CITATION: USA v. Ratte and Singh 2025 ONSC 6502
COURT FILE NO.: CR-24-90000104-00MO
DATE: 20251121

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: THE ATTORNEY GENERAL OF CANADA ON BEHALF OF THE UNITED STATES OF AMERICA, Applicant (Respondent)

– and –

HARDEEP RATTE and GURPREET SINGH, Respondents/Persons sought for extradition (Moving parties)

BEFORE: Justice E.M. Morgan

COUNSEL: *Kiran Gill and Adrienne Rice,* for the Crown
Ravin Pillay, for Hardeep Ratte
Brian Greenspan and Naomi Lutes, for Gurpreet Singh

HEARD: November 13-14, 2025

APPLICATION FOR DISCLOSURE

I. Overview

[1] The Attorney General of Canada ("AGC") on behalf of the United States of America seeks the committal into custody of Hardeep Ratte ("Ratte") and Gurpreet Singh ("Singh") pursuant to s. 29 of the *Extradition Act*, S.C. 1999, c. 18, on charges of conspiracy to transport cocaine from Los Angeles into Canada for a drug trafficking organization.

[2] Preliminary to the committal hearing, Ratte and Singh jointly apply for disclosure from the AGC of materials which they say are necessary to the Court's analysis of the issues this extradition request raises.

[3] The case is by any measure, and in any description, an unusual one. Among other things, an important witness has disappeared, the record of the case has gone through several iterations as the process has developed, and one of the present Applicants, Singh, was kidnapped in Mexico and reappeared in Toronto shortly before his arrest.

[4] While much of the investigation into Ratte and Singh's involvement in the alleged conspiracy was conducted by United States authorities, the AGC has indicated that there was a parallel investigation in Canada conducted by the RCMP. Counsel for Ratte and Singh have written to the AGC seeking information and production of records pertaining to the Canadian investigation. They have also requested information pertaining to certain aspects of the American investigation which they submit are unexplained or otherwise questionable in the Second Revised Record of the Case ("SRROC") – i.e. in the current version of the Record of the Case on which the AGC relies.

[5] Broadly speaking, the disclosure sought by Ratte and Singh falls into three categories:

> a) information underlying an authorization to intercept communications granted in Quebec Superior Court and the police notes and records of all communications intercepted pursuant to that authorization;
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> b) information about the disappearance in Columbia of a cooperating witness ("CW") who was referenced in the initial (and still undisclosed) Record of the Case certified January 10, 2025 ("ROC") and was indicated as a source of much of the evidence in the Revised Record of the Case certified February 27, 2025 ("RROC"), but who is no longer said to be a witness in the currently operative SRROC; and
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> c) information regarding what and when the Canadian and U.S. authorities knew about the kidnapping of Singh in Mexico two months prior to his arrest in Canada.

[6] The full list of items sought from the AGC in this application are detailed by counsel for both Ratte and Singh as follows:

> a) All material generated during the parallel investigation in Canada conducted by the RCMP C Division in Quebec.
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> b) The notes of Staff Sergeant MacQueen and all other Canadian officers utilized during the Canadian investigation including the notes generated on February 22nd 2024 during the undercover operation of CW;
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> c) The internal memo authored by RCMP C/Supt. Karine Gange referred to at paragraph 9 of the RROC;
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> d) The internal memo authored by RCMP Supt. David Astephen referred to at paragraph 9 of the RROC;

e) All audio and video recordings made during CW's visit to Canada including those made on February 22nd 2024 when he allegedly met with Singh and Ratte;

f) The authorization issued under section 184.2 of the *Criminal Code* by Justice Patricia Campgone referred to at paragraph 11 of the RROC;

g) The affidavit of RCMP Corporal Jonathan Hachey in support of the section 184.2 authorization referred to at paragraph 11 of the RROC and all source material relied on in the supporting affidavit of RCMP Corporal Jonathan Hachey;

h) All material generated during the February 22nd 2024 undercover operation conducted by the RCMP in Canada.

i) confirmation that as the evidence of the CW is no longer relied upon pursuant to the SRROC, that the CW was Jonathan Acevedo-Garcia who was killed in Colombia on January 31, 2025.

j) Any information gathered by Canadian law enforcement in relation to the kidnapping of Gurpreet Singh prior to his departure from Canada on July 28, 2024 and following his return to Canada on August 7, 2024 including all information exchanged in relation to the kidnapping between Canadian authorities and foreign authorities.

