

SUPREME COURT OF YUKON

Citation: *Ledgerwood v HMTK*
2026 YKSC 79

Date: 20260911
S.C. No. 26-A0072
Registry: Whitehorse

BETWEEN:

CHRISTOPHER JAMES LEDGERWOOD

PETITIONER

AND

HIS MAJESTY THE KING

RESPONDENT

Before Justice K. Wenckebach

Appearing on his own behalf

Christopher James Ledgerwood

Counsel for the Crown

Asher Loenen

REASONS FOR DECISION

Introduction

[1] Mr. Ledgerwood has brought a Petition, seeking that the Crown prosecutor be ordered to provide him with disclosure from his criminal proceedings. The Crown opposes Mr. Ledgerwood's petition.

[2] Mr. Ledgerwood was charged with two counts of assault and a firearms offence on December 8, 2021. During the proceedings, Mr. Ledgerwood had three lawyers. His first lawyer received initial disclosure, which Mr. Ledgerwood has reviewed. The Crown subsequently provided his first lawyer with additional disclosure. She discussed the

disclosure with Mr. Ledgerwood, but he states he did not review it. According to Mr. Ledgerwood, his final lawyer told him he had the first batch of disclosure, but not the second batch. Thus, Mr. Ledgerwood says that neither he nor his final lawyer reviewed the additional disclosure. Ultimately, on April 13, 2023, Mr. Ledgerwood agreed to enter into a peace bond for two years and the charges against him were withdrawn. He did not appeal. The peace bond ended on April 13, 2025. After the peace bond ended, Mr. Ledgerwood asked the Crown for a copy of the disclosure, but the Crown refused.

[3] In the Petition, Mr. Ledgerwood states that the Crown violated his right to make full answer and defence because it did not provide full disclosure to him. During the hearing, Mr. Ledgerwood also stated that he seeks the disclosure because he wants to bring a civil claim, possibly for malicious prosecution and/or a civil conspiracy claim. He did not clarify who he would sue, but his submissions suggest he may seek to sue the RCMP and the Crown.

Conclusion

[4] Mr. Ledgerwood feels that the criminal justice system treated him very unjustly. It seems that, for him, getting the disclosure is a step towards addressing this injustice. I cannot weigh in on the appropriateness of the RCMP's and Crown's actions, however. The question before me is much narrower. Mr. Ledgerwood has no criminal or civil matters currently before the court. The issue, therefore, is whether, in the absence of a proceeding, I can or should order that the Crown provide Mr. Ledgerwood the disclosure from his criminal matters. For the reasons provided below, I conclude that the answer is no.

Issues

[5] The question of whether I should order the Crown to provide Mr. Ledgerwood disclosure can be broken down further:

- A. Does Mr. Ledgerwood have a right to disclosure after the conclusion of his criminal matters?
- B. Should Mr. Ledgerwood be given the disclosure to prepare a civil claim?

Analysis

- A. Does Mr. Ledgerwood have a right to disclosure after the conclusion of his criminal matters?

[6] As I understand Mr. Ledgerwood, he argues that the Crown violated his right to disclosure because he was not permitted to review all of the Crown's disclosure. He submits that he has a Constitutional right to the disclosure and relies on *R v Stinchcombe*, [1991] 3 SCR 326 ("*Stinchcombe*") in support of his submission. I conclude, however, that Mr. Ledgerwood does not have the right to the disclosure.

[7] In accordance with *Stinchcombe*, criminal defendants have the right to full disclosure from the Crown while their criminal matters are ongoing. They are entitled to disclosure because they are constitutionally guaranteed the right to make a full answer and defence; without full disclosure, that right is undermined (at 336). *Stinchcombe* does not, however, state that criminal defendants have rights to disclosure for any other purpose. Once the criminal charges have concluded, a defendant no longer needs to make a full answer and defence; therefore, they no longer have a right to disclosure (*LeBlanc v Haché et al*, 2014 NBQB 99 ("*LeBlanc*") at para. 34).

[8] These principles are reflected in the implied undertaking rule in criminal matters. The implied undertaking rule states that defendants may use disclosure only to make full answer and defence in a criminal prosecution. They may not use it for any other purpose, even if they have not expressly agreed to use disclosure only for their defence (*R v Basi*, 2011 BCSC 314 (“*Basi*”) at para. 42; *LeBlanc* at para. 46). They may, furthermore, be ordered to return the disclosure to the Crown at the conclusion of the proceedings (*Basi* at para. 73). This tight restriction on defendants’ use of disclosure reflects the principle that defendants do not have a general right to disclosure.

