

TURMEL: #1 Nielsen No-Resurrection Motion Transcripts

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From: John Turmel (bc726_at_FreeNet.Carleton.CA)

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JCT: Finally, we've received the transcript of the Nielsen's

early motions in court. I did my report: Nielsen quash case
put off to next week at

<http://health.groups.yahoo.com/group/medpot/message/1295>

You can check my accuracy after the hearing.

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

DANIELLE NIELSEN, DOUGLAS NIELSEN, LAUREL NIELSEN

REMAND BEFORE JUSTICE OF THE PEACE J. JUKES

on July 14, 2004, at BRANTFORD, Ontario

CHARGES: s.4(1) C.D.S.A. – Possession of marijuana

s.5(2) C.D.S.A. – Possession for trafficking

APPEARANCES: G. Smith Counsel for the crown

Danielle Nielsen Douglas Nielsen, Laurel Nielsen

On own behalf

WEDNESDAY, JULY 14, 2004

COURT CLERK: Number 61 to 66, Danielle Nielsen, Douglas
Nielsen, and Laurel Nielsen. There's a note attached,
matters to be stood down to the other court to deal with
motions.

MR. SMITH: I don't know.

COURT CLERK: Is that today? I didn't think there was time
today. There's two courts combined into one.

MR. SMITH: I don't have any motions.

COURT CLERK: This is the note attached.

MR. SMITH: I wasn't served with any motions. I don't know what they're about and...

JCT: Funny but he's under the impression that because the Office of the Attorney General for Canada refused to accept service of documents from the Nielsen family, their being on some kind of national blacklist, no doubt, that we couldn't prove service? I explained how I wrote a simple affidavit of service on the back of the document which Doug swore before the Brantford Justice of Peace before filing. It couldn't be served without proof of service.

THE COURT: Well, notice...

JCT: Maybe she saw the affidavit of service on back?

MR. SMITH: ...there's a difficulty, and I'll put it on the record. There's a gentleman in the front row that has absolutely no clue what's going on with respect to the criminal justice system. He is bringing these motions. He's brought one motion twice with respect to another individual by the name of John Davies. The matter was dated December of 2003, yet he brought a motion to dismiss the charge. You can't dismiss a charge that has already been stayed. Despite the fact the he came before Justice Lenz and Justice Lenz told him that, he decided to bring a motion again before Justice Lenz to dismiss the charge. It's not even him. It's not even, he's not even John Davies. Mr. Davies didn't appear on the second court date and the motion was tossed.

JCT: Mr. Davies didn't appear because Mr. Smith's buddy Renwick advised his former client to duck out.

It appears as though he's brought three further motions asking for the same relief. Correct me if I'm wrong, Your Worship, but my understanding of the law is, is that possessing marijuana, production of marijuana, possession for the purposes of trafficking, which is what these people are charged with, is still an offence. So, I wasn't served with any motion. I don't know why we keep coming back, and quite candidly I'm getting a little bit annoyed by the fact that the system seems to be abused.

JCT: John "The Legal System Abuser" Turmel, that's me.

THE COURT: All right. Well ...

MR. SMITH: But in any event, I'm not here to deal with it at ten o'clock. I don't even have disclosure yet. So, I'd ask

that the matter be put over for a month.

THE COURT: Well, the matter will go over. If there has been no notice to the prosecutor, then the motion can't go, even if there was a courtroom available, which there is not.

JCT: She's forgetting to mention the service.

MRS. NIELSEN: Your Honour, we did submit all the copies.

THE COURT: The prosecutor does not have.

MAN IN THE BODY OF THE COURT: The service is on the back of the copies.

JCT: Good news.

THE COURT: Sir.

MRS. NIELSEN: The service is on the back...

THE COURT: Sir.

MRS. NIELSEN: ...of the copies.

THE COURT: Sir.

MR. SMITH: This gentleman is not a lawyer. He has no standing before the court.

THE COURT: You are here in the court today for the purposes of setting a date. Your matter was put to today's date.

Could I see the informations, please?

MR. SMITH: First appearance, I believe it was.

