Court of Queen's Bench of Alberta

Citation: R v Gauthier, 2021 ABQB 846

Date: 20211026
Docket: 191402049Q1
Registry: Edmonton

Between:

Her Majesty the Queen

Crown

- and -

James Darrel Gauthier

Accused

Endorsement
of the
Honourable Mr. Justice M. J. Lema

A. Introduction

[1] Mr. Gauthier seeks Charter relief, namely, a stay of the criminal proceedings against him, the exclusion of certain GPS data of his whereabouts, or an order limiting the use of that information, because of a perceived-to-be unreasonable search or seizure (or both) of that data, generated by an electronic-monitoring device he was wearing per bail conditions.

[2] The Crown defends its initial acquisition and proposed use of the data at the in-progress trial on various charges stemming from the events of the night in question in November 2019.

[3] I find no Charter breach here.

B. Background

Initial bail denial

[4] The accused was denied bail in Provincial Court (Creagh PCJ) in April 2019. Per the accused's review application (see below), the denial grounds were "the secondary … and tertiary."

Bail review (s. 520)

[5] In late July 2019, the accused applied under s. 520 *Criminal Code* for a review of that bail denial. He presented a new release plan, centered (in part) on proposed electronic monitoring.

[6] His application stated (in part), under "Grounds for bringing [review] application":

> Mr. Gauthier is a part of the GPS ankle bracelet monitoring program, which will be monitored 24 hours of the day by Resolve Electronic Monitoring.
>
> Mr. Vince Morelli of [REM] will [attend] the bail hearing to attest to the [monitoring] program.
>
> Mr. Gauthier is willing to pay a cash deposit; however, it is our position that the GPS monitoring system is sufficient [as he] has paid a lot of money to be a part of the program.

[7] Attached to the application was a draft (or partial draft) of an electronic-monitoring agreement between Mr. Gauthier and REM.

[8] The review application started on July 29, 20219, before Graesser J. Although Mr. Gauthier was at the Edmonton Courthouse that day, for some reason he was not present in court for the application, though his counsel (same as his current counsel) was.

[9] Per a transcript of the first day's proceedings, Graesser J. asked whether the application should be put over for a day, to allow the accused to attend personally.

[10] His counsel asked (p 6, lines 10-15) that the matter start without the accused present, so that REM's representative (Vince Morelli), who was in Court, could describe the proposed monitoring program and answer any Court or Crown questions. All agreed to so proceed.

[11] The accused's counsel asked Mr. Morelli whether the accused had enrolled in REM's monitoring program. He responded:

> That's correct. So we have – we have the paperwork and everything for him to – to sign off if he's granted release[,] which is a contract between us and – and him, a document that gives him the – the protocols and the rules land how to keep it clean and everything, plus another document that he has to sign that **he has no ownership of the data** and that **we can use that data against him in a court of law**. We can also provide it to the **police, to anyone that needs it**, you know, as per the court, so.
>
> [Later, in a dialogue with the Court] So [the electronic-monitoring system]'s quite – it's quite a product. … it's a **tool of compliance and accountability**. So if – if Mr. Gauthier is – is released, you know, with the – with the device on him, you know, **we'd be monitoring him 24/7**. …

[12] Later, in the same dialogue:

> Q [from the Court]: … what about **sharing the [monitoring] data with a probation officer**, for example?
>
> A: Yes
>
> Q: Can you – can you **set it so that the probation officer at any time could access the data?**
>
> A: Yes.
>
> Q: Okay.
>
> A: We do that with –
>
> Q: Or **parole supervisor** …
>
> A: **And – the police**. If the **police on the case** –
>
> Q: M-hm.
>
> A: -- his [presumably parole] officer wants to have a login information, we provide that.
>
> Q: Okay.

[13] Still later, in questioning by the accused's counsel:

> Q: … you also can call him and say, listen, why are you here [i.e. any particular place]? We have a schedule that says this and it has a cell phone device in it –
>
> A: That's correct.
>
> Q: -- so you can actually contact him as well.
>
> A: Correct.
>
> Q: Isn't that correct?
>
> A: That's correct.
>
> Q: **And if he fails to answer – let's say he goes on a detour and he fails to answer – you will have an alarm going ding-ding-ding, we need to alert somebody or some authority, correct?**
>
> A: **That's correct**.
>
> Q: Okay. Thank you.
>
> A: **If he's not compliant to – to us, then our – our protocol is to call in the police**.
>
> Q: Okay. Thank you.