[9] In this case, Mr. Ledgerwood’s criminal matters finished long ago. He does not need the disclosure to defend himself against criminal charges, nor does he want to appeal the results of the criminal matter. There is no basis for me to order the Crown to provide him with the disclosure.

B. Should Mr. Ledgerwood be given the disclosure to prepare a civil claim?

[10] I raised this issue during the hearing after learning that Mr. Ledgerwood seeks the disclosure to commence an action. In the end, however, I cannot decide whether Mr. Ledgerwood should receive the disclosure because I do not have sufficient facts or argument. I can, however, provide guidance to Mr. Ledgerwood on how to approach an application for disclosure when there is no existing civil action. I will set out some of the legal principles that apply when a party seeks disclosure before commencing a civil action. I will then comment on complicating factors that may arise when criminal disclosure is used in a civil matter. I will also identify who Mr. Ledgerwood should provide notice to if he brings a new application for disclosure before starting an action. This guidance will provide general information about the principles that may apply to

Mr. Ledgerwood's situation. Ultimately, not all of them may apply, and the particular facts of Mr. Ledgerwood's case may affect how they apply. Other legal issues that I have not addressed may also be important. Mr. Ledgerwood should conduct his own research to understand, as best he can, how the law applies to his facts.

[11] Generally, in civil law, a party is entitled to disclosure of documents only after an action has been started. There are situations, however, in which a party can get an order compelling someone to provide documents to them before they have filed their statement of claim. These orders are called "*Norwich* orders".

[12] The situations in which *Norwich* orders are granted are limited. Some of the situations in which a *Norwich* order may be sought include: where additional information is needed to identify wrongdoers; to locate and preserve evidence that could support an action, or to determine if there is a basis for an action; and to trace and preserve assets (*Alberta Treasury Branches v Elmer Leahy et al* ("*Alberta Treasury Branches*"), 2000 ABQB 575 at para. 106).

[13] The factors used to determine if an order should be granted include:

- Whether the applicant has provided sufficient evidence that they have a reasonable claim;
- Whether they have shown that the party from whom they are seeking information is somehow involved in the acts giving rise to the claim;
- Whether the party is the only practicable source of information available;
- Whether the party can be indemnified for costs, either arising from complying with the order or for damages; and

- Whether the interests of justice favour obtaining the disclosure.

(*Alberta Treasury Branches* at para. 106)

Mr. Ledgerwood should keep these principles in mind should he seek a *Norwich* order.

[14] This does not mean that Mr. Ledgerwood must bring an application for a *Norwich* order. During the hearing, it appeared that he has a great deal of information already. He may have enough information to start an action. Before bringing a new application, he may wish to research what information is required to commence a statement of claim.

[15] The circumstances here may also be more complex than other situations in which a party seeks a *Norwich* order. During the hearing, Crown counsel submitted that the principles of *DP v Wagg* (2004), 71 OR (3d) 229 (Ont CA) (“*Wagg*”) apply to Mr. Ledgerwood’s request for disclosure. In *Wagg*, the Court noted that policy and public interest issues arise when parties in civil actions seek production of disclosure from criminal proceedings. Some people choose to be involved in criminal investigations, but others are compelled to participate. Individuals may provide highly personal information to police, which is then included in the disclosure package given to the defendant. Individuals accept this level of intrusion on their privacy for the purposes of a criminal proceeding; they do not waive their right to privacy for all purposes (at para. 44).

[16] Because of these concerns, a party seeking Crown disclosure during a civil proceeding must obtain consent from the Attorney General and the relevant police service to receive the disclosure. If the Attorney General or police do not consent, an application is necessary. The court will then consider whether “there is a prevailing social value and public interest in non-disclosure in the particular case that overrides the

public interest in promoting the administration of justice through full access of litigants to relevant information” (at para. 17).

[17] There are a number of differences between the facts in *Wagg* and the facts here. Further submissions may be required about whether *Wagg* applies in these circumstances. However, if Mr. Ledgerwood brings a new application, the court will have to contend with the principles from *Wagg* and, particularly, how the public interest affects Mr. Ledgerwood’s legal interest in receiving the disclosure.

[18] Additionally, Mr. Ledgerwood should consider whether he is subject to an undertaking to use the disclosure only to defend himself against the criminal charges. If he is on an undertaking, then he is not, at this point, permitted to use the disclosure in an action against the RCMP and/or the Crown. He may, therefore, want to address this if he brings a new application.

[19] Finally, should Mr. Ledgerwood bring a renewed application for the disclosure, he should give notice not only to the Crown but also to the RCMP. The Crown and the RCMP are two separate entities, both with a legal interest in whether disclosure should be provided to Mr. Ledgerwood.

Short Conclusion

[20] I deny Mr. Ledgerwood’s application.

WENCKEBACH J.