

**THE PROVINCIAL COURT OF MANITOBA**

BETWEEN

Her Majesty the Queen	)	C. Vanderhoof, and
	)	M. Lavitt,
- and -	)	for the Crown
	)	
Guido Paul Amsel,	)	S. Zaman, and
Accused	)	J. Kostiuk,
	)	for the Accused
	)	
	)	Judgment delivered: May 17, 2018
	)	
	)	

**TRACEY LORD, P.J.**

**Introduction**

[1] Mr. Amsel is charged with a number of offences relating to four separate incidents, one that occurred in December 2013 and three that occurred in July 2015. These allegations arose within the context of ongoing legal proceedings between the accused and his former wife Iris Amsel.

[2] All four incidents involve explosive devices being placed at, or sent to locations connected to his former wife or to lawyers involved in their ongoing litigation.

[3] Mr. Amsel denies any involvement in these incidents.

**Legal Proceedings between the Amsels and Overview of the Facts**

[4] Guido and Iris Amsel were married in Germany in 1988 and immigrated to Canada in 1991. They built a house at 127 Nicholas Street in Narol, Manitoba, in 1992 and lived there together until they separated in 2000. Mr. Amsel moved out of the residence when they separated and never lived there again.

[5] Their divorce proceedings became final in 2004 and Mr. Amsel remarried in 2005. As part of the settlement reached regarding shared property, Mr. Amsel was to pay Ms. Amsel \$40,000 along with half of the value of equipment from their shared business, Eurotech Autobody.

[6] In October of 2010 the property settlement reached in 2004 remained outstanding. As a result, Ms. Amsel retained lawyer Maria Mitousis to act for her with respect to a civil claim to enforce the settlement.

[7] Mr. Amsel responded by filing a counterclaim alleging that Iris Amsel had stolen millions of dollars from Eurotech Autobody when she was responsible for doing the accounting.

[8] He also made a report regarding this alleged theft to Sgt. Bresciani of the Royal Canadian Mounted Police (RCMP) in August of 2011. After a review of the material provided by Mr. Amsel, Sgt. Bresciani concluded that there was no evidence of criminal conduct. This opinion was provided to Mr. Amsel by letter dated September 17, 2011.

[9] A complaint regarding Sgt. Bresciani's conduct in relation to that report followed shortly after. The complaint alleged neglect of duty and improper attitude, and was resolved informally by a phone call in which Sgt. Bresciani apologised for any misunderstanding that may have occurred .

[10] In 2010, Mr. Amsel refused to sign documentation to allow his son Kyle to visit family in Germany. His refusal was tied to his belief that Ms. Amsel had stolen from their business. Ms. Amsel resorted to the family court for an order allowing Kyle to travel.

[11] During the course of the civil proceedings, Mr. Amsel was at times represented by legal counsel and at times represented himself. During 2012 and 2013 Mr. Amsel represented himself and dealt directly with Maria Mitousis.

[12] In the summer of 2013 Mr. Amsel retained Sarah McEachern to represent him. Ms. McEachern was a lawyer with the law firm of Orle Barga Davidson.

[13] In September 2013 the Amsels returned to family court regarding child support. Their son Kyle had turned 18 and was still attending school. Mr. Amsel contested Ms. Amsel's request for continued child support as well as the fact that Kyle was his son.

[14] DNA testing confirmed paternity and Mr. Amsel was required to provide continued support. The case was concluded on December 11, 2013.

[15] Two days later, the first of the four explosions that are the subject of this trial occurred at 127 Nicholas Street, the residence of Iris Amsel.

December 13, 2013 - 127 Nicholas Street, Narol Manitoba

[16] In 2013, Ms. Amsel lived at 127 Nicholas Street alone. Her boyfriend James Block occasionally stayed over night at the residence. On the morning of December 13, 2013, they awoke to find damage to the property.

[17] At approximately 7:00 a.m. Mr. Block went outside to the front of the residence to start his Jeep which was parked beside the attached garage. At the entrance to the house he noted that the front door of the residence was damaged. The frame was loosened and the door was no longer latched. The window at the side of the door was broken and there was glass on the floor.

[18] Outside the residence he noted that the blue plastic snow shovel normally kept by the door was in pieces in the driveway. The front bumper, grill and headlights of the Jeep were damaged, and it was later discovered that the windshield was cracked.

[19] He also saw a crater in the ground next to the garage. There was blackening up the side of the garage, and the garage window was shattered. The garage soffits and eaves were pushed out, hanging off and lying in pieces on the ground.

[20] Ms. Amsel and Mr. Block testified that none of this damage existed prior, and that they heard nothing to alert them to it having occurred during the night.

[21] The damage was reported to the police and to Ms. Amsel's insurance company that same morning as a mischief or vandalism incident. The police were

contacted again later that day when it became apparent that the incident was actually an explosion.

[22] A member of the East St. Paul RCMP attended to the residence and spoke briefly with the complainants on December 13, 2013, and returned the next day with the RCMP Identification Unit and the Explosive Disposal Unit to examine the scene.

[23] In the interim, the area around the house and garage was accessed by others including Ms. Amsel's insurance representative and exposed to the winter elements. Fresh snow had fallen on the scene overnight.

[24] Ms. Amsel and Mr. Block testified that they placed a board over the broken garage window and swept up the glass, but did not touch the Jeep or the crater itself, and they did not see anyone else do so.

[25] Identification officer Sgt. Alarie took photographs of the scene, swabbed both the crater and the blackening on the garage wall for DNA, and took measurements of the crater and the debris field.

[26] The crater measured 1.6 m long, 39 cm wide and 20 cm deep. The debris field stretched a distance of 70.10 m from the seat of the explosion next to the garage.

[27] Officers gathered fragments from the snow in the debris field, which included shards of metal, pieces of blue plastic and other debris resulting from the explosion, such as gravel and rock.

[28] The content of the crater itself and the nearby surrounding area were sifted using screens. Pieces of metal shards, pieces of blue plastic, and two pieces of charred string were recovered. One of the pieces of string from within or near the crater had a metal pin attached to the end of it.

[29] A third piece of charred string was found attached to the front bumper of the Jeep.

[30] These items were seized by Cst. Lavallee, who is an explosives technician with the RCMP Explosive Disposal unit.

[31] He said that while he could not say how the device was detonated, the explosion that resulted was a rather large one. He based this observation on his examination of the crater, the damage to the structures and vehicle, the size of the debris field and the damage and charring to the recovered fragments of metal and plastic.

[32] Ms. Amsel and Mr. Block testified that neither of them had attached the string to the front bumper of the vehicle and that it was not there before December 13, 2013. Further, Ms. Amsel testified that she did not have string like it at her residence, in the shop, or garage on the property at that time.

[33] The investigation conducted by the RCMP at the time did not result in any arrest or charges being laid.

[34] Ms. McEachern continued to act for Mr. Amsel in the civil proceedings until September 23, 2014 at which time she was granted permission to withdraw.

[35] George Orle, a senior lawyer and partner at the firm was supervising Ms. McEachern and sat in on the meeting she had with Mr. Amsel in which he was informed she would no longer represent him. This was the only time that Mr. Orle met Mr. Amsel.

[36] From this point onward, Mr. Amsel again represented himself and dealt directly with Ms. Mitousis.

[37] In March 2015 a settlement was reached with respect to Ms. Amsel's claim to enforce the outstanding money owed to her, and Mr. Amsel agreed to abandon his counterclaim alleging theft.

[38] In settlement of the claim, Mr. Amsel was to auction the equipment at issue and use the proceeds to pay Ms. Amsel the \$40,000 still owing. The auction was to take place on July 11, 2015.

[39] Between June 30<sup>th</sup> and July 3<sup>rd</sup>, 2015 homemade bombs were delivered to three locations in Winnipeg; one addressed to Iris Amsel at 599 Washington Avenue, a business adjacent to her place of business at 597 Washington Avenue, one addressed to Maria Mitousis at her office at 252 River Avenue and one

addressed to George Orle at his former law firm at 280 Stradbrook Avenue. (The Winnipeg Incidents)

July 3, 2015 - Peterson King 252 River Avenue, Winnipeg

[40] Iris Amsel's lawyer, Maria Mitousis began working at the law firm of Peterson King located at 252 River Avenue in Winnipeg in September of 2014. When first engaged by Ms. Amsel in 2010, Ms. Mitousis worked at the law firm of Monk Goodwin.

[41] On Thursday July 2, 2015 a package was delivered to Peterson King by regular post and hand delivered to the receptionist. The address was hand printed in block letters and the envelope bore numerous stamps. It was addressed to Maria Mitousis. The return address was her former law firm, Monk Goodwin. The receptionist did not open the package as she thought it may be personal in nature and instead placed it in Ms. Mitousis' office, on her desk. Ms. Mitousis was not present in the office that day.

[42] The following day, July 3, 2015, Ms. Mitousis arrived at work at approximately 10:00 a.m. and went to her office where she found the package.

[43] The package itself was a sealed white bubble pack mailing envelope. Inside was an orange and purple zippered fabric pouch and a handwritten note on yellow paper.

[44] The note said "Hi Maria, push enter to start. Listen to the conversation and phone me. Will help your defense." The phone number 956-1060, which is the main number of the firm Monk Goodwin was at the bottom of the note. Inside the fabric pouch was a hand held voice recorder.

[45] Ms. Mitousis placed the fabric pouch on her desk, closed the door to her office and while holding the recorder in her right hand, brought it closer to her face and pressed the button.

[46] The voice recorder exploded in her hand sending pieces of shrapnel into her face, neck and body, as well as throughout her office. The explosion cracked her office windows.

[47] Upon hearing the explosion and Ms. Mitousis screaming, staff and colleagues tended to her in the hallway outside her office, until the police and ambulance arrived just after 10:18 a.m. to transport Ms. Mitousis to hospital.

[48] The Winnipeg Police Service (WPS) Bomb Unit, Major Crime Unit and Identification Unit attended to investigate that day. Photographs were taken of the damage to Ms. Mitousis' office and many exhibits were seized for examination.

[49] Scattered throughout the office were pieces of yellow notepaper, pieces of bubble wrap envelope, and pieces of plastic. Numerous pieces of metal were also located, including wires, solder, pieces of regular batteries and two intact button batteries.

[50] The pieces of regular battery were identified as ACDelco brand super alkaline with red, white and blue lettering. The button batteries were both stamped "Vinnic L1154".

[51] Items of shrapnel and debris were embedded in the ceiling tiles above where Ms. Mitousis had been standing.

[52] The orange and purple zippered pouch was tested on scene for the presence of explosives, which proved positive. The pouch was seized and later sent to the RCMP National Forensic Laboratory for examination.

[53] Ms. Mitousis suffered severe injuries. Ultimately, her right hand was amputated, and her left hand was severely damaged, requiring surgery to repair.

[54] She suffered burns to her chest, stomach and feet, and lost tissue from her face and neck. She required numerous stitches to repair many cuts from shrapnel and debris.

[55] Since the explosion Ms. Mitousis has undergone further surgeries to repair her left hand and fingers as well as to rebuild her eardrum. She has significant scarring, attends for rehabilitation, and still suffers pain on a daily basis.

June 30, 2015 - James Automotive 597 Washington Avenue, Winnipeg

[56] James Automotive is the business of James Block, Iris Amsel's boyfriend. In 2015 Ms. Amsel worked at this business. She also from time to time worked at the neighbouring business Ollie's Auto, the business of Ollie Ehrmantraut at 599 Washington Avenue. Mr. Ehrmantraut is a former employee and long time friend of Mr. Amsel.

