taken and the home searched. Loureiro noted that only one computer forensic analyst was assigned to this search and another was requested to expedite the search. As a result, CFA Lemmon came from the Young search site to assist. She explained that when

assistance is requested from a person not listed on the warrant, that person will assist in the search but does not seize anything.

[122] Loureiro had limited conversation with Nadia Saker. She recalled Saker being outside with her mother. The search did not take long. She advised Saker when it was complete. There was a final walk through of the home with Saker and the police officer. Saker made no complaints. Four boxes of materials were removed from this search site. A copy of the warrant was left with Saker. She denied any conversation with Saker that involved contacting the media.

[123] On cross-examination, Loureiro's evidence was consistent. She maintained that the Saker search was routine and uneventful. She said that she had never seen anyone use a stethoscope in this search or any search. Loureiro took notes throughout the search process. She confirmed that there were a total of twelve people involved in the search. She and the others were wearing CRA vests. She showed Saker the warrant and badge while still on the step outside the home.

[124] Loureiro was asked about her final conversation with Saker at the end of the search. She recalled having a discussion in the presence of Lydia Saker outside the home. She unequivocally denied making any threat to "go to the media".

[125] Jeff Rafuse has been with CRA for thirty-three years and the criminal investigations division for twenty-five years. He was the Assistant Officer in Charge for the Saker search. He arrived at Saker's door with Loureiro and a police officer. He recalled Saker being surprised at the prospect of a search warrant. The officer told Saker that the search warrant gave them authority to enter and search. Saker let them enter.

[126] What followed was a routine, uneventful search. He could not remember anything unusual. He recalled the warrant being reviewed with Saker in her kitchen while sitting at the kitchen table. He was part of the walk through that took place at the conclusion of the search. He observed searchers taking final photographs of the site. His evidence was entirely consistent with that of Loureiro.

[127] When cross-examined, he was asked about his search practice and experience. He said that the warrant gives them authority to search in the specified location and that he has found items in a variety of strange places. He denied anyone using a stethoscope, listening to walls, or searching the sugar dish at Saker's house. He has looked underneath mattresses but not "flipped" a mattress if that meant turning it over completely or throwing it.

[128] Finally, the Crown offered the evidence of Mike Lemmon on the Saker search. Lemmon came to the Saker location after additional forensic computer support was requested. He arrived around noon time and set up his work in the living room area. He assisted in the search but did not seize anything. He denied interaction with Saker.

[129] Having reviewed the evidence on the Saker search, I turn to my assessment. The evidence of Nadia Saker was somewhat restrained on a relative basis and there was some common ground between her version of events and that given by the members of the search team. Nevertheless, Saker maintained a series of complaints about the search process and she admitted having discussed the search with her co-accused sisters. She characterized the entire search as "shady". I consider that she has an interest in the outcome of the application.

[130] I pause at this point to note that I take no comfort in the fact that some of Saker's allegations were supported by the evidence of her mother who was on scene for a period of time. I note that the two remained outside for a period during the search. Having considered all of the evidence on this application, I am not prepared to accept the evidence of Lydia Saker. I did not find her credible and by her own admission she had a limited period of observation.

[131] The evidence of Christina Louriero was excellent. She was professional, direct and forthright. The testimony of Rafuse and Lemmon was consistent and provided a solid credible basis on which to conclude that the Saker search was a standard search that proceeded in the usual fashion. In my view, their evidence must be preferred to Saker's evidence. On this basis, I am not persuaded that any unusual search methods were employed. Neither do I accept that the warrant was not shown and reviewed. Finally, I do not believe that Saker was bullied into providing computer passwords or threated with media attention.

[132] In the end, I conclude that there is no basis to claim anything usual about the Saker search. No s. 8 infringement has been established.

Conclusion

[133] Having heard and carefully considered all of the evidence, I conclude that none of the applicants have established a breach of their ***Charter*** rights in the conduct of the searches carried out on November 22, 2017. To the extent that I accept any part of the evidence of the applicants, I do not find the impugned conduct unreasonable in the context of the execution of a valid search warrant.

[134] To the contrary, in each case, I found that routine searches were conducted, following an established protocol, and recorded in notes and photographs. I accept

that the experience was shocking, traumatic, and felt intrusive to each of the applicants. I conclude, in each case, that this state of mind likely impacted the perception of events. I do not however, attribute the reactions or perceptions of the applicants to any inappropriate action in the course of any of the searches.

[135] A generous amount of latitude was given each of the self-represented litigants during the hearing of these applications. As a result, at times, the scope of the applicants' cross-examinations reaching beyond what was anticipated. In the end, any possible issue with the manner of the searches was thoroughly canvassed. I was not persuaded, as the standard requires, that there was any foundation on which to claim an unreasonable search in any of the locations.

[136] Given my conclusions, it is unnecessary to conduct an analysis under s. 24(2) of the ***Charter***.

[137] The applications of Angela MacDonald, Georgette Young, and Nadia Saker are dismissed.

Gogan, J.