[7] The AGC has denied the disclosure requests and opposes the present Application by Ratte and Singh. Counsel for the AGC submit that the sought-for disclosure goes beyond the four corners of the SRROC, and that it more resembles the *Stinchcombe* disclosure provided in a Canadian criminal trial but not in extradition proceedings.

[8] It is the AGC's view that since the SRROC has been certified, the information contained therein is presumed to be reliable and accurate. Counsel for the AGC also submit that the information needed to identify the evidence that was gathered in Canada, and to assess whether that evidence was gathered in compliance with and is admissible under Canadian law, is already contained in the SRROC.

[9] It is the view of Ratte and Singh that the material whose production is sought is necessary so that the court can be satisfied that the SRROC establishes a *prima facie* case for committal. They submit that the SRROC contains insufficient information to assess whether evidence gathered in Canada is admissible under Canadian evidence law as required by s. 32(2) of the *Extradition Act*. They also submit that further disclosure is essential to understanding how the facts relayed in the SRROC, which are for all material purposes identical to those contained in the

RROC, can be relied upon without the source of most of those facts – i.e. the CW – providing evidence.

[10] Finally, it is Singh's view that disclosure is needed in order to understand the level of knowledge of both the Canadian police and the U.S. authorities about his kidnapping in Mexico. Counsel for Singh submits that if Canadian authorities, or the U.S. authorities with whom they were coordinating and working, knowingly endangered Singh, that conduct may constitute an abuse of process and provide grounds for a stay of proceedings.

II. Factual background

[11] The SRROC is rather detailed in its recitation of the facts leading to the U.S. charges against Ratte and Singh. That said, counsel for Ratte and Singh identify certain gaps in the factual background which they contend must be filled in for the court. What follows is a review not of every aspect of the case, but rather of those aspects of the SRROC narrative that are at issue in the present application for disclosure.

a) The Canadian investigation

[12] In July 2023, following a request from U.S. law enforcement authorities for assistance in their investigation of a drug trafficking organization operating in Columbia and Mexico and alleged to be headed by Canadian Ryan Wedding, RCMP Staff Sgt. Stephen MacQueen was assigned to work in coordination with the FBI. As set out in the SRROC, on October 3, 2023, Sgt. MacQueen had the RCMP in Montreal initiate a parallel Canadian investigation.

[13] During the course of the Canadian investigation, Sgt. MacQueen worked with the same CW who worked with the FBI in furtherance of its drug trafficking investigation. More specifically, the SRROC relates that Sgt. MacQueen provided direction to the CW in his communications with various persons in Canada, including Ratte and Singh.

[14] The SRROC describes in some detail meetings between the CW and Ratte and Singh in the vicinity of Pearson airport and at an auto body shop in Brampton, Ontario, for which Sgt. MacQueen provided surveillance. It also sets out that the CW video and audio recorded these meetings pursuant to an authorization obtained under s. 184.2 of the *Criminal Code*, and that these recordings were then shared with the FBI.

[15] The SRROC goes on to say that Sgt. MacQueen reviewed the video footage produced by the CW of the meeting at the Brampton body shop. It indicates that Sgt. MacQueen will testify that in the recording, Singh refers to Ratte as his uncle and Ratte refers to Singh as his nephew. In addition, the SRROC states that Sgt. MacQueen will give evidence regarding discussions between

the CW and Ratte and Singh about transporting cocaine for Wedding's organization and how to use encrypted messaging to coordinate these activities.

[16] The SRROC does not contain any actual description of the recording made by the CW, and the recording itself does not form part of the record relied upon by the AGC. The SRROC contains only a summary of Sgt. MacQueen's second-hand view of what transpired at the CW's meetings with Ratte and Singh.