[57] On June 30, 2015 a package addressed to Iris Amsel was delivered to Ollie's Auto at 599 Washington Avenue. The package was delivered by regular mail. Kevin McKenzie, an employee of Ollie's Auto collected the mail that day and examined the package. Mr. McKenzie is also a former employee of Mr. Amsel and has known him since 2002.

[58] Mr. Ehrmantraut also examined the package before Mr. McKenzie took it over to James Automotive at 597 Washington. He gave the package to Mr. Block as Iris Amsel was out of town at the time, visiting her son. The package was placed on a workbench, to await her return.

[59] Mr. McKenzie testified that he immediately recognized the printing on the envelope to be that of Mr. Amsel, and proceeded to show the package to Mr. Ehrmantraut. Mr. Ehrmantraut also testified that he recognized the writing to be that of the accused.

[60] The package was a sealed bubble wrap envelope with hand printed addresses. There were several stamps on the envelope.

[61] On July 3, 2015, as she was travelling back to Manitoba, Ms. Amsel heard about the explosion at her lawyer's office and called James Block. During this call she learned of the delivery of the package addressed to her. Mr. Block sent her a photograph of the package for her to view on her phone.

[62] The two decided not to touch the package further. The police were called to James Automotive the next morning, July 4, 2015. When they examined the package the police noted the handwriting on this package appeared to be similar to the package delivered to Ms. Mitousis.



[63] The Winnipeg Police Service Bomb Unit attended and attempted to neutralize the package so that it would not actually explode. They shot it with a water cannon attached to the bomb robot. Instead of being neutralized the package detonated causing damage to the interior of the business and scattering debris throughout the garage work area.

[64] The debris recovered included a piece of lined white paper with wires adhered to it, wire with a piece of copper attached to it, wire with insulation attached to it and wire attached to small copper pieces with holes drilled in them.

[65] Many small pieces of lined white paper were recovered as well as heavier pieces of coloured cardboard that when put back together appeared to be a notebook.

[66] A damaged button battery stamped “Vinnic L1154” was also located.

[67] When the package detonated it blew a hole through the wooden work bench it had been sitting on, and sent metal fragments upward that penetrated the sheet metal ceiling. The metal fragments then travelled through a wooden roof joist and insulation, and became embedded in the underside of the building’s roof.

[68] Four large pieces of copper metal were recovered from the underside of the roof. One of the pieces had a message stamped into the copper, which was partially legible. It said

“ turn what you sto ll your helpers of cr ”

[69] Based on the information gathered regarding the packages delivered to 599 Washington Avenue and 252 River Avenue, Mr. Amsel was arrested on July 4, 2015.

July 5, 2015 - Orle Barga Davidson 280 Stradbrook Avenue Winnipeg

[70] Mr. Amsel was previously represented by the firm Orle Barga Davidson. His dealings were primarily with Sarah McEachern, but he met with George Orle on the final occasion prior to the firm withdrawing as his counsel. Mr. Orle left that law firm in April 2015.

[71] When Mr. Orle heard about the explosions at Peterson King and at Ms. Amsel's place of business, he and Ms. McEachern contacted the police regarding the connection to their former law firm. Mr. Orle also alerted his former partner at 280 Stradbrook Avenue to the unfolding situation, as the firm was still receiving and holding mail for him.

[72] As a result, the Police were contacted about a third suspicious package received that week at 280 Stradbrook Avenue.

[73] On July 5, 2015 the RCMP Bomb Unit attended along with the WPS Identification Unit, to attempt to neutralize this package using the bomb robot and water cannon.

[74] The item in question was a letter delivered by regular mail. The envelope had numerous stamps on it and was addressed to George Orle in handwriting that appeared similar to the previous two packages. The envelope also contained a return address of "TDS" 2200-201 Portage, which is the address of the law firm Thompson Dorfman Sweatman.

[75] The letter had been stored in a three drawer plastic bin in the reception area of the law office.

[76] The RCMP bomb robot was used to retrieve the letter from within the building and bring it to the parking lot where it was X-rayed and then placed in a sand bag bunker.

[77] The X-ray revealed that the envelope contained two button batteries on an electronic board. Wires ran from the electronic board to an L- shaped item. In the middle of this item was a Christmas tree bulb. The item had letters stencilled on it saying "report or we blow your head off".

[78] The Bomb Unit attempted to neutralize the item after it was placed in the sand bag bunker by shooting it with a water cannon. Instead of being neutralized, this explosive device also detonated.

[79] After the explosion, the Identification Unit searched the parking lot area for debris as well as sifted through the sandbag bunker to recover fragments of the device and the package it was contained in.

[80] Pieces of coloured and white paper recovered indicated that the device was contained within a greeting card.

[81] Recovered items that relate to the device itself included two button batteries “Vinnic L1154”, one with a piece of yellow wire attached to it and various components such as a piece of copper, a piece of circuit board, a saddle for a button battery, pieces of wire and pieces of metal.

[82] In the days following Mr. Amsel’s arrest the WPS conducted searches of his residence at 613 Pandora Avenue East, his place of business, Eurotech Autobody at 2208 Springfield Road and his vehicle.

[83] In all the locations related to Mr. Amsel, swabs were taken from various places and items for the purpose of detecting the existence of explosive residue. No explosive residue was found and no items were seized indicative of the manufacture of an explosive device, or the presence of an explosive substance.

[84] Various handwritten pieces of paper were seized from Eurotech Autobody, and a number of items of interest were seized from Mr. Amsel’s residence.

[85] Seizures from 613 Pandora Avenue East included computer equipment and numerous letters and documents. The documents included correspondence with Ms. Mitousis, a file folder labelled Iris/Mitousis and a binder titled “Mitousis file”. There were various items of correspondence from several law firms including Peterson King, Orle Barga Davidson and Myers Weinberg. There were further documents labelled lawyer/RCMP complaints and various other court related papers.

[86] Other items seized from within Mr. Amsel’s residence included a Nokia cell phone with the circuit board removed, wire, pieces of copper piping with the ends crimped, a roll of solder, a number of batteries, both AAA size and button variety as well as Canada Post envelopes.

[87] The brand of the AAA batteries located were ACDelco super alkaline, silver in colour with red and blue lettering. The button batteries located were not Vinnic L1154 brand.

[88] The police located a safe in Mr. Amsel's bedroom. Inside the safe two digital voice recorders were found. The voice recorders were X- rayed to ensure they were safe to handle and were then examined. Neither of the recorders contained any suspicious components.

[89] One of the voice recorders was an Olympis brand and contained two AAA Sanway brand batteries, orange and blue in colour. The second was a Sony brand and contained two AAA batteries, ACDelco super alkaline brand, silver in colour with red and blue lettering.

[90] The police listened to the contents of the recorders and found nothing of interest to the investigation.

[91] The police attempted to find the same orange and purple zipper pouch used to hold the digital voice recorder sent to Ms. Mitousis for sale in Winnipeg. They located an identical pouch for sale at the Dollarama Store located on Regent Avenue, which is near Mr. Amsel's residence. The pouch was not displayed in a package or wrapper of any sort and was available to be handled in the store by shoppers.

[92] Fragments of the explosive devices from 127 Nicholas Street and each of the three Winnipeg incidents were sent to the RCMP National Forensic Laboratory in Ottawa. The fragments were examined by Dr. Nigel Hearn of the Trace Evidence Section, for the presence of explosives and explosive residue.

[93] Dr. Hearn was qualified to give expert opinion evidence in the areas of forensic examination, and the analysis and identification of explosives, and explosive residues, including commercial, military, improvised and homemade explosives, propellants and pyrotechnics. Dr. Hearn also has experience in the manufacture and controlled testing of Improvised Explosive Devices (IEDs) containing Triacetone triperoxide (TATP).

[94] Ten exhibits from 127 Nicholas Street, including one of the pieces of string seized from within or near the blast crater (police Exhibit 9) were submitted by Cst. Lavallee to the Trace Evidence Section of the RCMP Forensic Laboratory in Ottawa on January 6, 2014.

[95] Dr. Hearn collected samples from the exhibits to test for the presence of explosives or explosive residue. His analysis did not detect any explosive or explosive residue on Exhibits 1-10.

[96] Exhibits 1-10 were not returned to the RCMP in Manitoba, and remained stored at the Forensic Laboratory in Ottawa.

[97] DNA testing on Exhibits 1-10 was not requested by the investigating officers at that time.

[98] When the RCMP learned of Mr. Amsel's arrest for the bombing incidents in Winnipeg in 2015, they returned to their investigation of the explosion at 127 Nicholas Street.

[99] Five further exhibits were submitted to the Trace Evidence Section (police Exhibits 11-15) for analysis.

[100] Exhibits 11-15 included various metal fragments, a piece of charred blue plastic and the other two pieces of charred string.

[101] Exhibits 11-15 were turned over to Cst. Conway by Cst. Lavallee on September 15, 2015, at which time they were secured in his locked desk drawer until being forwarded to the lab in Ottawa on October 21, 2015.

[102] Cst. Conway testified that he used his desk drawer in this manner to store exhibits because he did not have an evidence locker assigned to him.

[103] In December of 2015, Dr. Hearn examined the samples extracted from Exhibits 1-10 again, as well as the additional exhibits submitted for the presence of trace evidence of explosives.

[104] Despite further testing using a new, more sensitive instrument than the one initially used, no explosives or explosive residue were found on the exhibits from 127 Nicholas Street.

[105] Dr. Hearn did however identify the presence of (TATP) on exhibits from all three of the Winnipeg explosions. He also did a physical examination of the surfaces of the fragments submitted and concluded that the damage observed was consistent with having fragmented due to the impact of high explosive force consistent with TATP.

[106] He testified that TATP is a high power explosive that can be made at home, and is associated with IED bombing incidents. The manufacture of TATP has become more common with accessibility to the internet.

[107] TATP is made by combining acetone, hydrogen peroxide and a catalyst such as mineral acid, all of which are readily available at retail stores. Once combined, the mixture is cooled in the fridge for a few hours, which produces a crystalline white powder.

[108] Although simple to produce, Dr. Hearn said that TATP is very challenging to handle safely and is a hazardous explosive because it is very sensitive and easy to ignite.

[109] TATP is sensitive to heat, friction and impact. If struck, squished, or if it suffers an impact TATP will explode. It is also sensitive to ignition by flame or electrostatic discharge. For these reasons TATP has no commercial use; it is simply too dangerous.

[110] When triggered TATP ignites into a flash flame and produces an audible sound. If combustible material is located nearby, the flame can ignite it.

[111] Dr. Hearn said that an explosive device made from metal or containing metal will cause more damage or injury than one made from plastic, cardboard or paper, and if such a device contained a message etched into it or into a component of it, he would not expect the message to survive the explosion intact.

[112] He said that TATP vapour will be present wherever TATP has been, but dissipates with time. Dr. Hearn said he would not expect to find vapour present where TATP had been after a day or two had passed, but that this would be subject to a number of environmental variables.

[113] Finally, Dr. Hearn testified that when TATP is put inside a container, the container itself will explode and fragment due to the gas pressure produced by ignition. Dr. Hearn likened this kind of explosive device as similar in design and principle to a military hand held fragmentation grenade that produces shrapnel. He described the effect of shrapnel produced to be like the effect of bullets fired from a gun.

[114] In his expert opinion, a device like this is designed to injure or kill anyone in proximity to the explosion.

[115] Dr. Hearn also physically examined the fragments and metal shards from 127 Nicholas Street and concluded that the shearing and damage observed was characteristic of the blast effects of a highly explosive substance.

[116] During his testimony, Dr. Hearn was also shown Court Exhibit 27, the photos of 127 Nicholas Street.

[117] After viewing the photos, he concluded that some sort of device exploded at 127 Nicholas Street and that the device would have been situated where the crater was created. While it was noted that a pin was found at the crater site, all Dr. Hearn could say about the detonation, was that some mechanism had triggered the explosion.