[14] The application adjourned to the next day (July 30, 2019), with the accused present.

[15] It included these submissions from the accused's counsel:

> … with regard to the [REM] system, as was stated by Mr. Morelli yesterday, certainly the – the systems that are now in place to monitor Mr. Gauthier would certainly put some confidence in the administration of justice in terms of the tertiary ground. And **in terms of the secondary ground, whether there are any safety concerns to the public, I would argue that the conditions that are now being put forth would reduce the likelihood that the – Mr. Gauthier will re-offend**. …
>
> … I would certainly argue, Sir, that there's been some material change in circumstances for Mr. Gauthier, and we would argue that we have now met the onus in terms of showing cause that he should be released and that there aren't any concerns with regard to the public confidence in the administration of justice. Any member of the community would be certainty acceptable to note that the electronic [monitoring] system that Mr Gauthier is going to be undertaking to wear on a 24-hour basis is certainly not easily cut from the body, and **there is a GPS monitoring system so if he were to, let's say, abscond in any way, they would be able to track**.

[16] In his oral decision approving release on terms including electronic monitoring, Graesser J. stated:

> The release plan that is before me is a very different release plan that was before Judge Creagh. …
>
> The ankle bracelet is – certainly – I agree with [the then Crown counsel] that if Mr. Gauthier is intent on breaching it, the ankle bracelet is not going to stop him from staying out late at night or breaching his curfew or going and stealing something or trying to flee or anything like that. **What it does though is makes any of these activities [less advisable] that they would be otherwise because with the ankle bracelet on he is easily monitored or tracked. … The benefit of the monitor is … a significant deterrent from doing anything that would otherwise be problematic. You are easily detected while you are wearing the bracelet. As far as detected, more likely after the fact.** … **If Mr. Gauthier is really interested in doing something that would breach his conditions or otherwise breach the peace, not be of good behaviour, that may happen. That being said, it is easily proven afterwards from the device that he is either wearing or has somehow managed to get off**. And the other thing is it would be **relatively straightforward on this information going to the – the bail supervisor, for the bail supervisor to breach him**. And I think when somebody is breached … the police are more interested in that. …
>
> … with the monitoring, [it] would be a condition … that [Mr. Morelli] could share the data with the bail supervisor, and I think that is the most important thing. I don't think – I think it would actually be contrary to the administration of justice for Mr. Morelli to be bothering the police with every potential breach of anything like that. But I think that is the job of the bail supervisor to be perhaps monitoring these things. I think the way it should work is the bail supervisor should at least have the daily – if he can't monitor it in live terms him- or herself,

> he should have access to the monitoring on a daily basis so he actually, or she, can determine where Mr. Gauthier has actually been. …
>
> … You [i.e. the accused] will get consent to the sharing of your whereabouts data with your bail supervisor at all times.
>
> … wherever you are working, if you are working out of town or even if you are working in town, I think you need to be communicating with the bail supervisor on a regular basis as to your locations of work. **So that again, the bail supervisor and anyone else interested can see exactly where you are** and if you are not in a location that the bail supervisor knows anything about, then he or she may be asking you some questions about that.

[17] During an "other conditions" discussion between the Court, Crown and defence, the defence stated at one point: "Plus, the **[monitoring] data will be shared. So, wherever he is the – yeah**."

[18] Later in that discussion:

> Crown … [the Court] did provide consent to **sharing of data with his bail supervisor**.
>
> Court: Yes.
>
> Crown: I think that should be **expanded to include the police**.
>
> Court: M-hm. Oh, sure.
>
> Crown: In case – in case necessary.

[19] Later again:

> Court: I mean, **I don't think the police are interested in monitoring where he is working but I think if they want the data. If they just have this sense, hmm, I wonder whether he is wandering around in places he shouldn't be or something like that. I don't see any real privacy in the data. It is not as if the data is a camera that is monitoring him. It just tracks his location. [later again] … I am not restricting any of the normal communications Mr. Morelli would feel that –**
>
> Defence: **Yeah, he said he would share that.**
>
> Court: -- **that he has with the police.**
>
> Defence: **Oh, absolutely. Mr. Morelli did attest to that.**

Recognizance

[20] On the heels of the approved new release plan, the accused signed a recognizance which included these conditions (among others – 23 in all):

> 1. You shall keep the peace and be of good behaviour;
>
> 5. Your **bail supervisor** is to be provided with the **data collected by Resolve Electronic Monitoring**;

6. [REM] is hereby at liberty to **share the data collected by [REM] to the Edmonton Police, if necessary**;

7. You will sign the contract between yourself and [REM];

10. The monitoring ankle bracelet is to be installed on the applicant by [REM] prior to [the applicant] leaving the Edmonton Remand Centre;

11. **You will give your consent to share data collected by [REM] to the necessary parties, including your bail supervisor and the Edmonton Police**.