[17] Counsel for Ratte and Singh point out that the SRROC is somewhat sparse in the information it provides regarding the s. 184.2 authorization process. While it does indicate the name of the Quebec judge that issued the authorization and the name of the RCMP officer that swore the Information to obtain the authorization ("ITO"), it provides little else in the way of real information. It does not even indicate the length of the ITO, and so it is unclear how much detail was disclosed to the Quebec court in applying for the authorization.

[18] What the SRROC does indicate is that the authorization was sealed and that it was in effect for 60 days, both of which are standard procedural details which reveal nothing about the grounds for its issuance or the content of the ITO. It also states that the authorization issued by the Quebec court was consented to by the CW, but, as Ratte and Singh's counsel point out, does not relay the circumstances of that consent or the background of how the CW came to be involved with the investigation.

b) The Cooperating Witness

[19] As indicated above, both the FBI and the RCMP were facilitated in their investigations by the assistance of a CW who the SRROC alleges was a member of Wedding's drug trafficking organization. The SRROC relates that the CW agreed to provide information to the authorities conducting these investigations in the hope of receiving consideration with respect to any charges brough in relation to his own role in the drug organization.

[20] The SRROC reveals that throughout the investigation the FBI monitored and reviewed the contents of the CW's phone. It also says that the CW acted at the direction of the FBI and, as described above, the RCMP, in terms of communicating with and engaging other alleged members of the drug organization. It is apparent from the SRROC that the CW worked especially closely with the FBI, and that Special Agent Hanna Monroe, whose evidence is summarized in the SRROC, reviewed all of the CW's communications with Wedding, his second-in-command Andrew Clark, Ratte, and Singh that were made using an encrypted phone application.

[21] It is the CW who identified Ratte and Singh to the FBI, and by extension to the RCMP, as a member of the drug organization under investigation or as persons acting at the behest of the

organization. It is explained in the SRROC that the CW coordinated with Ratte and Singh to arrange for at least two truckloads amounting to more than 650 kg of cocaine to be transported from Los Angeles to Canada.

[22] It is to be noted that the CW is not a confidential informant as that term is used in Canadian criminal law, and the CW's identity and information is not subject to the special protections attributed to a CI: *R. v. Durham Regional Crime Stoppers Inc.*, [2017] 2 SCR 157, at para 11; *R. v. Garofoli*, [1990] 2 SCR 1421. Accordingly, the RROC stated that the CW would be identified and produced as a witness at trial. In fact, his appearance as a witness was considered imperative. As the RROC put it: "Before trial, the defendants will be provided with the name of the witness as well as reports of relevant prior statements made by the witness to law enforcement. At trial, the witness must testify in person and will be subject to cross-examination."

[23] Nevertheless, shortly after the issuance of the RROC the Second Revised ROC was provided to Ratte and Singh. Despite the continued reliance on the evidence gathered by the CW, the SRROC indicates that the CW will not be testifying at trial and that the evidence instead will come from other witness to whom the CW relayed the evidence to which he would have otherwise directly testified. The AGC has not been prepared to state the reason for the CW not testifying, and counsel for the AGC refrained from answering the question when specifically questioned about it at the hearing. The SRROC says, simply, that the CW will not be testifying at trial.

[24] As counsel for Singh points out, the media has covered the issues relating to the CW in recent months. Singh's application record contains a copy of an article in the Toronto Star dated September 25, 2025 reporting that the CW is a dual Columbian-Canadian citizen who was recently killed in a shooting in Medellin, Columbia. However, there is nothing in the SRROC to verify the media account, and, as indicated, the AGC is not prepared to say more than that the CW will not be testifying in support of the prosecution of Ratte and Singh.