[118] Dr. Hearn concluded from the damage to the house, garage and vehicle depicted in the photos that the explosion created significant blast pressure. The height of the charring on the garage wall was indicative of a significantly sized fireball.

### **Identification Evidence**

[119] The evidence called by the Crown linking Mr. Amsel to the device placed at 127 Nicholas Street and to the packages sent to 252 River Avenue, 599 Washington Avenue and 280 Stradbroke Avenue falls into four categories:

1. Evidence of Motive,
2. Handwriting Evidence,
3. Forensic DNA Evidence and
4. Similar Fact Evidence

#### 1. Evidence of Motive

[120] It is the Crown's position that Mr. Amsel bore ill will toward Iris Amsel, Maria Mitousis and George Orle, and that it was this animus that motivated him to send each of them bombs.

[121] Since as early as 2010, Mr. Amsel had alleged that Ms. Amsel stole millions of dollars from their joint business, Eurotech Autobody. Not only did he allege this in his countersuit filed in 2010, he also reported the theft to the RCMP in 2011.

[122] It is very clear from his testimony that Mr. Amsel continues to be firmly convinced that his former wife committed theft.

[123] When testifying about Ms. Amsel he said "I could positively say that she has stole money", "I have proof of that. Of course, I'm convinced"

[124] Mr. Amsel agreed that he wanted to see Iris in jail and said during his testimony " she's a criminal, of course".

[125] His report to the RCMP was rejected by Sgt. Bresciani in 2011. Since then, Mr. Amsel has continued to be frustrated by a lack of success in having his former wife charged with theft and imprisoned.

[126] The Crown also says that evidence of animus toward Ms. Amsel is found in Mr. Amsel's conduct during their family court proceedings.

[127] In 2010, Mr. Amsel refused to sign documentation to allow his son Kyle to visit Germany. Ms. Amsel resorted to the family court for an order allowing Kyle to travel.



[128] In 2013, Mr. Amsel opposed a request for continuing child support for Kyle, then 18, while he furthered his education, and forced Ms. Amsel to prove he was Kyle's father.

[129] Testing confirmed Mr. Amsel was Kyle's father, and the support issue was settled on December 11, 2013, two days before the explosion at Iris Amsel's residence in Narol, Manitoba.

[130] The Crown argues that the timing of these events is not a coincidence, but rather is evidence of animus on the part of Mr. Amsel towards his former wife.

[131] The Crown also argues that evidence of Mr. Amsel's feelings about his former wife and their legal situation is found in the evidence of his friend and associate Ollie Ehrmantraut.

[132] Mr. Ehrmantraut testified that after the couple separated, Mr. Amsel spoke of how Ms. Amsel had taken millions of his money. Mr. Ehrmantraut testified that at the mention of his ex wife's name, Mr. Amsel would speak of "dirty cops holding out their hands and dirty lawyers."

[133] Mr. Ehrmantraut used the word "rant" to describe how Mr. Amsel spoke of his frustrations and his view that everyone was on Iris' side because she had paid them off.

[134] The Crown also argues that there is evidence of animus towards the lawyers involved on both sides of the Amsels' civil proceedings.

[135] Mr. Amsel's interaction with George Orle, while brief, was directly connected to his lawyer Ms. McEachern withdrawing.

[136] The one time that Mr. Amsel and Mr. Orle met was in the meeting in which Mr. Amsel was told that Ms. McEachern would no longer act for him.

[137] When describing the meeting in his evidence, Mr. Amsel said :

“Sarah McEachern acted as my lawyer, not Orle. I never met him, except on the ...and I met him a couple of minutes, they're

withdrawing and then that is all what he said. I mean, who are you?  
And then that was pretty much it.”

[138] Other evidence about this meeting came from Ms. McEachern, who indicated that Mr. Orle’s role at the meeting was to reinforce the advice being given to Mr. Amsel.

[139] Ms. McEachern testified that on the day she withdrew in September 2014, Mr. Amsel accused her of conspiring with Iris Amsel or Maria Mitousis and questioned whether one of them had paid her off to handle his case improperly. He also stated an intention to report the situation to the Law Society, and told Ms. McEachern that “it would all come out in the end”.

[140] Ms. McEachern described Mr. Amsel as being fairly agitated and that he spoke with a very direct tone of voice during this conversation. As a result, Ms. McEachern took steps to ensure she did not leave the Law Courts building alone or at the same time as Mr. Amsel that day.

[141] In his own testimony, Mr. Amsel confirmed that this conversation took place and provided an explanation for his assertions.

[142] Referring to the conversation with Ms. McEachern he said “I told her that I was very unhappy”.

[143] Mr. Amsel said that he had good reason to ask whether Ms. McEachern had been paid off as he “was unhappy with the way she was handling disclosure, the discovery of the missing money and the interrogation of Iris Amsel”. He said “I felt I should have reported the whole matter to the Law Society.”

[144] On cross-examination Mr. Amsel agreed, “he felt very strongly that either Iris Amsel or Maria Mitousis had paid off his lawyer”.

[145] After his counsel withdrew, Mr. Amsel dealt directly with Maria Mitousis. Despite his stated suspicion that Ms. Mitousis was involved in paying off his own lawyer, both Mr. Amsel and Ms. Mistousis testified that the relationship was a cordial one.

[146] In the end, the parties came to an agreement regarding the civil proceedings. Mr. Amsel was to pay the outstanding money owed to Ms. Amsel by auctioning items of equipment from the business. Mr. Amsel also agreed to withdraw his counter claim against Iris regarding the theft.

[147] The agreement did not come to fruition, as the explosion at the office of Maria Mitousis and the discovery of the other packages intervened.

## 2. Handwriting Evidence

[148] The Crown called several witnesses purporting to be familiar with the accused's handwriting. They were asked to comment on the handwriting found on the packages sent to 252 River Avenue, 599 Washington Avenue and 280 Stradbroke Avenue.

[149] On the day the package addressed to Iris Amsel was delivered to 599 Washington Avenue it was handled by both Kevin McKenzie and Ollie Ehrmantraut.

[150] Although it had been several years since Mr. McKenzie had seen Mr. Amsel's writing he testified that he immediately recognized the printing to be that of Mr. Amsel and shared this opinion with Mr. Ehrmantraut. Mr. Ehrmantraut confirmed that this conversation occurred.

[151] When he testified in court, Mr. Ehrmantraut was quite certain that he had also recognized the writing as being Mr. Amsel's, and said so at the time.

[152] According to Mr. McKenzie however, when Mr. Ehrmantraut looked at the package he said that he was not sure about whose writing it was.

[153] Iris Amsel also testified about the handwriting on the various packages involved in this case.

[154] After learning about the explosion at 252 River Avenue, Mr. Block sent her a photo of the package addressed to her. (Exhibit 3 photo 5) She testified she recognized the writing on the package and said it was "similar to Guido's". She further explained her recognition of the handwriting by saying it was "choppy and not smooth."

[155] Ms. Amsel was also shown photos of the reconstructed package along with the note sent to Maria Mitousis. (Exhibit 1, photos 25 and 30) She testified the writing appeared to her to be the same as the writing on the package sent to her, and confirmed she recognized it to be that of Mr. Amsel.

[156] Her evidence was the same with respect to the card addressed to George Orle at 280 Stradbrook Avenue. (Exhibit 4, photo 8)

[157] Ms. Amsel provided Csts. Bax and Ewert of the WPS with samples that she said were Mr. Amsel's writing on two papers retrieved from her home. (Exhibit 35)

[158] It should be noted that both items are largely cursive writing, whereas the writing on the packages and note were printed capital lettering.

[159] On cross-examination Ms. Amsel conceded that because she was not a handwriting expert she could not say for certain that her opinions were correct.

[160] Csts. Bax and Ewert both testified as to their impressions of the handwriting on the package at 597 Washington and the samples of writing turned over to them by Ms. Amsel. Both thought the letters "M" and "F" in the samples looked similar to the "M" and "F" on the envelope.

[161] Cst. Ewert subsequently observed the writing on the envelope at 280 Stradbrook Avenue and testified the writing was similar to the writing on the package at 597 Washington Avenue.

[162] The Crown also called Mr. Peter Belcastro, a forensic document examiner with the Federal Bureau of Investigation (FBI) in Quantico Virginia. He is the Technical Operations Manager of the Questioned Documents Section of the FBI.

[163] He was qualified as a handwriting expert to give opinion evidence in the area of forensic document examination.

[164] Mr. Belcastro testified that his duties with the FBI include the examination and comparison of questioned documents of handwriting, typewriting, printing and other documentary evidence of unknown origin with documents of known origin for the purpose of determining the authenticity of the questioned documents.

[165] He also does comparisons of questioned document to questioned document to determine if the same writer is responsible for producing both documents.

[166] Mr. Belcastro explained that known samples can come in two forms; “normal course of business writing”, which is writing that exists independently of an investigation, and “requested samples” of writing, which are repetitive samples of the same type as the questioned writing provided by a known source or suspect.

[167] Mr. Belcastro explained that when comparing a questioned sample(s) to a known sample(s) it is preferable to have both types of known samples.

[168] In this case, while a number of writing exhibits were sent to him for analysis, he did not have requested samples from Mr. Amsel to use for comparison.

[169] Mr. Belcastro explained there are a number of things that can affect an expert’s ability to compare writing samples.

[170] The quality of writing and the formation of lettering can be affected by the size of the item being written on, the type of instrument being used, and the surface on which the writing is being done.

[171] The format in which samples are submitted can also present limitations in an expert’s ability to conduct a comparison. For example, an image of a document, digital or otherwise, or a photocopy of a document may lack the clarity or detail an original may have.

[172] When conducting comparisons of writing, Mr. Belcastro explained there are three conclusions an expert can come to.

[173] An “identification” means the examiner is able to say two or more pieces of writing were prepared by the same person or person(s).

[174] A “qualified opinion” means the opinion is less than definitive, but that there are characteristics in common between the two writings which may indicate the same individual or individuals prepared the writings.

[175] Mr. Belcastro explained when a document expert uses the term “may have been prepared by the same person or persons” it means that there are more

characteristics in common than not, between the two documents and the opinion leans towards identification.

[176] A finding of “may not have been prepared by the same person or persons”, is a leaning towards elimination of the known writer having written the questioned writing.

[177] A finding of “no conclusion” means an opinion cannot be made either way or a leaning cannot be given either way with respect to either identification or elimination of a particular individual having prepared the questioned writing.

[178] The questioned documents sent to Mr. Belcastro in this case were images of the reconstructed yellow note and reconstructed bubble envelope sent to 252 River Avenue, an image of the bubble envelope sent to 599 Washington Avenue and an image of the envelope sent to 280 Stradbrook Avenue.

[179] He also received a number of documents purporting to be the known handwriting of Mr. Amsel, which included the two documents turned over to the police by Ms. Amsel. (Exhibit 35)

[180] Mr. Belcastro compared the questioned writing samples from the three scenes to the purported known writing samples of Mr. Amsel, but was unable to reach any conclusion about them.

[181] He was not able to offer an opinion either way as to whether the writer of the known samples was the writer of the questioned exhibits. In layman’s terms, he said that he simply couldn’t tell.

[182] Mr. Belcastro pointed to a number of limitations with the items he compared. The questioned writings did not contain exact wordings or letter combinations to compare, there was some lack of clarity and detail in the images provided and there were unexplained characteristics throughout the questioned writings.

[183] Finally, he noted the lack of comparability between the questioned writings and the known writings. There was little repeatable uppercase hand printing in the

known samples as opposed to the questioned writings, which were all uppercase hand printing. In other words, there was not a lot to compare.