THE COURT: You were issued a promise, you were each issued promises to appear on Thursday, the 15th of July, at nine o'clock, in courtroom number one, to set a date, and that's what we're going to do today. Is disclosure available?

MR. SMITH: It isn't. I don't even have the file yet.

THE COURT: All right.

MR. SMITH: This is the first date.

THE COURT: All right. Disclosure is not yet available to you, so the matter will need to go over. You expect it to be available when?

MR. SMITH: I'm suggesting four weeks, Your Worship.

THE COURT: All right.

MR. SMITH: And with respect to the motions, I don't have them. I'm not sure if it came into my office. If there's some affidavit of service, fine, but I don't have it. I don't have it. Do you want to stand it down to ten o'clock court?

THE COURT: No. The ten o'clock court does not have room to accommodate a matter today. So, that you will return to court on Thursday, the 19th of August, at nine o'clock, here in courtroom one, marked to set a date. Your disclosure should be available to you by that time. Thank you.

MR. SMITH: Sorry, what date was that?

THE COURT: Nineteen August.

MR. SMITH: Thank you.

JCT: I had written:

JCT: It was a wild and woolly day in Brantford Court today. Doug, Laurel, and daughter Danielle Nielsen had to appear before Justice of the Peace in court at 9am so we filed our motion to quash their charges at 10pm.

The first part was before Justice of the Peace Janice Jukes. When the case was called, there was a note on the file that it should be put over to the 10am session for hearing of the motion before a judge.

The first thing Crown Greg Smith did was say that he had not received the motions and launched into a tirade against the man in the front row, John Turmel, who tried to have Davies' stayed motion dismissed before Lenz. After being shot down, another motion was brought back before Lenz and shot down again. This one is the same thing and it's an abuse. He should have noticed that these were people with live cases and not people whose cases had been stayed.

Imagine, three motions served on his office this time and they forgot to tell him? Of course, all the JP had to do was check on the back of the motions for the required proof of service since motions even can't be filed without it. How did the nefarious John Turmel manage to sneak those motions onto the court docket without proof of service? Only the Shadow knows.

Doug and Laurel were protesting that the documents had been properly served but rather than turn the motion over to check, JP Jukes simply believed the Crown and dismissed their claims of service as untrue. Without checking. She refused to add the motions to the list on what they said was a filled-up day and adjourned them to Aug. 19 to pick a trial date.

The whole court coterie laughed us right out of the room. Most guerrilla lawyers would have been so disheartened at being so shabbily treated that they would have quit right there. I pointed out we could simply refile a motion for hearing before a judge who will probably check for service before believing Magic Fingers Turmel managed to sneak the motions on the docket. JPs aren't judges which explains why they don't know that motions have to have proof of service before being filed even though most of them worked as clerks in the filing office before being promoted.

Or they could simply walk right up to the judge in the next session and demand to have their properly-served motion heard. That's what they wanted to do. They weren't cowed a

bit so after the JP session as over, we all trooped back in. The Crown was going by so I jibed him for not knowing that motions need service before they can be filed. He pooh-poohed me off. When I added "You lied to the court" he blew his cool screaming from the doorway that I should leave him alone or he'd have me arrested. I told him I'd have him arrested. He called for some police to take me away but nobody did.

JCT: Now back to the transcript of the hearing they insisted on having:

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

DANIELLE NIELSEN, DOUGLAS NIELSEN, LAUREL NIELSEN
MOTION

BEFORE THE HONOURABLE MR. JUSTICE G. B. EDWARD

on July 14, 2004, at BRANTFORD, Ontario

CHARGES: s.4(1) C.D.S.A. – Possession of marijuana
s.5(2) C.D.S.A. – Possession for trafficking

APPEARANCES: G. Smith Counsel for the Federal Crown
Danielle Nielsen On own behalf
Douglas Nielsen On own behalf
Laurel Nielsen On own behalf

R. v. Danielle Nielsen, Douglas Nielsen, Laurel Nielsen

WEDNESDAY. JULY 14, 2004

MR. SMITH: Your Honour, there's a, there were a couple of motions that were brought, or three motions that were brought before the court at nine o'clock. I had indicated to Justice of the Peace Jukes that I had not seen those documents. Apparently they were served in my office on July 12th, 2004, by three members of the Nielsen family, I believe, by a gentleman by the name of Turmel, who apparently is representing them to some extent. He's brought motions, two, two motions in the past with respect to a fellow by the name of John Davies to dismiss charges that were already stayed. When he wasn't successful on the first go round, he brought it back before Justice Lenz again.