Bracelet attachment and document signing

[21] On or about August 9, 2019, a REM technician went to the Edmonton Remand Centre to attach the ankle bracelet, bringing with him a copy of the REM-Gauthier draft agreement and also a "Consent and Release of Personal Information" form, both to be signed by Mr. Gauthier.

[22] In the current ***Charter*** *voir dire*, Mr. Gauthier testified that:

- the technician was "young … maybe 22 … 25 [years old]";
- in response to Mr. Gauthier's question of what the documents were about, the tech said (effectively): "not my department … I'm just here to attach the bracelet and get your signature on the documents";
- asked again about the document, the tech said (effectively): "Talk to Vince about the documents";
- in response to Mr. Gauthier's observation that "it would take six hours to read these things", the tech said "everybody just signs these things" (presumably meaning signing without reading or at least without reading extensively);
- the tech put each document, in turn, in front of him and said (effectively): "if you don't sign the documents now, I can't put on the bracelet, and you won't get out of here";
- he (Mr. Gauthier) felt "coerced" in the circumstances, specifically that he did not feel he really had any choice whether to sign or not i.e. when the alternative was continuing to stay in remand;
- the tech was effectively no help at all in helping him understand the documents, which he ended up signing without reading; and
- when he spoke to Mr. Morelli later (after the bracelet was attached but before he was released from ERC), Mr. Morelli told him that he was not sure why the ankle monitoring had been ordered, that he would personally oversee Mr. Gauthier's file at REM, and that the real focus of the monitoring was to ensure Mr. Gauthier complied with his curfew and residency conditions.

[23] On cross, Mr. Gauthier acknowledged that he is able to read.

[24] On re-direct, Mr. Gauthier testified that, if he had read the documents, he would not have understood all of them, that he believed the focus was simply "residence and curfew" monitoring, and that he would not have signed the documents if he had known the GPS data of

his movements might be disclosed for broader purposes e.g. assisting in the investigation and prosecution of crimes committed while out of bounds.

[25] As noted, Mr. Gauthier signed both documents.

Formal consent to information release

[26] The "Consent and Release of Personal Information" (described as "made in conjunction with the [main] Agreement") includes the following terms:

> "**Law Enforcement**" … means (i) **policing**, including criminal intelligence operations, (ii) a **police**, security or administrative **investigation** … that leads or could lead to a penalty or sanction …, or (iii) proceedings that lead or could lead to a penalty or sanction ….
>
> "Law Enforcement Agencies" includes … **Alberta Justice**, [Justice Canada], the RCMP, [and] provincial [and] **municipal … police services** ….
>
> "Personal Information" is any audio, visual or written recorded information about [Mr. Gauthier] including … times, dates and whereabouts of [him] ….
>
> 3.3 *Consent to Disclosure of Personal Information to Law Enforcement Agencies*
>
> [Mr. Gauthier] irrevocably acknowledges that the **Personal Information collected, used and stored by [REM] may be disclosed by [it] to a Law Enforcement Agency** under the [*Freedom of Information and Protection of Privacy Act* (Alberta), *Personal Information Protection Act* (Alberta), *Personal Information Protection and Electronic Documents Act* (Canada), or *Privacy Act* (Canada)]. **[Mr. Gauthier] hereby irrevocably and explicitly permits, agrees and consents for [REM] to disclose any Personal Information collected under the [main] Agreement to any Law Enforcement for the express purposes indicated under s 1(h) of *FOIP* [which is a word-for-word match with the definition of "Law Enforcement" above] i.e. "policing, a police investigation, etc."**
>
> 3.6 Acknowledge of Disclosure of Personal Information with respect to Court Order
>
> **Further**, [Mr. Gauthier] acknowledges that [REM] may disclose Personal Information pursuant to an Order made by a Court of competent jurisdiction.