[184] Mr. Belcastro was also asked to examine the questioned writings submitted from each of the three Winnipeg scenes for similarities. While he noted the same limitations as described above, he was able to come to a “qualified opinion” about the questioned writings.

[185] He concluded that there were characteristics in common, primarily in the formation of the characters, that indicated that the writing on the four items “may have been prepared by the same person or persons.”

[186] He explained that while this conclusion falls short of an actual identification, it leans towards identification. These findings are set out in Mr. Belcastro’s report dated December 8, 2015. (Exhibit 63)

[187] On cross-examination Mr. Belcastro confirmed he was not asked to compare anyone else’s known handwriting with the questioned writings, in particular that of Iris Amsel.

[188] He also testified that he did not see any signs of simulation or forgery in the questioned writings. Had he done so, he would have stopped the analysis.

### 3. Forensic DNA Evidence

[189] The Crown presented evidence that Mr. Amsel’s DNA was found on Exhibit “X”, the purple and orange pouch that contained the explosive device sent to Ms. Mitousis at 252 River Avenue.

[190] Counsel for Mr. Amsel challenged the reliability of the DNA evidence and raised the prospect that the pouch was in fact contaminated by other exhibits, such as items seized from the accused’s home, clothing items seized from Mr. Amsel upon his arrest or the blood sample taken from him.

[191] Counsel for Mr. Amsel urged the Court to closely examine the way the scene at 252 River Avenue was processed by the police, as well as how the exhibits in this case were dealt with, and suggested the Court should be cautious about accepting the evidence of the exhibit officer Cst. Neumann.

[192] As a result I will closely detail the evidence given regarding the processing of 252 River Avenue and the seizure of exhibits from the office of Ms. Mitousis.

[193] The first officer to enter 252 River Avenue, Cst. Barker, arrived four minutes after the dispatch was made, at 10:19 a.m.

[194] He ensured that everyone left the building save for himself and Ms. Mitousis and testified that nobody entered her office after his arrival.

[195] After the ambulance personnel and paramedics left the scene with Ms. Mitousis, the next officers to enter the building at 12:16 p.m. were bomb unit officers wearing heavy protective gear designed to maintain their safety.

[196] Their purpose was to ensure that no other devices were present within the building and that it was safe for other investigators to enter. The scene was cleared for further entry just before 4:00 p.m.

[197] Three other bomb unit officers then went in without special protective gear for a final clearance check. These officers explained in their evidence that entering without gear was routine procedure, as the protective head gear worn by the first officers to inspect had some vision limitations.

[198] Cst. Neumann who was assigned to be the scene officer entered next to take initial photographs of the scene before anything was moved.

[199] While inside 252 River Avenue Cst. Neumann wore a protective Tyvec suit, including booties and gloves so as not to contaminate the interior of the building with anything from outside the building.

[200] A boardroom near the entrance to the building was set up to house equipment that would be used to screen items for explosive residue. The room itself was tested to ensure it was clear of explosive residue, as were items brought into the building to be used to process the scene. Craft paper was spread out on the hallway floors to ensure a clean pathway for officers to walk on between the boardroom and Ms. Mitousis' office.

[201] All officers who entered the building beyond the boardroom wore protective Tyvec suits and double layers of Nitrile gloves when handling exhibits. The outer



layer of gloves were changed with the handling of each new exhibit or class of exhibits.

[202] The officers assigned to process Ms. Mitousis' office were Identification members Cst. Neumann and Sgt. Takatch, and bomb unit officers Sgt. Miln and Cst. Lariviere.

[203] Bomb unit member Sgt. Berdesis was assigned to take notes and remained just outside the door to Ms. Mitousis' office to take custody of exhibits as they were removed from inside. He also took items from her office to the boardroom to be scanned for the presence of explosive residue.

[204] Sgt. Willkie of the RCMP bomb unit was stationed in the boardroom to conduct the testing. He remained there throughout.

[205] The orange and purple fabric pouch (police Exhibit "X") was located on the desk of Ms. Mitousis where she had placed it just prior to the detonation of the explosive device. It was open, having been unzipped by Ms. Mitousis.

[206] The inside fabric of the pouch was swabbed by Sgt. Miln using a sterile swab designed for the detection of explosive residue. The swab was handed to Cst. Berdesis who was just outside the office doorway. He then took the swab down the hallway to the boardroom where it was given to Sgt. Willkie for testing.

[207] When scanned, the swab from the interior of the pouch tested positive for the presence of an explosive, Triacetone triperoxide (TATP). The pouch itself remained on the desk where it was found.

[208] The pouch was seized by Cst. Neumann, placed in a paper bag and handed outside the office to Sgt. Berdesis, who then placed it in a cardboard box. Cst. Neumann transported the cardboard box to the Public Safety Building (PSB) in an Identification Unit vehicle.

[209] Once at the PSB, Cst. Neumann put the paper bag containing the pouch into a zip lock plastic bag and sealed it. The sealed plastic bag was stored in the exhibit storage area of the Identification Unit Major Crime room in the basement of the PSB, along with all other exhibits from 252 River Avenue. The Identification Unit

Major Crime room is a secure room only accessible to members of the Forensic Identification Unit.

[210] Cst. Neumann also dealt with the exhibits from 597 Washington Avenue and 280 Stradbrook Avenue. He said that the Washington Avenue exhibits were stored in the lab area of the basement of the PSB, and the exhibits from Stradbrook Avenue were stored in Bio room "B".

[211] The exhibits seized from Mr. Amsel's residence and business were stored in Bio room "A". All rooms were located in the basement of the Public Safety Building but were separate rooms from one another.

[212] When Mr. Amsel was arrested, he was detained on the second floor of the PSB. His face and hands were swabbed and his clothing was seized.

[213] His clothing and the swabs remained on the second floor stored in a lab space within the Forensic Identification Unit, which is only accessible to members of that unit.

[214] The exhibits were kept separate from any other exhibits that were brought from the basement level up to the lab for examination.

[215] Cst. Neumann testified that he was also responsible for submitting exhibits to the RCMP lab for forensic testing. In consultation with the lab it was determined that a number of exhibits from 252 River Avenue would be submitted for analysis, including Exhibit "X" the orange and purple pouch.

[216] All of the exhibits to be submitted were taken by Cst. Neumann to the Evidence Control Unit at 850 Empress Street in Winnipeg where they were turned over to a civilian member of the WPS, who then shipped the exhibits to the RCMP National Forensic Laboratory in Ottawa on July 15, 2015.

[217] The lab confirmed receipt of the exhibits, including Exhibit "X" by way of email to Cst. Neumann.

[218] On August 27, 2015, Cst. Robert Mitchell attended to Headingley Correctional Institution to execute a DNA warrant on Mr. Amsel and take a sample

of his blood. He testified that the blood sample was obtained using a standard DNA sampling kit and using approved standard procedures.

[219] Cst. Mitchell took the blood sample back to the PSB, labelled it with the applicable WPS incident number and his own initials, RM 1, and placed the sample in Identification Unit locker number 107 and locked it.

[220] On August 28, 2015, Cst. Neumann retrieved the blood sample from locker number 107. He noted that the way the sample had been labelled by Cst. Mitchell was inconsistent with the usual protocol, and relabelled the packaging containing the blood sample using the accused's initials and a previously authorized exhibit number; GPA660413.

[221] Cst. Neumann sent Mr. Amsel's DNA sample to the RCMP National Forensic Laboratory in Edmonton on August 28, 2015 by delivering it himself to Purolator Courier. He testified that he received a call from the lab later that same day confirming its receipt.

[222] The orange and purple pouch, Exhibit "X" was examined in the evidence recovery unit of the RCMP lab in Ottawa by forensic search technologist Nancy Ouelette.

[223] Ms. Ouelette's role was to search Exhibit "X" for the presence of biological material, take samples of any such suspected material and submit the samples to the analytical unit for further examination.

[224] Ms. Ouelette testified that when she handled the exhibit she documented the chain of custody by scanning the bar code attached to the exhibit within the exhibit handling system of the RCMP.

[225] She further testified that when she handled the exhibit she wore protective clothing, including a lab coat, gloves and facemask. She also described the methods she employed to keep her work area and tools clean and uncontaminated.

[226] Ms. Ouelette first dealt with Exhibit "X" on July 30, 2015. It became designated as lab exhibit 5. Ms. Ouelette put her own initials on the pouch so that it

was clear it was she doing the examination. Ms. Ouelette also dealt with the pouch a second time later in 2015.

[227] In her first examination of the pouch, Ms. Ouelette looked for any hairs that may have been left on the pouch as well as staining to its surfaces. She found no hair, but did observe staining. She made her observations with the naked eye.

[228] Ms. Ouelette observed what she described as faint greyish staining in one location, as well as light to moderate red/brown staining in another. The second area tested negative for the presence of blood and was marked with a small black ink dot for future reference.

[229] Near the zipper seam of the pouch, Ms. Ouelette identified an area of staining that she designated area "AC". She removed a portion of the fabric of this area, placed it in a sterile tube, which was identified by a bar code label. She placed the tube in a heat-sealed zip lock bag and sent it to the analytical unit of the lab. When she identified this area of the pouch, she circled it using black ink.

[230] Ms. Ouelette examined the pouch again for the presence of biological material in October of 2015. During this examination Ms. Ouelette took further samples from inside the pouch; from the piece of white foam, from the inside of the zipper seam, and from the general area of the inside of the case. These samples were dealt with in the same manner as she previously described, and forwarded to the analytical unit.

[231] The analytical unit of the RCMP lab processed the samples and created DNA typing profiles from them. The profiles were then sent to forensic specialist Marc Lett for examination and interpretation.

[232] The Crown called Mr. Lett, who is the Technical Operations Leader of the Biology Section of the RCMP National Forensic Laboratory Ottawa. Mr. Lett is a forensic specialist and reporting scientist.

[233] He was qualified to give expert opinion evidence in the interpretation of bodily fluid results and hair examinations, the interpretation of DNA typing profiles, and the application of forensic statistics for DNA matches.

[234] In this case, his role was to examine the DNA typing profiles created by the analytical unit, compare them for similarities and statistically analyse the results of the comparison.

[235] Mr. Lett confirmed that standard laboratory procedures were followed in this case when dealing with all exhibits and sub exhibits. Each exhibit was marked by the evidence management group with a bar code upon arrival in the lab and scanned into a computer system that tracked the exhibit location each time it was moved or changed hands.

[236] Mr. Lett analyzed the DNA profiles extracted from Exhibit “X” the orange and purple pouch and authored three reports dealing with the results of his examination.

[237] Mr. Lett found that area “AC” of Exhibit “X” contained a mixed DNA profile consistent with having originated from two individuals. He compared the profiles with the known profile of Ms. Mitousis and concluded that one of the profiles was hers. When Ms. Mitousis’ profile was removed from the mixed profile, what remained was a male profile of unknown origin, which was designated as “unknown male 1”.

[238] Mr. Lett testified that because this male profile was complete, it was eligible for entry onto the National DNA Data Bank of Canada. The National DNA Data Bank contains two separate indices; a crime scene index and a convicted offender index.

[239] Mr. Lett’s next contact with this case involved the comparison of two known male profiles with the “unknown male 1” profile found on the orange and purple pouch. One of the known profiles belonged to Mr. Amsel.

[240] The RCMP lab in Edmonton received Mr. Amsel’s blood sample from the Winnipeg Police Service on August 28, 2015. A DNA profile was extracted from the sample and sent to Mr. Lett in Ottawa, where he did his comparison.

[241] His conclusion was that Mr. Amsel’s DNA profile matched the “unknown male 1” profile from Exhibit “X” at all 15 comparison points. He estimated that the probability of selecting an unrelated individual at random from the Canadian

Caucasian population with the same profile is one in 1.2 quintillion. A quintillion has 18 zeros.