[25] The SRROC details the evidence that will be used to identify Ratte and Singh at trial. That evidence is based on encrypted communications between the two of them and the CW along with audio and video evidence taken by the CW of their meeting in Brampton described in paragraph 15 above.

c) The kidnapping

[26] It is undisputed that in August 2024, Singh was kidnapped in Culiacan, Mexico. He had allegedly travelled to meet with a drug cartel leader in regard to a debt he owed the cartel. The reasons for decision in respect of Singh's bail application describe the facts surrounding the kidnapping, as follows:

> The American authorities have reported that their review of encrypted communications revealed discussions during the summer of 2024 about Mr. Singh and another person travelling to Culiacan, Mexico to meet with a cartel leader to discuss a debt of approximately $600,000 that Mr. Singh owed to the cartel. CBSA records show that Mr. Singh flew to Cancun on July 29, 2024. On August 2, 2024, Mr. Singh reported to others over encrypted communications that he had been kidnapped and tied up and given until the end of the day to pay the debt. Someone that American authorities describe as Mr. Singh's wife is reported to have sent encrypted messages saying that she was working to secure funds and is said to have raised $400,000. Mr. Wedding is reported to have said that he had intervened to negotiate for Mr. Singh's release. By August 7, Mr. Singh reported that he had been freed.
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> *United States of America. v. Singh*, 2025 ONSC 1905, at para. 9.

[27] A letter from the U.S. Department of Justice dated February 21, 2025 filed by the AGC in respect of Singh's bail hearing relates a similar factual narrative:

> The investigation has further revealed that in August 2024 Singh was kidnapped by cartel members and held for ransom after failing to pay a drug debt in excess of $600,000 CAD. Singh's wife rapidly collected approximately $400,000 CAD toward the ransom payment and obtained the assistance of Singh's co-defendant Ryan Wedding. Singh was released after Wedding intervened with the cartel on Singh's behalf. This incident took place less than three months before Singh's arrest in this case. It demonstrates that Singh is deeply enmeshed in the criminal underworld such that he was targeted by a cartel and held for ransom and secured release through his alliance with Wedding. Wedding's intervention on Singh's behalf suggests that Singh, and his wife, owe a debt to Wedding.

[28] The AGC's view, reflecting the message of the bail letter, is that this evidence demonstrates Singh's deep involvement in the illegal trafficking of drugs. At the same time, it also indicates the FBI's and possibly the RCMP's close knowledge of the kidnapping events.

[29] The monitoring of the encrypted communications between the CW and Singh took place only three months after the Quebec court's s. 184.2 authorization and two months before the arrest of Ratte and Singh in Canada. In other words, law enforcement authorities on both sides of the border were working together and closely monitoring Singh's movements and communications at the very time that he flew to Mexico and disappeared.

[30] Counsel for Singh submits that, "logic dictates that the FBI, RCMP, and/or CW knew about the kidnapping and took no steps to protect, shield, insulate, warn, or rescue in relation to the serious crimes to which he was exposed and that he experienced." Although the state of the record does not permit any firm conclusion at this stage, the proximity in time of the kidnapping to other known facts established in the SRROC is noteworthy. Moreover, the description of the events surrounding the kidnapping by the bail court and in the U.S. bail letter suggests contemporaneous monitoring of communications and knowledge by the authorities of the events in real time.

III. Disclosure in an extradition proceeding

[31] Counsel for the AGC states, accurately, that full disclosure based on the Crown's obligations under *R. v. Stinchcombe*, [1991] 3 SCR 32 applies to a Canadian criminal trial, but does not apply to extradition proceedings: *United States of America v. Dynar*, [1997] 2 SCR 462, at paras. 130-131. Extradition is governed by treaty and by the *Extradition Act*, and a committal hearing does not demand the same disclosure as a trial as it does not entail a determination of guilt or innocence: *United States of America v. Trotter*, 2013 BCSC 813, at para 16; *United States of America v. Kwok*, [2001] 1 SCR 532, at para 99.

[32] The evidence contained in a certified Record of the Case is presumed accurate and reliable: *United States of America v. Ferras*, [2006] 2 SCR 77, at para. 52. While evidence gathered in Canada must, pursuant to s. 32(2) of the *Extradition Act*, satisfy Canadian rules of evidence in order to be admissible, evidence gathered abroad is not subject to the strictures of Canadian law. Under s. 33(3)(a)(i) and (ii), foreign gathered evidence must have been acquired according to the law of the foreign country seeking extradition and be sufficient under that country's law to justify prosecution.