THE COURT: All right. Before you go any further, I've reviewed the applications.

MR. SMITH: Thank you.

THE COURT: I'm going to deal with them at two o'clock this afternoon. I've got two courts combined into one. I don't want to get bogged down into this issue now.

MR. SMITH: Mm-hmm.

THE COURT: I'll deal with the matters at two o'clock.

MR. SMITH: Thank you, sir.

THE COURT: Thank you.

JCT: Continuing from my report:

>JCT: *When the Crown realized that the bluff with the JP who didn't check wasn't going to work with a judge who would check the main claim to injustice, I saw him sitting in the lobby reading the motions with Shyster Renwick.*

I had told Doug to simply get up the minute the judge came in and demand to have his motion heard. He spoke to the duty Crown who agreed to introduce him. After Judge Edwards came in, not Lenz (good news), Smith rose to explain how his office had been served the documents for today's hearing and then launches into another tirade against John Turmel.

Now back to the next part of the transcript probably starting with a typo for THE JUDGE:

– REPORTER'S NOTE: DeaAll right. I've looked at your material, and essentially, you're asking the court to dismiss the charges against you, and Madam Clerk, if I can just have the informations, please. Thank you. Now, the information is a two count information, and it says the three of you have been charged that on or about the 2nd day of June, in the year 2004, in the County of Brant, in the said Region, did unlawfully possess a controlled substance, to wit: marijuana, contrary to Section 4(1) of the Controlled Drugs and Substances Act. And then there's a second count. And further, that on or about the 2nd of June, in the year 2004, at the County of Brant, in the said Region, did unlawfully possess a controlled substance, to wit: marijuana for the purpose of trafficking, contrary to Section 5(2) of the Controlled Drugs and Substances Act. So, you have been charged with two offences, and you're asking the court to dismiss the charge because the offence is an offence unknown to law by virtue of certain cases that you say were before the Ontario Courts. So, in essence, that's your argument. You're ...? .

MR.NIELSEN: Yes.

THE COURT: ...saying the Court of Appeal made a ruling in a case called Parker, and essentially, Parker said, you know what? There is this glitch with the way that parliament has dealt with the issue of marijuana, and it wasn't properly orchestrated by parliament, if I can use that term.

MR. NIELSEN: Yes.

THE COURT: A justice in, I believe it was Windsor, initially struck down the provision in a Youth Court matter. It was, I

think, upheld by a Superior Court judge and by a Court of Appeal judge,

JCT: No, the Court of Appeal ruled that changing the regulations (deleting "marijuana" from Schedule II for instance) was just as good as enacting new legislation. It was the real Parker II, the declaration that the law died on Terry Parker day that saved J.P.

but I think that subsequently there's been a case, and this was the case that Mr. Smith had referred to, that clarified the situation. I'm going to let you folks have a further opportunity to make representations in a moment, but I just want to ask Mr. Smith the name of the case and what the status of me getting copies of the case is.

MR. SMITH: Your Honour, I think the case, the last name of the case is Hitzig. I did call Mr. Fiszauf of my office, and Mr. Fiszauf is endeavouring to secure the case for us because I was stuck here in a, in other matters, so I have talked to him directly, but there are some preliminary issues, Your Honour, that I need to discuss with the court, is the court's prepared to hear them.

JCT: Alan Young's Hitzig case, the Resurrection of Prohibition case, the Crown's only card. Always Alan Young's Hitzig case to help fight the medpot movement.

THE COURT: Well, I think, quite frankly, what's important for me is that if the law has been clarified by a Court of Appeal decision ...

MR. SMITH: Yes.