[242] Mr. Lett authored a third report in November of 2015 describing analysis done on other areas of the orange and purple pouch. Swabs taken from the inside of the zipper seam and the foam insert of the pouch produced a profile of mixed origin containing the DNA of two individuals. Mr. Lett was able to conclude that one of the contributors was Ms. Mitousis. The other profile however was not sufficient for comparison and remained unidentified.

[243] A swab taken from the interior fabric of the pouch also produced a mixed profile containing the DNA of three individuals. Mr. Lett was unable to come to any conclusions about this profile.

[244] At the time of the initial investigation in December 2013, exhibits from 127 Nicholas Street were submitted only to the Trace Evidence Section of the RCMP National Forensic Laboratory in Ottawa. There was no concurrent request for examination by the Biology Section.

[245] When the additional exhibits were submitted to the lab in October 2015, after the Winnipeg incidents occurred, the Biology Section also became involved.

[246] In January of 2016, the three pieces of charred string, police Exhibits 9, 14 and 15 were examined for the presence of DNA.

[247] Testing on police exhibits 14 and 15 showed the presence of human DNA. The amount detected however was insufficient for further testing.

[248] A partial DNA profile was extracted from police Exhibit 9, a 41cm long piece of charred string from within or near the crater. The profile was sent to Marc Lett for analysis.

[249] Mr. Lett testified in his expert capacity that the profile contained a mixture of DNA from at least three individuals. The mixture had a major component that was designated as "Male 1". The two minor components were too weak for comparison purposes.

[250] The “Male 1” profile was suitable for submission to the National DNA Data Bank Crime Scene Index and was forwarded by Mr. Lett on February 4, 2016.

[251] On the same day Mr. Lett, was notified that the DNA profile “Male 1” from Exhibit 9 the piece of charred string was a match with area “AC” from Exhibit “X” the orange and purple pouch from the explosion scene at 252 Stradbrook Avenue.

[252] While this match is not evidence in and of itself to be considered by the Court, it resulted in the RCMP in Winnipeg obtaining a warrant for a second blood sample from Mr. Amsel for use in the 127 Nicholas Street investigation.

[253] On April 7, 2016, Cst. Duffy attended to Headingley Correctional Institute, and obtained a second blood sample from Mr. Amsel. The sample was subsequently submitted to the National Forensic Laboratory in Edmonton on June 13, 2016. (police Exhibit 301)

[254] Search technologist C. Federman developed a male DNA typing profile from the sample and forwarded the profile to Marc Lett in Ottawa for his review.

[255] Mr. Lett compared the profile of the blood sample taken from Mr. Amsel to the “Male 1” profile obtained from Exhibit 9, the piece of charred string and determined it to be a match.

[256] He estimated that the probability of selecting an unrelated individual at random from the Canadian Caucasian population with the same profile is one in 2.6 trillion.

[257] In his testimony Mr. Lett also gave general information about what DNA is, how it is deposited and transferred, and what kinds of conditions favour its persistence.

[258] He told the Court that DNA is the same in all body cells and never changes. His analysis and comparison looked at fifteen specific regions of DNA that are highly variable between individuals

[259] Mr. Lett said that DNA is deposited by a person in a number of ways and is very individual. DNA can be deposited directly by a person simply handling an item. This is referred to as primary transfer. The amount of DNA a person leaves

behind by touching an item is influenced by such factors as skin condition, perspiration level and the length of time an item is handled.

[260] DNA can also be deposited on an item by what is termed secondary transfer. This occurs when an object containing a person's DNA comes into contact with another object and the DNA from the first object is transferred to the second object.

[261] Mr. Lett testified that DNA can persist for months or even years, if it is properly stored. The persistence of DNA is favoured by dry cold conditions, and DNA degrades fairly quickly if exposed to other environmental factors.

[262] With respect to DNA and exposure to environmental conditions, Mr. Lett testified that DNA can persist for months or even years in the right environment.

[263] DNA will remain longer in a dry cold environment; however when exposed to outside environmental conditions such as moisture and ultra violet rays, it will begin to degrade within weeks.

[264] Mr. Lett looked at photographs taken of the crater at 127 Nicholas Street and testified it was quite possible that DNA could persist on a string in those circumstances for a couple of days. However, he would not expect to find DNA present on items after spending years outside.

#### 4. Similar Fact Evidence

[265] The Court previously ruled that the evidence regarding each of the explosions was admissible as similar fact evidence on each of the other counts. The ruling on threshold admissibility is a permissive one made on a balance of probabilities and allows the court to consider the evidence from each count as evidence on the others. In this case the similar fact evidence is relevant to the issue of identification.

#### **Defence Evidence**

[266] In addition to the accused the defence called Mr. Amsel's long time friend Georgie Zacharias to give evidence.



[267] Ms. Zacharias testified that she met the Amsels through their automotive business many years ago, and developed a friendship with Iris Amsel. During their friendship, Iris shared personal information with her about the couple's divorce, her feelings about Mr. Amsel remarrying, and her wish to reconcile with him.

[268] Ms. Zacharias said that there were occasions when she and Iris Amsel were alone together in Mr. Amsel's office, and that Iris looked through his emails and phone records to see who he was contacting.

[269] She also described an incident in which she said Ms. Amsel found Mr. Amsel's wedding ring sitting on the toilet tank and flushed it down the toilet.

[270] She testified that Ms. Amsel sent emails to Mr. Amsel's new wife Janice pretending to be a man named Adrian who was interested in her. And further, that Ms. Amsel asked Ms. Zacharias to approach someone to make phone calls to Janice Amsel pretending to be this male.

[271] Ms. Zacharias also said that Iris asked her to deliver letters that she had written about Janice to the immigration office, and asked Ms. Zacharias to say negative things about Janice in an effort to stop her from coming to Canada.

[272] Ms. Zacharias testified that Ms. Amsel was determined to break Guido and Janice up and said she would do almost anything to get him back.

[273] She quoted Ms. Amsel as having said that she was going to destroy Mr. Amsel and make him pay to get back at him.

[274] Ms. Zacharias ended her friendship with Iris Amsel in 2006, and in time reported all of these events to Mr. Amsel.

[275] After becoming friends with Mr. Amsel, Ms. Zacharias helped him investigate his belief that Ms. Amsel had stolen money from their business.

[276] She testified that she found a lot of what she termed as irregularities, as she looked through the accounting records of the business.

[277] While Ms. Zacharias has some background in accounting, she conceded that she is not qualified to do a forensic audit, and had no knowledge as to how the Amsels ran Eurotech Autobody prior to her involvement.

[278] She wrote a letter for Mr. Amsel summarizing her findings and conclusions that was ultimately submitted by him to the RCMP in his theft report.

[279] In an effort to illustrate Ms. Amsel's dishonest conduct in the business, Ms. Zacharias described an event in which she said Ms. Amsel deliberately damaged Ms. Zacharias' vehicle so that she could make an insurance claim with the Manitoba Public Insurance Corporation (MPIC)

[280] Although Ms. Zacharias made the claim and received an insurance payment, she conceded on cross-examination that she had not told MPIC how her car was damaged.

[281] Ms. Zacharias explained that she did not think reporting those details were necessary and said she did not view her claim as fraudulent.

[282] Ms. Zacharias was asked to give her opinion about the handwriting on the various exhibits relating to the Winnipeg incidents. On direct examination she said that although she could not be sure, she offered the opinion that the lettering was similar to Iris Amsel's block style of writing and that what she was shown could easily be the writing of Ms. Amsel.

[283] On cross-examination she conceded that when interviewed by the police she told them that the writing looked like Mr. Amsel's. She clarified this inconsistency by saying that the writing looks like both of the Amsel's, as well as their son's because that is how German children learn to write.

[284] In the end she said that she does not know whose writing it is and although she has her suspicions, she had no idea what happened in relation to the Winnipeg bombing incidents.

#### Evidence of Mr. Amsel

[285] Mr. Amsel testified on his own behalf. He denied all involvement with the improvised explosive devices that are the subject of this trial. More specifically, he

denied it is his handwriting on the packages or the note addressed to Ms. Mitousis. He also denied having any knowledge about TATP or bomb making.

[286] He described how his former wife was very upset at their divorce and his subsequent remarriage. He said that she wanted to reconcile.

[287] Mr. Amsel described an incident where he suspected that Ms. Amsel took his wedding ring from a nearby counter while he was in the shower. He said that he had not actually seen this occur and was speculating about what happened to the ring.

[288] Mr. Amsel confirmed that Ms. Zacharias shared information with him about Ms. Amsel and the things she had done involving his new wife. As a result, sometime in 2008 Mr. Amsel told Iris to leave the shop, and her business relationship with Mr. Amsel and Eurotech Autobody ended.

[289] Mr. Amsel testified in detail about the theft from Eurotech Autobody. He described how Iris continued to do the company books even after their separation, until he asked her to leave in 2008. Her duties included general accounting, paying bills and writing cheques on behalf of the company. She also took care of all the bank deposits.

[290] Mr. Amsel said that after he told Iris to leave the business, his current wife Janice Amsel took over the books. He said this was the first time the business had made money. As a result he began looking into the finances of the shop and his ex-wife's handling of the accounts.

[291] He testified that over the course of the next six months he and Georgie Zacharias conducted an investigation of the books, and compiled a large binder of materials that formed his theft report to the RCMP.

[292] The binder included financial documents and other items such as photo radar tickets issued to Ms. Amsel during business hours, from which Mr. Amsel inferred that she was speeding to banks other than their own to deposit stolen money.

[293] Mr. Amsel was dissatisfied with the way his report was dealt with by the RCMP for a number of reasons which will be detailed in due course.

[294] It is clear from his evidence that Mr. Amsel firmly believed that Ms. Amsel stole a great deal of money from the business. He settled on the figure of four million dollars as the amount.

[295] He was very clear that he considered his former wife to be a criminal and that he wanted to see her in jail.

[296] Mr. Amsel denied going to Ms. Amsel's residence on December 13, 2013, and offered explanations as to how his DNA was found on Exhibit 9, the piece of charred string in or near the crater.

[297] He suggested Exhibit 9 could be a piece of string he touched when he insulated the garage roof when it was built in 1992.

[298] He described that each piece of insulation installed was rolled up, tied with string and passed to him by Ms. Amsel up through a hole in the ceiling of the garage.

[299] Mr. Amsel described how he cut the strings and rolled out the pieces of insulation in between the roof trusses. They covered the entire area of the roof, as close to the eaves as possible. He said he left all of the pieces of string up in the insulated roof of the garage.

[300] He described how he put a plywood floor overtop of the insulation to create a storage area over the roof of the garage.

[301] He agreed on cross-examination the insulation did not go right up to the edges of the eaves and not into the area covered by the exterior soffits.

[302] Mr. Amsel was by implication suggesting that when the explosion and fireball occurred next to the garage and under the eaves, a piece of string or strings fell from the insulated roof of the garage onto the ground around the crater created by the blast.

[303] The second explanation suggested by Mr. Amsel for the presence of string bearing his DNA related to finishing the driveway at 127 Nicholas Street sometime between 1998 and 2000.

[304] He testified he used pegs and string to lay out the placement of the driveway, and then spread gravel within the outlined area using a wheelbarrow and shovel to create the driveway. He said he left the string where it was under the gravel.

[305] Mr. Amsel conceded on cross-examination he did not actually know if the string was left there or if it was rolled up to use again. Ultimately, he agreed he does not really know what happened to the string.

[306] His final suggestion for the presence of his DNA on the string at the scene of the explosion related to the planting of approximately 200 trees on the property in 2005 or 2006.

[307] Mr. Amsel described how he used string to lay out straight lines for the uniform planting of the trees, and again that the string may have simply been left in place when the planting was done.