[27] Here I note ss 17 and 20 of the *Personal Information Protection Act* (Alberta), which authorize the use and disclosure of personal information, even without consent of the person to whom it relates, where "the use of the information is reasonable for the purpose of an investigation or legal proceeding" (para 17(d)), "the disclosure of the information is to a public body or a law enforcement agency in Canada to assist in an investigation ..." (para 20(f)), or "the disclosure of the information is reasonable for the purposes of an investigation or legal proceeding" (para 20(m)).

Occasional adjustments to curfew start time

[28] Mr. Gauthier also testified in the *voir dire* that, on many occasions after his release ("probably more than a couple dozen"), he would advise Mr. Morelli of an expected late return

to his residence. He said that Mr. Morelli was initially fine with pushing back the alert time, to accommodate such returns, as long as Mr. Gauthier gave 30 to 45 minutes' advance notice.

[29] After providing shorter notice one or two times, he said that Mr. Morelli began charging $50 for every adjustment (which practice Mr. Morelli defended during his called-back testimony yesterday, referring to an authorizing-that-practice contract provision).

Events of November 5, 2019

[30] Mr. Morelli testified that monitoring data did not show Mr. Gauthier back at his residence by the appointed time that evening.

[31] He said that he kept an eye on Mr. Gauthier's whereabouts via the monitoring system, eventually noting that he appeared to be at the Edmonton Police headquarters.

Follow-up steps by REM

[32] An email chain entered into evidence on the *voir dire* showed the following:

- Mr. Morelli to Mr. Gauthier's bail supervisor (November 6, 2019): Could you please check around in your system, as I'm confident that [Mr. Gauthier] was picked up by the Police last night. He last reported at Police Headquarters.
- bail supervisor to Mr. Morelli (November 7, 2019): [Mr. Gauthier] is in custody on new charges. I am guessing you can shut the ankle bracelet off. I'm unsure of the process. He is currently in the Edmonton Remand.
- Mr. Morelli to bail supervisor (later that day): Yes, I believe that his device has been shut down. We have been contacted by ERC to have the device removed today. We can update you later once we know for sure when we can attend.
- Mr. Morelli to bail supervisor (November 8, 2019): As I have been reviewing [Mr. Gauthier's] tracking for the past while, there seems to be some irregular points of interest. Perhaps we can engage the Police to identify places of criminal activity that can support their case. Would you know who the arresting officer is?
- bail supervisor to Mr. Morelli (later that day): [name of perceived arresting officer and email provided].
- Mr. Morelli to that officer (later that day): Our company had GPS ankle bracelet on [Mr. Gauthier]. We have data on the device that can support the activity of the other night [i.e. November 5 and 6, 2019], and if needed, could support other activity. Let me know if this is of interest to you.
- that officer to Mr. Morelli (later that day): [responsible officer is another officer, who is on vacation; email copied to other officer].
- other officer to Mr. Morelli (November 21, 2019): [back from vacation] If you have any data on the device that can support [Mr. Gauthier's] activity on the night of November 5, that would be greatly appreciated.
- Mr. Morelli to that other officer (November 25, 2019): We have attached for your review our Screenshots along with [Mr. Gauthier's] tracking and data. If you need

> assistance to understand these documents, we can schedule a call and [a REM employee] will be able to run you through them.

[33] In an earlier pretrial phase, we explored, and I admitted into evidence, various materials (including various maps) prepared by or on behalf of REM to assist the police and Crown in understanding the "whereabouts" data initially provided by REM to the police.

C. Law

[34] The accused's ***Charter*** application is anchored in s. 8:

> Everyone has the right to be secure against unreasonable search or seizure.

[35] I adopt the analytical framework for s. 8 claims outlined by the Manitoba Court of Appeal in ***R v Telfer***, 2021 MBCA 38 (paras 23-32).

[36] I will assume that, even though REM first approached the police about providing GPS data to assist in their investigations, that we have "state action" here i.e. in the mere police request taking up that offer.

[37] I will also assume that Mr. Gauthier had a subjective expectation of privacy in the GPS data of his movements on November 5 and 6, 2019 (and any other dates on which his movements were tracked which may be relevant in these proceedings).

[38] The question becomes whether that expectation of privacy was objectively reasonable.