THE COURT: ...then I don't think, and I'm just going to quickly look through, but I don't think that the material that was filed by the applicants in this case made reference to the Hitzig case.

MR. SMITH: No.

THE COURT: And if the Court of Appeal has clarified that position, then these folks should have an opportunity to at least read the case and understand how the Court of Appeal has clarified the situation. So ...

MR. SMITH: Yes. May I just address ...

THE COURT: ...I'm ...

MR. SMITH: May I just address one point, Your Honour, in their motion material. If you look at paragraph 14, it says: On June 9th, 2004, charges of cultivation, possession over, possession for the purpose of trafficking were withdrawn in Toronto court against Bruce Ryan, Pierre Champagne, James Walls, for offences after July 31st, 2001, and before October 7, 2003.

During that period of time – I don't know what happened because there's no cases attached and I, and I say to the

court that the material is, is not even appropriately before the court, with the greatest of respect. Service wasn't effected properly. It was served July 12th. I was supposed...

THE COURT: Okay.

MR. SMITH: ...be given...

THE COURT: ...Mr. Smith...

MR. SMITH: Well...

THE COURT: I don't want to get into that until...

MR. SMITH: Okay.

THE COURT: ...these folks have a chance to read the case...

MR. SMITH: Okay. Well ...

THE COURT: ...because ...

MR. SMITH: ...may I, may I just say...

THE COURT: ...read between...

MR. SMITH: Sorry.

THE COURT: ...the lines, Mr. Smith.

MR. SMITH: Yes

THE COURT: I'm trying to maintain...

MR. SMITH: Yes

THE COURT: ...sort of a level of collegiality here...

MR. SMITH: Yes

THE COURT: ...that will avoid what I understood was a fairly significant outburst in front of the justice of the peace this morning. So, if you just bear with me...

MR. SMITH: Mm-hmm.

THE COURT: ...get that case...

MR. SMITH: Mm-hmm.

THE COURT: ...let these folks review the case, I'll review the case, and then we can have a further discussion on the case, because if the case stands for the proposition that I understand it stands for, it may well short circuit this, so, I'll stand down until...

MR. NIELSEN: Thank you, Your Honour.

THE COURT: ...quarter to three.

MR. NIELSEN: Thank you very much.

THE COURT: All right. Thank you. So, when you get the case, you make sure the applicants get a copy of it.

MR. SMITH: I'll bring a copy to the office so that you can get a copy as well, sir.

THE COURT: Thank you.

RECESS

JCT: I had reported:

>JCT: *The judge cut him off to say that he had read the application and would hear it later at 2pm. As he tried to keep slamming Turmel, the judge told him to "read between the lines," that the motion was going to be heard and to quit making waves. Talk about taking the wind out of his sails. He's trying to argue it's a frivolous abuse of*

process and the judge had read it and knows it's a serious challenge.

We're all in Heaven. We've got a young judge who is going to make the ruling on whether the law is alive again or not.

The afternoon session was less eventful. The judge recapped our arguments, unfortunately, mentioning that the Windsor case was involved when it wasn't, then mentioned that the Crown was going to be presenting the latest case law to settle the life or death of the prohibition. The Crown is given half an hour to go out and print up the latest jurisprudence that made the law whole again, his "Hertzog" decision.

Har har har har. He can't have even read it or he'd know it's the Hitzig decision and that John Turmel's name was on it as one of the Appellants. Wait until he sees the style of cause and finds out I'm there too! We had called it the Lederman decision. Of course, if it was the Hitzig decision he meant by the Hertzog decision, we already knew about it and wouldn't need any time to read it.

JCT: The Crown had mis-stated the Hitzig case as the Hertzog case which explains the previous parts. Back to the transcript:

UPON RESUMING

-REPORTER'S NOTE: Dealt with other matters

THE COURT: All right. And that then leaves the one remaining matter, which is the federal prosecution of Danielle Nielsen, Douglas Nielsen and Laurel Nielsen. Would you come forward, please? All right. What you have received is a large packet of cases. I think there's about a half a dozen cases. Essentially, it's the history of the section that you're going to be arguing about. You folks need to read these, as do I, and for that reason, I'm going to suggest that your application be put over to another date. That will allow ...