[308] On cross-examination, Mr. Amsel conceded he did not actually know if the string was left there or not and he had no idea where the string went after the trees were planted. He agreed the string could have been rolled up to be used again, just not by him as he didn't do the clean up.

[309] On cross-examination he suggested the DNA on the string could also have been fabricated and pointed to what he felt was a discrepancy in the length of RCMP exhibit 9 as depicted in two photos to support this assertion.

[310] Mr. Amsel did not take any issue with the details of the property settlement reached at the time of divorce, his failure to fully comply with it, or the settlement reached with Ms. Mitousis regarding the auction in 2015.

[311] He also largely agreed with the testimony given about the family court proceedings with his former spouse, such as the child support and paternity issue.

[312] Mr. Amsel described his dealings with Ms. Mitousis as respectful and professional and commented that he didn't have any personal feelings about her.

[313] As for abandoning his counterclaim, Mr. Amsel essentially said that it was no longer worth his time, and that he wanted to move on with his happy life with

his wife Janice and his two children. He described the resolution of the civil suit and the dropping of his counterclaim in relation to the theft as a big relief.

[314] Mr. Amsel testified that he was unhappy with the legal representation he received from Sarah McEachern. He said that despite having given her all of the documentation about the theft from Eurotech Autobody, she did not refer to it or question Ms. Amsel about it during the discovery process.

[315] From this, he concluded that Ms. McEachern must have been paid off by either Iris Amsel or Maria Mitousis to compromise his legal interests, or in his words to “misguide his case”. He also testified that he was strongly of the opinion that Sarah McEachern should have been reported to the Law Society.

[316] He largely agreed with Ms. McEachern’s recitation of the conversation between them on the day she withdrew, but characterized it in a different way. Rather than agreeing that he was accusing Iris Amsel or Maria Mitousis of paying her off, he preferred to view it as simply asking a question as to whether that was the case.

[317] Mr. Amsel also pointed out that despite his feelings about Ms. McEachern, she was not targeted by a bomb.

[318] As for his relationship with George Orle, Mr. Amsel confirmed that the only time he met him was at the final meeting with Ms. McEachern, in which he was told the firm would no longer represent him.

[319] While Mr. Amsel agreed that he knew Mr. Orle’s name was part of the firm name, he said that he wasn’t aware that he was involved in his case and said that as far as he was concerned he had not hired Mr. Orle.

[320] When giving his evidence about this Mr. Amsel’s tone suggested that he was puzzled by Mr. Orle’s presence at the meeting and questioned why someone he had not hired and who he had not met before would be part of a discussion regarding his continuing legal representation by Ms. McEachern.

[321] A number of the items found in Mr. Amsel’s residence were similar in nature to components found in the three explosive devices. He readily provided

innocent explanations for the presence of button batteries, copper, solder and a disassembled cell phone, with the circuit board removed.

[322] As for the two digital voice recorders locked in the safe, Mr. Amsel said they were simply in there for safekeeping.

[323] Mr. Amsel, again, had at the ready a number of explanations for how his DNA could have come to be on the pouch containing the device that injured Ms. Mitousis.

[324] Mr. Amsel suggested he could have deposited his DNA directly onto Exhibit "X", the orange and purple pouch when he attended the Dollarama store on Regent Avenue. He testified that he went to that store with his children frequently, sometimes as often as once a week. While his children shopped he would wander throughout the store looking at things and touching items.

[325] Mr. Amsel however, did not testify to an actual recollection of having seen or touched a pouch like the one at issue at the Dollarama store.

[326] His second possible explanation for the presence of his DNA on the pouch involved it having been transferred onto it after Ms. Mitousis placed it on her desk.

[327] Mr. Amsel suggested that his DNA would have been left on the paper contained in Ms. Mitousis' legal file regarding the civil case with his wife.

[328] When representing himself in 2013, Mr. Amsel went to Ms. Mitousis' office at the firm of Monk Goodwin to review affidavits and other legal documents for discovery purposes. He testified that he went through each document and made copies of them over the course of two days. This was confirmed by Ms. Mitousis.

[329] The file was moved to the Peterson King offices when Ms. Mitousis joined that firm in September 2014, and at times would have been in her office and on her desk when she was working on the file.

[330] In his testimony Mr. Amsel concluded that the transfer of his DNA from the papers in the case file to the surface of the desk and then subsequently to the pouch may also explain its presence.

[331] He also suggested that one of the file boxes in her office at the time of the explosion could have been the very file box he handled back in 2013.

[332] Both Mr. Amsel and Ms. Mitousis agree that he was never physically in her office at Peterson King.

[333] These explanations, as were the explanations for his DNA being on the string, are premised on Mr. Amsel's characterization of himself as being a "high DNA depositor". He testified that he has dry skin, he sweats a lot, regularly pokes at his nose, which is often bloody, scratches his head, and routinely licks his fingers to turn pages when reading. He offered the opinion that when he touches things he leaves traces of himself behind.

[334] As an alternative explanation, Mr. Amsel also testified that he believes the DNA evidence on the pouch was put there by someone else, in an effort to frame him.

[335] He testified that he believes his former lawyer Martin Glazer, the Crown Attorney Mr. Vanderhooft and the police conspired together to put his DNA on Exhibit "X" after it was seized from Maria Mitousis' desk, or in the alternative his DNA was put on a second pouch and substituted for the one found on the desk.

[336] Mr. Amsel reached this conclusion because he believes that Martin Glazer phoned him and told him that his DNA was found on the pouch before the testing had even been done.

[337] When questioned about this theory on cross-examination, Mr. Amsel clarified that this was more than a mere theory; that he had proof.

[338] To this end, Mr. Amsel took the Court through a series of photographs of the pouch in an attempt to show inconsistencies in its appearance at various stages of the investigation.

### **Findings of Credibility**

[339] Findings of credibility are governed by the process outlined in the case of *R. v. W.(D.)*, [1991] S.C.R. 742 and as described in *R. v. Menow*, 2013 MBCA 72.



[340] If I believe the evidence of Mr. Amsel then I must acquit him.

[341] Likewise, if I find that his evidence leaves me with a reasonable doubt as to his guilt, or an essential element of an offence, I also must acquit him.

[342] In coming to credibility conclusions, the Court can believe some, none, or all of a witness' testimony, and must consider evidence given on both direct examination and cross-examination.

[343] In the case of Mr. Amsel there are parts of his testimony that I do accept, and I have referred to many of them in the overview of the evidence.

[344] I accept that Mr. Amsel firmly believes his former wife has stolen millions of dollars from him. I accept that he believes that others have conspired to assist her in avoiding responsibility for the theft, including the RCMP and the lawyers involved on both sides of their litigation. I accept that he believes that his own lawyer may have been paid off by either Ms. Amsel or Ms. Mitousis to not properly represent him.

[345] I do not accept that any of those things actually happened but I do accept that Mr. Amsel believes they did.

[346] I do not accept Mr. Amsel's testimony that he was not angry about this situation, and I do not accept he simply decided to walk away from these firmly held beliefs and go on with his life. It is totally inconsistent with his behaviour over the course of the five years preceding these incidents.

[347] He went to great lengths to have Ms. Amsel held responsible and punished for the theft of millions of dollars, not only by suing her but also by trying to have her criminally charged.

[348] Mr. Amsel was not only vocal about his beliefs, he took action to right what he perceived to be a significant wrong done to him.

[349] In evaluating Mr. Amsel's credibility I have considered a significant contradiction between Mr. Amsel's evidence and the evidence of his other witness, Ms. Zacharias. The contradiction affects the credibility of both.

[350] In his testimony Mr. Amsel described an incident in which his wedding ring went missing. He implied that his former wife was responsible because she was upset about his remarriage.

[351] He said on the day the ring went missing, he was to travel to the Philippines to see his wife. The ring disappeared from the counter where he placed it while he was in the shower.

[352] Ms. Zacharias also testified about the loss of Mr. Amsel's wedding ring, but gave a completely different account of what occurred, claiming she was present when Ms. Amsel flushed it down the toilet.

[353] The stories cannot both be true and are so different that a mistake in memory cannot explain the inconsistency. What does explain the inconsistency is an unsuccessful attempt at collusion and concoction on the part of Ms. Zacharias and Mr. Amsel.

[354] Much of Mr. Amsel's evidence was replete with allegations and accusations about those involved in this case. The allegations were based on nothing more than speculation on his part, resulting in conclusory statements that lacked factual or logical foundation.

[355] The remainder of Mr. Amsel's evidence in relation to the Winnipeg incidents consisted of various attempts to provide innocent explanations for otherwise incriminating evidence.

[356] Mr. Amsel provided possible explanations as to how his DNA could have innocently been deposited on the string at 127 Nicholas Street and on the orange and purple pouch.

[357] He testified that these scenarios were definite possibilities based on the evidence he heard from DNA expert Marc Lett.

[358] In his testimony, Mr. Lett described the ways in which DNA can be deposited, and said the amount of DNA each person deposits is individual.

[359] Mr. Amsel has concluded that he is a high DNA depositor based on his perspiration levels, dry skin and personal hygiene habits.

[360] I do not accept the possible innocent explanations provided by Mr. Amsel. I find them to be conveniently designed to accord with Mr. Lett's expert evidence and the evidence suggesting where the pouch may have been purchased.

[361] The explanations are in my view entirely too remote and coincidental when viewed in the context of the evidence as a whole to be credible.

[362] The explanations for his DNA being found on RCMP Exhibit 9, the piece of charred string are speculative on his part and too remote in time to be credible. They are not supported by the evidence of Marc Lett regarding the longevity of DNA in exposed circumstances.

[363] None of the explanations for the presence of his DNA on the string account for how the piece of string became attached to the licence plate of the Jeep.

[364] Mr. Amsel offered a final explanation for why his DNA was found on Exhibit "X", which suggests a rather elaborate conspiracy involving his former legal counsel, the Crown Attorney, the Winnipeg Police Service and perhaps someone from within the RCMP National Forensic Laboratory itself.

[365] The explanation for his theory, according to Mr. Amsel is based largely on his recollection of when his former counsel Mr. Glazer phoned him to advise that his DNA had been found on Exhibit "X".

[366] The suggestion made by Mr. Amsel was that unless Mr. Glazer was involved in planting the DNA he would not know it was there, as the pouch had not been tested at the time he received the phone call.

[367] This is not Mr. Amsel's only allegation of conspiracy in this case.

[368] He contends that many people have conspired with Ms. Amsel to protect her from being punished for the theft he alleges, and to protect her from being held responsible for the bombings.

[369] Mr. Amsel lodged a complaint about Sgt. Bresciani's handling of his theft report. In his court testimony, Mr. Amsel further alleged that Sgt. Bresciani was corrupt and had requested a bribe in order to proceed with the theft complaint. An allegation that Sgt. Bresciani denied.

[370] Mr. Amsel also concluded that his own lawyer Ms. McEachern did not represent him properly and believed she did so because either Ms. Amsel or Ms. Mitousis had paid her.

[371] And finally, Mr. Amsel said it was Ms. Amsel herself that was responsible for planting and sending the bombs, and that she did this in an effort to have him held responsible. A cover up of her plot is explained by the planted DNA and the conspiracy by the Winnipeg Police Service, the Crown's office and his own lawyer, Mr. Glazer, to ensure his conviction.

[372] I do not find Mr. Amsel's testimony regarding any of these allegations to be believable or credible. His evidence overall when considered in the context of the evidence as a whole does not raise a reasonable doubt.

[373] I do not accept his explanations and they do not raise a reasonable doubt for the presence of his DNA.