[33] Since the trial on the merits of the charge will ultimately take place in the requesting state's courts, Canadian evidence law is generally of limited relevance: *United States of America v. Thomlison* (2007), 84 OR (3d) 16, at para. 8 (OCA). Justice McLachlin said in *R. v. Terry*, [1996] 2 SCR 207, at 261, "[t]he practice of cooperation between police of different countries does not make the law of one country applicable in the other country."

[34] Accordingly, no broad, sweeping disclosure of investigative records untargeted to any specific allegation can be ordered in the context of a committal hearing. By way of illustration, the disclosure requested in paragraphs 6(a) and (h) above – "all material generated…" in the investigation (or a given stage of the investigation) – is *Stinchcombe*-like in its generalized language, and not appropriate to the extradition context. For production to be compelled in the extradition process, a realistic and more specific allegation must be made to support it.

[35] That said, it is equally clear that not only do the *Charter* and Canadian rules of evidence gathering apply to Canadian state actors in the investigation, but the obligations of fundamental justice apply to the committal hearing: *Dynar*, at paras. 123-24. There must, of course, be an "air of reality" to allegations of a Charter breach – i.e. "some realistic possibility that the allegations can be substantiated if the orders requested are made": *R. v. Larosa*, 2002 CanLII 45027, at para. 78 (OCA). But once that is established, an extradition judge has "discretion to expand the scope of that hearing to allow the parties to establish the factual basis for a subsequent *Charter* challenge, when it is expedient to do so…": *Kwok*, at para. 100.

[36] Furthermore, disclosure, and especially disclosure of Canadian gathered evidence, is not limited to instances where a *Charter* breach is alleged. The Supreme Court made it clear in *Ferras*, at para. 54, that at least a limited weighing of the evidence may be engaged in at a committal hearing.

[37] For one thing, disclosure may be warranted where there are realistic allegations of abusive conduct by law enforcement. Evidence gathered in an abusive manner such that its admission would be *per se* unfair under section 7 of the *Charter* may lead to an exclusion of the evidence or a stay of proceedings: *R. v. Harrer*, [1995] 3 SCR 562, at 571-72.

[38] In addition, the quality of the evidence contained in the Record of the Case may be such that it gives rise to the need for further disclosure and scrutiny. Moldaver JA (as he then was) explained in *Thomlinson*, *supra*, at para. 8, that the question is whether the evidence that is available for trial and presented by the requesting state "is not manifestly unreliable, on every essential element of the parallel Canadian crime, upon which a jury properly instructed, could convict": *Thomlison*, at para. 8.

[39] While an extradition court's starting point is that the evidence as certified in the ROC is presumptively reliable, "[t]his presumption may…be rebutted by evidence showing fundamental inadequacies or frailties in the material relied on by the requesting state…": *M.M. v. United States of America*, [2015] 3 SCR 973, at para. 72. Thus, the prospect that the record contains "evidence [that has] the potential to be manifestly unreliable and therefore insufficient to justify committal" may give rise to further disclosure and analysis: *United States of America v. Rosenau*, 2010 BCCA 461, at para. 23.

a) Evidence gathered in Canada

[40] Section 32(1) of the *Extradition Act* provides: "Evidence gathered in Canada must satisfy the rules of evidence under Canadian law in order to be admitted." The Supreme Court of Canada has stated that it is the court's role in a committal hearing to "ensure that the person sought may

challenge the admissibility of evidence under the *Charter,* or its content according to Canadian evidentiary rules: *United States v. Anekwu,* [2009] SCR 3, at para. 30.

[41] With this necessity in mind, the record of the case – in this instance, the SRROC – must contain sufficient information to enable a determination of how the Canadian evidence was obtained, whether it was obtained in a *Charter*-compliant manner, and whether it would be admissible in a Canadian proceeding. Where there is an air of reality to a claim that the *Charter* may have been violated in the evidence-gathering process, an extradition judge may order production of materials relevant to that issue at the committal stage: *Ibid*., at para. 29.