MR. NIELSEN: Excuse me, Your Honour. We're quite aware of what all these say.

THE COURT: All right.

MR. NIELSEN: We're all set.

MRS. NIELSEN: We're ready.

THE COURT: I'm not. So, in order to accommo...

MRS. NIELSEN: Could we ask that the charges be withdrawn against our daughter?

THE COURT: Well, I think I'll deal with them all at one time. Okay? So, what I need to do is read this material, and

I need you to come back and appear before me, and I'm just looking at a date that I can accommodate this. Just give me a second, please. Lore, do you have the schedule for next Thursday, July 22nd?

MR. SMITH: I'm not here, Your Honour, if it's the 27th.

THE COURT: The 22nd.

MR. SMITH: Second?

THE COURT: Sorry, did you say you were here?

MR. SMITH: On the 22nd, I am. I thought you said the 27th, sir. I have a trial scheduled for that day as well, though, sir.

THE COURT: In which court?

MR. SMITH: Number one court, sir.

THE COURT: That's in front of – in number one court?

MR. SMITH: Yes. Mr. Paquette and Mr. Ritter.

THE COURT: When was that case put over, Mr. Smith?

MR. SMITH: Well, it's awhile ago. It's been a long time, sir, and there's also a constitutional argument. I'd just as soon not ...

THE COURT: Because we've got a list that shows an update from June ...

COURT CLERK: Ritter.

THE COURT: Oh, Ritter, okay.

COURT CLERK: I think Ritter's the lawyer.

MR. SMITH: Ritter's the lawyer. Dean Paquette's on for Ms. Dale, Mr. Henderson was at one time, but ...

THE COURT: That's noted as being before me.

MR. SMITH: Mm–hmm.

THE COURT: ...but you say it's a continuation?

MR. SMITH: No. No. It's not a continuation. It's a trial on that date in courtroom one, I think I said.

THE COURT: Oh, I see. Well, that's in front of me, then.

MR. SMITH: Oh, okay.

THE COURT: So, you'll be in front of me. So ...

MR. SMITH: That's fine.

THE COURT: ...there's a couple of other cases. To be quite honest, just sensing these cases, it looks like they'll probably collapse. So, it may well be that we'll have time.

All right. Are you folks available next Thursday, July 22nd?

MR. NIELSEN: Yes.

MS. NIELSEN: Yes.

THE COURT: All right. Well, that will give me time to go through these cases. So, I'm going to put your applications over to July 22nd. I'm going to say ten o'clock, but you may be here for awhile. All right. Thank you.

MS. NIELSEN: Thank you, Your Honour.

JCT: I had reported:

>An hour later, the Crown comes back with an arm-load of cases. We're given Parker's original 80-page decision from 2000 for which we have 1-page Order, the Court of Appeal's Oct 7 60-page Hitzig decision for which we have their 2-page Order that does not mention the re-animation of the prohibition, only the death of the offending sections of the now invalid MMAR, the Oct 7 2-page Turmel decision on the Aitken "off-the-schedule" Parliament Hill bust ruling, and the Supreme Court of Canada's Dec. 23 2004 losing 13-page Clay and the losing 74-page Caine/Malmo-Levine recreational cases for which we have the simple Orders. They didn't include the Dec. 23 Crown's loss of the application for leave to appeal the Krieger cultivation acquittal.

When the judge asked the family if they'd be needing time to read the cases, they said no, they were ready to go. But the judge said he wanted some time to read it and adjourned the hearing of the motion to next Thursday July 22 at 10am.

Finally, this gives me the time to organize all the case law to go with the whole timeline I recently published before next week. May as well give it everything I've got since the judge seems intent on doing justice.

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Abolitionist Slave Leader John C. "The Banking Systems Engineer" Turmel for UNILETS interest-free time-based currency in U.N. resolution C6 to Governments in the <http://www.un.org/millennium/declaration.htm> <http://www.cyberclass.net/turmel> 519-753-0645 USENET: can.politics