[374] It was quite evident that Ms. Zacharias came to court and testified with the intention of supporting her friend Mr. Amsel. It was also clear that her evidence was given in an effort to paint Ms. Amsel in a very negative light.

[375] I did not find her to be a particularly credible witness.

[376] Her bias in favour of Mr. Amsel was obvious and in the end her testimony was of little value to the issues before the court.

[377] The defence challenged the evidence of a number of the Crown witnesses, and asked the Court to be at best cautious in accepting their evidence, and at worst to reject it outright. The first of those witnesses was Iris Amsel.

[378] Ms. Amsel described the details of her relationship with Mr. Amsel, as well as the history of their legal proceedings.

[379] She did so in a calm and measured way. She appeared to do her best to be accurate when answering questions and did not exaggerate her evidence when there was opportunity to do so.

[380] Ms. Amsel readily agreed she was upset at the break down of her marriage and unhappy that Mr. Amsel was remarrying. She agreed it was her hope they would reconcile.

[381] While she denied snooping through Mr. Amsel's email and phone records, she candidly admitted she tried to interfere with Mr. Amsel's new relationship, by contacting his new wife via the internet, and pretending to be a man interested in her. She agreed she may also have asked Ms. Zacharias to do so as well.

[382] Ms. Amsel agreed it was also possible she asked Ms. Zacharias to lie about Janice Amsel to officials in order to interfere with her immigration to Canada.

[383] She denied saying that she was going to destroy Mr. Amsel and make him pay for their break up.

[384] Ms. Amsel denied stealing any money from Eurotech Autobody, let alone millions, and said the company simply did not make that level of income.

[385] Finally, she denied the suggestion she was responsible for sending any of the bombs involved in this case.

[386] Many of the things said about her in the defence evidence were not put to Ms. Amsel on cross-examination.

[387] While Ms. Amsel did not agree with all of the assertions that were put to her, her willingness to admit her past misbehaviour enhanced her credibility. She was unshaken in her testimony when challenged, and I accept her evidence.

[388] I likewise found Mr. Block's testimony was given in a very direct, and fair manner. He did not embellish or exaggerate and presented as credible. I accept his evidence.

[389] I accept that Ms. Amsel did not send a bomb to herself at her own home, to herself at Ollie's Auto or to Ms. Mitousis and Mr. Orle.

[390] On the issue of handwriting identification, I found Kevin McKenzie to be a very credible witness. He testified in an even, thoughtful manner, which made his evidence compelling.

[391] His credibility is enhanced by the fact that he commented at the time he received the package at Ollie's Auto that he recognized Mr. Amsel's handwriting. It is significant that he did so before he had any knowledge of the importance of his recognition.

[392] Ollie Erhmantraut, who also testified about handwriting was by contrast a very exuberant witness. I accept Mr. Ehrmantraut's general recitation of events relating to Mr. Amsel's tone and manner when speaking of his divorce, his belief in the theft by Iris, and his assertions of corrupt behaviour by police and lawyers.

[393] While I do not believe Mr. Erhmantraut was being dishonest in any way, I found his descriptions of some events and the absolute certainty with which he described them hard to accept.

[394] He was often overly sure of his assertions in a way that caused me to question the accuracy of the details, particularly when his recollection was at odds with that of Mr. McKenzie, whose evidence I accept.

[395] In areas where other evidence does not corroborate Mr. Erhmantraut's testimony, I give it little weight.

[396] The defence strongly urged the Court to question the credibility of an important police witness, Cst. Neumann.

[397] Cst. Neumann was the primary exhibit officer respecting the Winnipeg incidents and was responsible for the safekeeping and continuity of evidence.

[398] The first issue raised by the defence surrounded the fact that the outer bag containing police Exhibit "X", the orange and purple pouch was unsealed by Cst. Neumann prior to it being brought to court for the trial. It was the only exhibit dealt with in this manner.

[399] By the end of the investigation, Exhibit "X" was contained in multiple layers of packaging, had been given a different exhibit number by the RCMP lab, (Exhibit 5) and each time it was dealt with by someone their identifying marks were placed onto its packaging.

[400] The defence suggested the reason Cst. Neumann opened the outer bag was because he was not confident Exhibit “X” was actually inside, and submitted that if this were so, the Court should be concerned overall about how exhibits in this case were handled and the integrity of the chain of continuity attested to by Cst. Neumann.

[401] Cst. Neumann provided an explanation for opening the outer layer of packaging.

[402] He explained that when he collected the exhibits for Court he examined the evidence bag containing Exhibit “X”. He testified that when he looked through the plastic of the sealed outer bag he could not see the marking “X” on the inner bag. He only saw the marking indicating Exhibit 5.

[403] As a result, he opened the outer bag to confirm that the marking “X” also appeared on the inner bag along with the marking 5, which was the designation of the RCMP Forensic lab in Ottawa.

[404] Cst. Neumann testified he did not open the inner plastic bag or the paper bag containing Exhibit “X” until in the courtroom, during the trial.

[405] On cross-examination, Cst. Neumann denied opening the bag because he was uncertain the pouch was inside, and maintained his confidence in the methodology used to maintain the continuity of exhibits in this case.

[406] He said he was simply being “hyper vigilant” in ensuring he was bringing, what in his mind was the most important exhibit in the case to court.

[407] In light of the fact Exhibit “X” had been through a number of hands during its analysis in Ottawa, and had a second exhibit number visible on it when returned, I accept Cst. Neumann’s explanation for wanting to ensure he could see the marking “X” on the inner exhibit bag.

[408] Once he was able to see his own marking on the bag, he did not find it necessary to further open the next two layers of packaging.

[409] The defence also challenged Cst. Neumann’s credibility in relation to his testimony about a particular fingerprint comparison done by Sgt. Takatch.

[410] After the RCMP Forensic lab returned the exhibits, Cst. Neumann and other members of the identification unit examined the metal and plastic fragments recovered from 252 River Avenue for the presence of fingerprint impressions.

[411] He testified that officers Berdesis and Takatch both saw a possible friction ridge impression on a piece of plastic seized from the floor of Ms. Mitousis' office. (Exhibit "P2A") Cst. Neumann explained that a friction ridge impression is either a finger print, palm print, toe print or foot print.

[412] Cst. Neumann photographed the impression because it could not be successfully lifted from the actual exhibit.

[413] The impression was searched on the Automated Fingerprint Identification System (AFIS) with no match found.

[414] Sgt. Takatch compared the impression to Mr. Amsel's fingerprints. He testified that he did not find anything within the impression that matched to Mr. Amsel's print, but also said the amount of friction ridge present on the exhibit was insufficient to do a comparison.

[415] In his evidence Cst. Neumann testified that the impression on Exhibit "P2A" was not positively identified as Mr. Amsel's print.

[416] On cross-examination, he did not however agree with the suggestion that the fingerprint impression was therefore not Mr. Amsel's. He reiterated that it was not possible to either identify or eliminate the fingerprint as being his.

[417] Officers Barber and Moroz were tasked with obtaining the fingerprints of another individual for comparison to the impression. They both testified that Cst. Neumann told them the second comparison was necessary because the comparison with Mr. Amsel's fingerprints was "negative".

[418] The defence submitted that this contradiction showed that Cst. Neumann attempted to give his testimony in a manner favourable to the Crown, and attempted to characterize the fingerprint evidence in a way that would not favour the accused's innocence, deliberately leaving an inaccurate impression with the Court.



[419] Because of this bias the defence argued the Court should not accept his evidence.

[420] I do not find a contradiction in the different wording used by Cst. Neumann.

[421] The description of a comparison as negative, does not necessarily equate with a finding that the print was not that of the suspect.

[422] The lack of a confirmed match, or for that matter, a confirmed elimination may be explained by the nature or quality of the impression being compared. The description of the situation as “negative” to officers Barber and Moroz in my view simply means there was no match.

[423] I am not persuaded that Cst. Neumann conducted himself in any manner other than a professional one. I find that he was diligent in processing the scenes in this investigation and in the handling of all of the exhibits, and I accept his evidence.

[424] Many of the inferences the Court has been asked to draw are based on the expert forensic evidence given by Dr. Nigel Hearn of the RCMP Trace Evidence Section and Marc Lett of the RCMP Biology Section. Both experts presented as being very knowledgeable in their areas of expertise.

[425] Dr. Hearn explained the technical aspects of explosive devices and explosive compounds in a very understandable way. He has a wide range of experience in both research and practical application in his field. I found him to be a thorough, reliable and credible witness.

[426] Mr. Lett has been employed by the RCMP and involved in all aspects of DNA analysis for many years and was qualified as a reporting scientist in June 2015. He provided testimony both general in nature regarding DNA and evidence regarding statistical probabilities specific to this case. I similarly found him to be a thorough, reliable and credible witness.

## **Findings of Fact**

[427] In this case I have concluded that the three Winnipeg incidents bear a number of striking similarities to each other that are so unique as to eliminate the prospect of coincidence in their having occurred independent from one another.

[428] The probative value of the similar fact evidence increases as the similarities between the acts increases. In this case there are compelling similarities among the three incidents.

[429] All three packages were sent via Canada Post regular mail within the same narrow time frame.

[430] The cost of mailing each package was paid for using multiple stamps as opposed to the postage being paid at a Canada Post outlet.

[431] All three packages contained improvised explosive devices designed to explode when manipulated and spread shrapnel fragments.

[432] All three explosive devices contained the same explosive substance, Triacetone triperoxide.

[433] All three explosive devices included button batteries bearing the same stamp, "Vinnic L1154".

[434] Two of the three devices had a message embedded within them.

[435] All three packages were addressed in hand printed block lettering, that in Mr. Belcastro's expert opinion shared characteristics in common.

[436] As the trial judge I am entitled to conduct a comparison of exhibits and draw conclusions about my observations. (*R. v. Cunsolo*, 2014 ONCA 364)

[437] I have examined the writing on the reconstructed yellow note sent to Ms. Mitousis and the three outer envelopes sent to 252 River Avenue, 599 Washington Avenue and 280 Stradbrook Avenue, and have concluded that all of the writings are very similar to one another.

[438] Finally, on the issue of similarities, each package was sent to an individual known to Mr. Amsel, and with whom he was involved in a previously contentious legal proceeding.

[439] The message within the bomb sent to Ms. Amsel in 2015 contained the words “stole” and “crime” which is consistent with Mr. Amsel’s contention that she was a thief.

[440] In the case of Ms. Mitousis and Ms. McEachern, Mr. Amsel accused them of professional misconduct in the civil case by alleging bribery and suggested it should be reported to the Law Society.

[441] The message within the bomb sent to Mr. Orle said “report or we blow your head off”, which is consistent with Mr. Amsel’s accusation of misconduct on the part of Ms. McEachern and his stated intention to report the matter to the Law Society.

[442] In the case of Mr. Orle, Mr. Amsel associated him with the withdrawal of Ms. McEachern as his lawyer.

[443] With respect to the packages sent to 252 River Avenue, 599 Washington Avenue and 280 Stradbrook Avenue I have concluded a number of striking similarities exist, all of which are relevant and highly probative of the issues of identity and modus operandi of the perpetrator. The similarities are so numerous and unique that I am satisfied beyond a reasonable doubt the same individual sent all three explosive devices and that the probability of these incidents occurring independently of one another by coincidence is non-existent.

[444] I have concluded that the person who sent the devices was Mr. Amsel.

[445] I have reached this conclusion because I am satisfied based on Mr. Amsel’s conspiratorial beliefs about those involved in his civil legal proceedings that he had motive to harm them by sending the explosive devices. His motive was to punish them for their respective roles in the outcome.

[446] I am also satisfied that it is Mr. Amsel’s writing on the packages that contained the three bombs sent to the Winnipeg targets. While the evidence is not

determinative from the standpoint of an expert as a positive identification, there is credible evidence from people who know Mr. Amsel and say the writing on the packages appears to be his.