[42] Counsel for Ratte points out that an even lower threshold applies where the requesting state has failed in its duty to inform and there is insufficient evidence in the record of the case. In *United States of America v. Fraser*, 2017 BCCA 136, at paras. 57-59, the British Columbia Court of Appeal explained that the ability to test the evidence is a prerequisite for forming a realistic argument about its compliance with Canadian law:

> [57] The appellants interpret para. 29 of *Anekwu* as supplying an answer to the contention that unless the requesting state has the onus of proof that the evidence is admissible in Canada, there would be no 'meaningful ability to inquire into the manner in which the evidence is gathered in Canada'. That answer lies in stipulating what the record of the case should contain: 'information . . . on how it [the Canadian-gathered evidence] was obtained'; and the judge may order production of materials on a *Charter* claim with an air of reality.
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> [58] I agree with this reading. A seemingly unfair disadvantage to the person sought is balanced by a duty on the requesting state to inform and the power of the judge to order disclosure, all to the end of achieving a 'meaningful ability to inquire". The ROC must include 'sufficient information' regarding 'how it [the Canadian-gathered evidence] was obtained'. This must be read as requiring the requesting state to provide sufficient information to allow the judge to determine whether the evidence is admissible according to Canadian rules of evidence. *Anekwu* indicates that this means the evidence must comply in substance with Canadian law.
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> [59] Then there is the issue which lies at the heart of this appeal: what is the threshold that triggers a more thorough inquiry into how the Canadian evidence was obtained? *Anekwu* provides a clue in the passage quoted from para. 31 above, 'if it is unclear whether the evidence substantively conforms with the rules of evidence', suggesting that the threshold is lower than an air of reality and is no higher than raising a question. Where the person sought shows a reasonable question or possibility that the Canadian-gathered evidence does not conform in

> substance with the rules of evidence, further information is required to determine admissibility under s. 32(2). However, *Anekwu* tells us the inquiry is flexible and the judge has discretion to determine how best to balance the rights of the person sought against the need to ensure expeditious proceedings in each case. No particular form of evidence is required, but if it is unclear whether the evidence is admissible, further information must be provided**.**

[43] Although court processes such as the s. 184.2 authorization issued by the court in Quebec are presumed valid, the record contains no information about its underlying support. Moreover, the SRROC indicates that the authorization and involvement of the CW in the surveillance and interception of communications was consensual on the part of the CW; but in the absence of evidence from the CW and the indeterminate question of his whereabouts, the nature of that consent – its circumstances and voluntariness – is not possible to assess without further information.

[44] Since the authorization was based on the consent of the CW, and the status of that witness has changed – i.e. he is no longer cooperating because he has become unavailable – the basis for his consent to the authorization has become subject to question. As the Supreme Court explained in *Anekwu*, at para. 21:

> [21] The … evidentiary regime requires a two-step approach with respect to Canadian-gathered evidence. The evidence may first be presented to the extradition judge as part of the record of the case, in the form required under s. 33. As such, it is presumptively admissible in summary form under s. 32(1). Section 32(2) then requires the court to scrutinize Canadian gathered evidence for compliance with Canadian law. It is therefore insufficient for the requesting state to certify that the Canadian-gathered evidence is available for the prosecution and would be admissible in its own jurisdiction. If gathered in Canada, the evidence must also 'satisfy the rules of evidence under Canadian law in order to be admitted'. Canadian rules respecting the admissibility of evidence necessarily include the Charter, as the *Charter* is the supreme law of the land. Consequently, s. 32(2) must also be read as contemplating the potential exclusion of otherwise admissible evidence under s. 24(2) of the *Charter* when it has been obtained in a manner that contravenes the *Charter*. In short, the Act requires that our extradition partners comply with Canadian law when gathering evidence in Canada.

[45] Compliance with Canadian law is mandatory for the evidence gathered in Canada. Accordingly, the SRROC "should contain sufficient information to enable the person sought and the extradition judge to ascertain whether any item of evidence has been gathered in Canada and, when that is the case, some information should also be provided on how it was obtained… In

addition, the extradition judge may order the production of materials relevant to any issue properly raised at the committal stage of the process where there is an air of reality to the *Charter* claim": *Anekwu*, at para. 29, citing *Kwok*, at para. 100.