[39] Per the MBCA in ***Telfer***:

> The issue [is] how to determine if a claimant has a reasonable expectation of privacy. Broadly speaking, this is a two-step process. First, the judge must determine if the claimant has a subjective expectation of privacy. **If so, then the judge must assess whether that expectation of privacy is objectively reasonable. This assessment is made from the perspective of "the reasonable and informed person who is concerned about the long-term consequences of government action for the protection of privacy"** (*R v Patrick*, 2009 SCC 17 at para 14).
>
> The exercise is **contextual and looks at the totality of the circumstances** (see *R v Edwards*, 1996 CanLII 255 (SCC), [1996] 1 SCR 128 at para 45; *R v Ward*, 2012 ONCA 660 at para 88; *R v Reeves*, 2018 SCC 56 at para 12; and *Jarvis* at para 60).
>
> In *Patrick*, Binnie J set out the circumstances relevant to the inquiry on the facts of that case. Many of these factors will be relevant in the present case. In addition, here, the **contractual and statutory framework is important because the accused claims a reasonable expectation of privacy in information that was in the hands of a third party as a result of a commercial relationship** (see *Gomboc* at paras 31-32; and *Spencer* at para 54).
>
> Returning to the framework of the relevant factors set out in *Patrick*, Binnie J wrote (at para 27):
>
> > (1) Did the Appellant Have a Reasonable Expectation of Privacy?

On the facts of this case, we need to address:

1. What was the nature or subject matter of the evidence gathered by the police?

2. Did the appellant have a direct interest in the contents?

3. Did the appellant have a *subjective* expectation of privacy in the informational content of the garbage?

4. If so, **was the expectation *objectively* reasonable?** In this respect, regard must be had to:

> a. the **place** where the alleged "search" occurred; in particular, did the police trespass on the appellant's property and, if so, what is the impact of such a finding on the privacy analysis?
>
> b. whether the informational content of the subject matter was in public view;
>
> c. whether the informational content of the subject matter had been abandoned;
>
> d. whether such information was already in the hands of third parties; if so, was it subject to an obligation of confidentiality?
>
> e. whether the police technique was intrusive in relation to the privacy interest;
>
> f. whether the use of this evidence gathering technique was itself objectively unreasonable;
>
> g. whether the informational content exposed any intimate details of the appellant's lifestyle, or information of a biographic nature.

(See also *Marakah* at para 11.) [paras 29-32]

Application of the "objectively reasonable" factors here

[40] I find that any subjective expectation of privacy held by Mr. Gauthier in the GPS data here was not objectively reasonable:

- he initiated the bail review;
- at that review, he proposed electronic monitoring, characterizing it as a meaningful step up towards meeting both public-protection and administration-of-justice concerns;
- through his counsel, he stressed the deterrence effect of electronic monitoring (i.e. the certainty or near-certainty that out-of-bounds movements would be both detected and traceable;
- at the bail review, and again through his counsel, he expressly agreed to provisions authorizing REM to disclose GPS (whereabouts) data to both his bail supervisor and the police;
- he signed a recognizance expressly authorizing REM to make such disclosures of his whereabouts information;

- he signed the consent-to-release document containing the same authorization;
- he did not bother to read that document (or the main monitoring document) before signing it;
- he did not give evidence of asking for more time to review the documents or to obtain advice from anyone about them (whether a lawyer, someone else at REM, or anyone) before signing the documents;
- he did not give evidence of any particular "pressure factor" i.e. justifying his decision to sign the documents without exploring such opportunities i.e. other than his wish to get out of remand immediately (or as soon as possible);
- neither did he give evidence of harsh, oppressive, punitive, unsafe, or otherwise intolerable or hard-to-manage conditions in remand. I do not accept his implicit argument that remand custody is necessarily or by definition "coercive", i.e. in the sense that continued detention in remand was somehow not a tolerable option, even temporarily (e.g. while reading the documents, trying to get advice about them, or otherwise) i.e. that he effectively had no choice but to sign the documents (and on the spot i.e. without reading them);
- the defence argued that the documents were effectively unintelligible to most laypersons or, in any case, to Mr. Gauthier and that, even if he had read them, or tried to, he would not have understood all of them. But that is different than saying he would necessarily not have understood the clear message that REM could disclose whereabouts data to law-enforcement officials, and he did not give that evidence. This is particularly so in light of the plain-language recognizance he signed and the similar crystal-clear exchanges between counsel and Graesser J. about what would or might happen (i.e. data disclosure to bail supervisor or police) if he went out of bounds (as discussed further below);
- I do not accept Mr. Gauthier's assertion of "six hours needed to review the documents." The main agreement is six pages long, with three pages of attachments. The consent document is three pages long. Both documents are well-organized, with headings and subheadings guiding the reader through the various subject matters;
- nothing in the review application itself, the supporting documents, the evidence before Graesser J., the recognizance, or the monitoring documents supports the defence assertion that REM could only use "whereabouts data" to manage Mr. Gauthier's curfew-and-residence conditions and could only disclose such data to assist in investigating and prosecuting breaches of those conditions. Here I again stress the defence's own emphasis on the deterrence effect of electronic monitoring. As noted earlier, per his counsel: "And if he fails to answer [a middle-of-the-day call from REM sparked by him going on a "detour and [failing] to answer"] – you will have an alarm going …, **we need to alert somebody or some authority, correct?**" and " … there is a GSP monitoring system so if he were to, let's say, **abscond in any way, [REM] would be able to track**."