[447] I am satisfied that the samples provided by Ms. Amsel are the writing of Mr. Amsel and I have also compared them to the photos of the note and packaging in this case.

[448] With respect to item 1 titled "Mobile Crane Service", I note the similarities of the letters "M" and "A" with the lettering depicted in Court Exhibit 1, photos 25 and 30 depicting the reconstructed note and envelope sent to Ms. Mitousis.

[449] I have also come to the same conclusion with respect to the envelope depicted in Court Exhibit 3, photo 5, from the package sent to 599 Washington Avenue.

[450] With respect to item 2 from Exhibit 35, I also note similarities between the letters "M" and "F" as compared with Exhibit 1, photos 25 and 30, Exhibit 3 photo 5 and the "F" in Exhibit 4 photo 8, the envelope sent to George Orle.

[451] Finally, I am satisfied that it is Mr. Amsel's DNA on Exhibit "X".

[452] I have come to this conclusion because I am satisfied the exhibits seized from 252 River Avenue were handled diligently and professionally and specifically with a view to ensuring that cross contamination from the various scenes did not occur.

[453] I am similarly satisfied with respect to how the pouch was handled at the RCMP National Forensic Laboratory, and I accept Marc Lett's expert evidence with respect to the statistical improbability of the DNA on the pouch being that of anyone other than Mr. Amsel.

[454] I am satisfied that Mr. Amsel's DNA is on Exhibit "X" the orange and purple pouch because he, not anyone else, put it there.

[455] I am satisfied that Mr. Amsel deposited his DNA on the pouch when he handled it during the course of mailing the explosive device to Ms. Mitousis.

[456] I have also concluded that Mr. Amsel placed the device at 127 Nicholas Street in 2013.

[457] I have come to this conclusion because I am satisfied the DNA on Exhibit 9, the piece of charred string is Mr. Amsel's.

[458] Despite the delay in analysis, I am satisfied the exhibit was handled properly by both the RCMP and the National Forensic Laboratory.

[459] I accept the evidence of Marc Lett as to the statistical improbability of the DNA on the string being that of anyone other than Mr. Amsel.

[460] I am satisfied that Mr. Amsel's DNA is on the string because he handled it either while assembling the device or while placing it at 127 Nicholas Street.

[461] I am satisfied that the device at 127 Nicholas Street contained a high power explosive and I infer from the manner in which it exploded that it was constructed to fragment and create shrapnel when detonated.

[462] I am satisfied the three pieces of string found in or near the explosion crater were one piece of string prior to the explosion. I am satisfied one end of the string had a metal pin tied to it, and that the pin was part of the device.

[463] I am satisfied the other end of the string was tied to the licence plate of the Jeep by the person who planted the device.

[464] While there is no evidence as to the actual construction of the device itself, or what caused it to detonate, I am satisfied it was intended that the explosion be initiated by the movement of the string attached to the device and the vehicle. There is no other logical inference to draw.

[465] Whether it was intended that the string be moved through contact with a person or by the movement of it by the Jeep, the inference I draw is that the detonation was intended to be victim triggered.

[466] While there are a number of differences between the incidents from Winnipeg in 2015 and the incident from 2013, the similarities that do exist are significant.

[467] All four incidents involved the use of a high power explosive, placed in a device designed to spread shrapnel when detonated.

[468] The devices in all four incidents were designed to be victim activated.

[469] The delivery of the four devices coincided with the conclusion of legal proceedings in favour of Ms. Amsel.

[470] Finally, Ms. Amsel was targeted in 2013 and in 2015.

[471] The similarities are in my view additional evidence identifying Mr. Amsel as being responsible for the explosion at 127 Nicholas Street.

### **Conclusion**

[472] I am satisfied beyond reasonable doubt by the evidence presented by the Crown that Mr. Amsel is responsible for either assembling the explosive device and or placing it at 127 Nicholas Street on December 13, 2013.

[473] I am also satisfied beyond a reasonable doubt that Mr. Amsel is the person who sent the homemade bombs to 252 River Avenue, 599 Washington Avenue and 280 Stradbrook Avenue in July 2015.

### **Specific Intent Offences**

[474] Mr. Amsel is charged with a number of offences that require the Crown to prove intent to cause bodily harm or in the case of the attempt murder charges, an intent to cause death.

[475] I will deal first with the law relating to attempt murder.

[476] Section 24(1) of the *Criminal Code* deals with attempts and indicates that:

Every one who, having an intent to commit an offence, does or omits to do anything for the purpose of carrying out his intention is guilty of an attempt to commit the offence whether or not it was possible in the circumstances to commit the offence.

[477] In order to secure a conviction for the charge of attempt murder, the Crown is required to prove beyond reasonable doubt that the accused intended to kill the targets of the bombs. The *mens rea* required is the specific intent to kill, and nothing less. (*R. v. Ancio*, [1984] 1 S.C.R. 225)

[478] It was argued on Mr. Amsel's behalf that if the Court found he was responsible for causing the devices to be sent or placed, there is no evidence before the Court that he intended to cause anyone's death.

[479] Counsel submitted specifically respecting the bombs sent to 599 Washington Avenue and 280 Stradbrook Avenue, that the fact the bombs contained messages suggested the recipients were meant to be alive to read them.

[480] The Crown has submitted a number of cases from Manitoba that address the inferences open to the Court in considering whether proof of intent to kill exists. (*R. v. Anderson*, 2008 MBQB 330, *R.v. Boissonneault*, 2012 MBCA 40, *R.v. Raposo*, 2012 MBQB 43)

[481] These cases all dealt with the discharge of a firearm at an individual in circumstances where the Court found the accused knew the potential to cause death existed.

[482] In the *Raposo* case, the accused testified that he had no intention to kill the complainants. At paragraph 48, Justice McKelvey commented that:

“It is trite to say that a person usually knows the consequences of his/her actions and means to bring them about. A permissible inference that may be drawn is that Raposo intended the natural consequences of his actions, which included discharging a firearm at (names of complainants removed) with the specific intent to kill”.

[483] These cases make it clear that when an individual is responsible for intentionally causing a circumstance, knowing it to be potentially lethal, it is open to the Court to infer from those facts that an intention to kill existed.

[484] The Crown also submitted a case dealing specifically with intent to kill, in circumstances where letter bombs were sent to targeted individuals. (*R. v. Arnaout* 2015 ONCA 655)

[485] In the Arnaout case the accused sent three letter bombs constructed of copper tubes filled with an explosive substance. The bombs were contained in a package with steel nails, and in two of the cases a flammable liquid.

[486] One of the bombs exploded in the hands of the recipient causing minor injuries. The other two were either disarmed or detonated by the police. Mr. Arnaout was convicted of three counts of attempted murder.

[487] In dismissing Mr. Arnaout's conviction appeal the Ontario Court of Appeal at paragraph 82 said:

“Here the appellant argues that the convictions for attempted murder by letter bomb are unreasonable. He offers two arguments. First, he says the one bomb that did go off did not cause serious injury despite exploding in the victim's hands. Second he says the size of the bombs made it extremely unlikely that they could kill anyone.

[488] The Court went on to say intent to kill the victims was a permissible inference for the trial judge to have drawn based on the nature of the devices and the existing animus towards the targets. The Court also said the evidence was not in the least weakened by the mere size of the bombs.

[489] In this case, there is expert evidence, which I accept that the devices in question were all capable of not only causing bodily harm but were potentially lethal.

[490] I am satisfied with respect to each of the devices in this case, that Mr. Amsel knew they were lethal and that he harboured animus towards Iris Amsel, Maria Mitousis and George Orle.

[491] There is however no evidence that Mr. Amsel knew Mr. Block stayed at Ms. Amsel's residence on occasion, knew he was present on December 13, 2013, or



knew that the Jeep was his vehicle. There is also no evidence that Mr. Amsel bore any ill will toward Mr. Block.

[492] I am satisfied beyond reasonable doubt that Mr. Amsel knew the lethal nature of the bombs sent in each of the incidents and that with the exception of Mr. Block, he intended to kill the recipients.

[493] From that finding, it follows that I am also satisfied that he intended to cause them bodily harm.

[494] With respect to the incident of December 13, 2013 at 127 Nicholas Street, (counts 12 – 18 ) I find Mr. Amsel guilty at count 12 of the attempt murder of Iris Amsel. At count 13, I find him not guilty of the attempt murder of James Block.

[495] At counts 14 and 15, on the charges of possession of an explosive device for the purpose of committing an offence, and possession of an explosive substance, I find Mr. Amsel guilty.

[496] At count 16, I find Mr. Amsel guilty of committing mischief to the property of Iris Amsel and James Block.

[497] At count 17, I find Mr. Amsel guilty of causing an explosive substance to explode with intent to cause bodily harm to Iris Amsel, but not guilty with respect to the same offence at count 18 with respect to Mr. Block.

[498] With respect to the incident of July 5, 2015, at 280 Stradbroke Avenue (counts 9-11), at count 9, I find Mr. Amsel guilty of the attempted murder of George Orle.

[499] At count 11, I find Mr. Amsel guilty of sending an explosive substance to George Orle with intent to cause bodily harm.

[500] With respect to count 10, committing mischief by willfully damaging the building of Orle Barga Davidson, by sending an explosive device via mail and thereby endangering the life of employees, I find Mr. Amsel not guilty.

[501] There is evidence before the court that the property of Orle Barga Davidson was rendered dangerous by Mr. Amsel sending the explosive device. Had the

charge been pursuant to section 430 (1)(b) of the *Criminal Code*, I would find him guilty of that offence.

[502] While I accept that the lives of the employees of the law firm were endangered by virtue of the bomb sent by Mr. Amsel, there is no evidence that they were endangered by damage caused to the building and that is the charge before me.

[503] Dealing with July 4, 2015 and the device sent to 599 Washington Avenue, (counts 4, 5 and 8) I find Mr. Amsel guilty at count 4 of the attempted murder of Iris Amsel.

[504] I find Mr. Amsel guilty at count 8 of sending an explosive substance with intent to cause bodily harm to Iris Amsel.

[505] With respect to count 5, mischief endangering life by causing damage to the premises of James Automotive at 597 Washington Avenue, I find Mr. Amsel not guilty.

[506] While there is evidence that the employees of the business were endangered by the property being rendered dangerous by Mr. Amsel sending a bomb through the mail, as were the employees of Ollies Auto, there is no evidence that the damage caused by the detonation of the bomb by the police actually endangered lives, and that is the charge before me.

[507] Counts 1-3, 6, 7 and 19 address the events that occurred on July 3, 2015 at 252 River Avenue.

[508] Counts 6 and 19 allege that Mr. Amsel made or possessed an explosive substance and possessed an explosive device on or about July 3, 2015.

[509] The charges in this case regarding the Winnipeg incidents reflect the dates on which each of the devices were detonated, and are framed using the words “on or about”.

[510] In this case the specific dates on which Mr. Amsel possessed the devices prior to mailing them is not material. I am satisfied that he possessed the devices in question in the days leading up to July 3, 2015.

[511] As a result, I am satisfied beyond reasonable doubt that Mr. Amsel possessed the items in counts 6 and 19 on or about July 3, 2015.

[512] With respect to count 1, the attempted murder of Maria Mitousis, I find Mr. Amsel guilty. I also find him guilty at count 2 of aggravated assault.

[513] With respect to count 3, causing an explosive substance to explode, I find Mr. Amsel guilty.

[514] At count 7, I find Mr. Amsel guilty of committing mischief by damaging the property of Peterson King Law Firm by sending an explosive device via mail and thereby endangering the lives of employees.

“Original signed by”

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**TRACEY LORD, P.J.**