[46] This would certainly include the ITO to facilitate an analysis of the admissibility of the February 2025 intercepted meeting between the CW and Ratte and Singh which is alleged to have taken place in Brampton, Ontario. It would by necessity also include the audio and video recordings of the Brampton meeting and any other recorded meeting or conversation that the CW had in Canada with respect to this matter.

[47] It was the CW who identified the participants in that meeting, and without the CW's evidence some alternative identification evidence must be produced and analyzed for *Charter* compliance: see *United States of America v. Balogun, O'Connor, Olaniyan,* 2024 ONSC 5997, at para. 99. With the removal of the CW from the witness list in the SRROC, there is an air of reality about the allegations of inadmissibility and *Charter* non-compliance with respect to the identification evidence and other evidence of Ratte and Singh's involvement in the alleged drug trafficking operation.

[48] It is not enough to say that the Quebec court authorization is presumptively valid. Rather, where, as here, "the person sought shows a reasonable question or possibility that the Canadian gathered evidence does not conform in substance with the rules of evidence, further information is required to determine admissibility under s. 32(2)": *Fraser*, at para. 59. As in *Fraser*, the absence of the CW as the crucial party consenting to the s. 184.2 application "[gives] rise to a realistic possibility that the RCMP did not provide the issuing judge with a reasonable basis for finding the statutory preconditions were met": *Ibid*., at para. 60.

[49] It is well established that the interception of private communications constitutes a serious threat to citizens' privacy interests. Counsel submit that commensurate with the degree of intrusion into privacy interests that results from wiretapping is the responsibility of the courts to ensure accountability over electronic surveillance. As Justice LeBel put it in *R. v. Araujo*, [2000] 2 SCR 992, at para. 21, "The very efficacy of electronic surveillance is such that it has the potential, if left unregulated, to annihilate any expectation that our communications will remain private."

[50] In the present case, where the consensual basis of the authorization for the interceptions has disappeared, there is at the very least an air of reality about the submission that the authorization was not properly supported. There is also an air of reality about the view put forward by Ratte and Singh that with the disappearance of the CW from the SRROC, there is a need for increased scrutiny of information that remains in the SRROC for which the RROC had identified CW as the source. That scrutiny, in turn, requires further disclosure.

b) The identity and whereabouts of the CW

[51] Counsel for Singh and Ratte both seek the identity of the CW and information on whether he is in fact dead or alive. They submit that this disclosure relates to:

> i) His consent which is a precondition to the authorization as noted above
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> ii) The identification of Applicant at the various meetings
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> iii) The information he purportedly conveyed via reports to the officers and by extension the reliability of the record
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> iv) The information about the authorities reviewing the communications between CW and Singh using the Threema [encrypted communications] account are hearsay. The ROC does not summarize these messages let alone append them.

[52] As set out in the RROC, the testimony of the CW was to form the crux of the evidence establishing the roles of Ratte and Singh in the alleged drug trafficking conspiracy. Without the CW's testimony, the SRROC contains little in the way of direct evidence of their respective roles. In some instances of the SRROC's narrative it is even unclear whether there is any direct evidence identifying them.

[53] It stands to reason that whether the CW is deceased, or is alive but for other reasons no longer being called as a witness, is closely related to the manifest unreliability of the record as it now stands. His disappearance from the record in which he was previously the central figure and almost the sole source of the evidence raises an air of reality about the reliability of much of the evidence now described in the SRROC.

[54] I will pause to say that a footnote in the RROC indicated that for safety reasons it is the policy of the U.S. authorities not to reveal the names of witnesses like the CW until trial. Counsel for Singh has submitted that if the CW is deceased there is no further safety concern. In response, counsel for the AGC has submitted that, in theory, there could still be a concern for a witness' family members even after the witness has died.

[55] If the AGC's concern turns out to be not just a theoretical one but a realistic one, information about what has become of the CW can be disclosed with his actual name or personally identifying details being revealed. The relevant question here is not who the CW is for sake of curiosity, but rather whether he can or cannot ever be produced as a witness.

c) Potential abuse of process

[56] As set out at paragraphs 26-27 above, a bail letter from the U.S. Department of Justice dated February 21, 2025 describes the kidnapping of Singh in August 2024. The letter introduces the topic by first describing its investigation, stating that "both in-person recorded communications and messages sent using the encrypted application Threema -- revealed that Singh himself is connected to persons identified by law enforcement authorities as enforcers or hitmen for criminal enterprises." It then goes on to say that the kidnapping of Singh after he arrived in Mexico was learned about during the course of the same investigation.