- As well, recall Graesser J.'s clear references to both "breach conditions" and "beyond that" misbehavior, the latter including **"anything that would otherwise be problematic"**, "something that would breach his conditions **or otherwise breach the peace, not be of good behaviour**", or "staying out late at night or breaching his curfew **or going and stealing something or trying to flee or anything like that**";
- any possible assurances by Mr. Morelli that monitoring was "all about curfew-and-residency" i.e. could not be used to assist in investigating and prosecuting any while-out-of-bounds offences do not benefit the accused in the face of all of the counter-indicators to that position reviewed above;
- Mr. Gauthier's counsel did not put forward "circumscribed monitoring" (e.g. "curfew and residence monitoring only" or "no use of tracking data to assist in any other investigations or prosecutions") when proposing monitoring; and
- the defence's invocation of ***Commonwealth v Norman***, 142 NE 3d 1 (Mass. 2020) is off-target, since (among other reasons) it did not feature public-protection concerns at the release stage (instead appearance-at-trial concerns) and the very imposition of monitoring conditions was ruled off-side (versus the permissible use of tracking data, as here).

  A more analogous American precedent is ***Holland v Rosen***, a decision of the United States Court of Appeals (Third Circuit) (No 17-3104 – July 9, 2018), where the Court of Appeal commented (in a pre-trial release setting:

  > We do not accept as given that placing an electronic monitor on an individual and then tracking his whereabouts always constitutes a search and seizure, and that home detention is a seizure. In *Grady v North Carolina*, 135 S Ct 1368 (2015), the Supreme Court held that "a State … conducts a search when it attaches a device to a person's body, *without consent*, for the purpose of tracking that individual's movements." *Id* at 1370 (emphasis added). Holland does not challenge on appeal the District Court's finding that he consented to the conditions imposed on him. **We are aware of no binding authority that holds consented-to tracking and consented-to home detention are a search and a seizure.** [emphasis added]

D. Conclusion

[41] No reasonable person reading Mr. Gauthier's bail-review application, hearing or reading the evidence at that application, listening to his counsel's submissions and those of the Crown at the application, listening to Graesser J.'s reasons for judgment (including the stipulated release

conditions), reading the recognizance, or reviewing the consent-to-release-of-information document could be mistaken about what happened here:

- Mr. Gauthier needed to present a more rigorous bail plan;
- he presented one, and (through his counsel) enthusiastically endorsed electronic-monitoring as the public-protection answer; and
- at the heart of that monitoring was the open-book concept i.e. that REM could report his whereabouts data to the bail supervisor or the police **without any preconditions or limitations**.

[42] That was the whole idea.

[43] As many cases have accepted e.g. ***R v BMD***, 2020 ONSC 2671 (Monahan J.) (paras 56-59), electronic monitoring can have a significant deterrence effect.

[44] That effect comes, or may come, from the core awareness that one's movements are being traced or are at least traceable after the fact; **and that the tracking information can be used by law enforcement officials to show, or try to show, those movements** i.e. where relevant to charged offences allegedly occurring while out of bounds; and

[45] In all the circumstances here, Mr. Gauthier did not have any objectively reasonably expectation of privacy.

[46] No unreasonable search or seizure occurred here.

[47] Accordingly, I dismiss the defence's *Charter* application.

Heard on the 25th day of October, 2021.
Dated at the City of Edmonton, Alberta this 26th day of October, 2021.

M. J. Lema
J.C.Q.B.A.

Appearances:

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