[57] Although it does not say it in so many words, the most logical implication of the letter is that the U.S. authorities were monitoring communications in which Singh's kidnapping was discussed, and that they were doing so in real time. Although it is conceivable that the communications were recorded in real time but only reviewed by investigators later, that would seem to defeat much of the purpose of the police efforts; in fact, the letter does not say that is what happened. Rather, it leaves the impression that the authorities were aware at the time that Singh was held for payment of a large drug debt, and that they were aware that his wife was then working rapidly to raise funds for the ransom payment.

[58] Counsel for Singh contends that what this description of monitoring and interceptions also suggests – although, again, it does not explicitly say – is that the U.S. authorities were cognizant of Singh's arrangements to travel to Mexico and, possibly, knew of the jeopardy in which he would thereby place himself. Singh's lawyers also submit that there is an inference to be taken from this that the CW, who was at the centre of the investigation, would have been aware of the kidnapping and that the authorities, who were monitoring the CW's phone as well as Singh's, were thus equally aware of what was going on.

[59] Viewed objectively, facts related in the RROC and SRROC with respect to intercepted communications, and the timing of the kidnapping, tend to support the argument that the U.S. and, possibly, Canadian authorities, were aware of Singh's plans to travel to Mexico and the reason for his meeting there. In fact, the timing of this part of the investigation comes midway between the meeting between the CW and Singh in Brampton in February 2024 and Singh's arrest in Toronto in October 2024. During those occasions, the Canadian police were conducting their parallel investigation.

[60] Counsel for Singh contends that if the police in either country were aware of the danger awaiting him in Mexico, their inaction may shock the conscience and amount to an abuse of process. Frankly, that remains to be seen. The allegation by Singh's counsel is not that the authorities put Singh in danger, but that they appear to have remained passive in the face of dangerous situation in which he put himself.

[61] At this point I make no judgment in respect of the police conduct or that allegation more generally. It will require some further evidence and consideration as to whether there is, or could be, a duty on authorities to warn a suspect about a situation of his own making that they happen to learn through a court authorized wiretap or other interception. That said, the timing is such that there is at least an air of reality to the allegation and a threshold argument about improper conduct: *Perks v. Ontario (Attorney General)*, [1998] O.J. No. 421 (SCJ), appeal dismissed 1998 CanLII 17722 (OCA).

[62] As indicated at paragraph 6 of these reasons, Singh seeks production of: "Any information gathered by Canadian law enforcement in relation to the kidnapping of Gurpreet Singh prior to his departure from Canada on July 28, 2024 and following his return to Canada on August 7, 2024 including all information exchanged in relation to the kidnapping between Canadian authorities and foreign authorities." In the unusual circumstances of this case, including the CW's disappearance, Singh's kidnapping, and the coincident interception of his communications, this request is logical and necessary to the analysis of the investigative and legal process.

[63] There is nothing definitive about Singh's theory of what transpired with the police and his kidnapping. But some further disclosure is called for. The prospect that an abuse of process has occurred is realistic enough to support the need for further investigation. As Justice LaForme said in *United States of America v. Vreeland*, 2002 CanLII 49652, at para. 31(iii) (SCJ), the "[m]aterial would be relevant for disclosure…[and that] there is a *reasonable possibility* that it may be *useful* to the fugitive in proving his or her allegations of *Charter* breach or abuse of process." [emphasis in the original]

IV. Disposition

[64] The AGC shall produce the material described in paragraphs 6(b) through (g) and 6(i) through (j) above, the application for which is granted. If the AGC considers it necessary, the information with respect to the CW as described in paragraph 6(i) may be provided in part in view of the consideration in paragraph 55 above.

[65] The AGC does not need to produce the material described in paragraphs 6(a) and (h) above, the application for which is dismissed.

Morgan J.

Date: November 21, 2025