



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

January 07, 2013

13-01

Delayed Announcement of Direction under the *Crown Counsel Act* and Appointment of Special Prosecutor

Victoria - The Criminal Justice Branch of the Ministry of Justice announced today the 2009 appointment of Dennis Murray, QC as a Special Prosecutor in the matter of Mukhtiar Singh Panghali.

Dennis Murray, QC was appointed by then Assistant Deputy Attorney General Robert W.G. Gillen, QC on February 11, 2009. This followed Mr. Gillen's receipt of a written Direction from the then Attorney General under section 5 of the *Crown Counsel Act*. The Attorney General, then the Honourable Wally Oppal, QC, directed Mr. Gillen to retain an experienced criminal lawyer in British Columbia who was not an employee of the provincial government to continue a prosecution against Mukhtiar Singh Panghali for second degree murder, and any subsequent appeal that might arise from the prosecution. A copy of the Direction is attached to this Media Statement and will be published in the Gazette as required under the provisions of the *Crown Counsel Act*.

Mr. Panghali was charged in March 2007 with second degree murder in the death of his wife, Manjit Panghali. In January 2009, the Criminal Justice Branch concluded based on its review of the prosecution file at the time, that accepting an offered plea to manslaughter would constitute a fair and principled resolution to the case. Attorney General Oppal disagreed with the Branch's decision. He was of the view that a prosecution for second degree murder should continue and on February 10, 2009 issued a Direction to that effect. Given the circumstances, Mr. Gillen decided to appoint a Special Prosecutor to ensure there was no risk of real or perceived improper influence in the exercise of prosecutorial responsibilities.

Mr. Murray's mandate as a Special Prosecutor included:

- Assuming conduct of the trial of Mukhtiar Singh Panghali until its completion on the charges as set out in the Indictment, and any subsequent appeal that might arise.

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Mr. Gillen exercised his discretion under section 8 of the *Crown Counsel Act* to delay the announcement of the Direction and Mr. Murray's appointment until all matters were completed before the courts. They have now concluded.

Following a trial in the British Columbia Supreme Court, Mr. Panghali was found guilty on February 4, 2011 of second degree murder in the death of his wife. He was also found guilty of interfering with bodily remains. Mr. Panghali appealed his convictions to the Court of Appeal for British Columbia. The appeal was dismissed on October 16, 2012. To date, no further appeals have been pursued.

The announcement of a Direction under the *Crown Counsel Act* and the appointment of a Special Prosecutor were delayed until today's date to safeguard the integrity of the trial and any associated appeals process, as well as the fair trial interests of Mr. Panghali. In the ordinary course, a Direction under s.5 of the *Crown Counsel Act* is published in the Gazette shortly after its issuance. However, the *Act* expressly allows for publication to be delayed "if to do so would be in the interests of the administration of justice".

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FEB 10 2009

Mr. Robert W. G. Gillen, QC
Assistant Deputy Attorney General
Criminal Justice Branch
Ministry of Attorney General
PO Box 9276 Stn Prov Govt
Victoria BC V8W 9J7

Dear Mr. Gillen:

In the matter of *R. v. Mukhtiar Singh Panghali*, counsel on behalf of the accused has proffered on a "without prejudice" basis a plea to manslaughter as a potential resolution of this case. Accompanying the proposed plea was evidentiary materials unknown to the Crown at the time of charge approval, tendered by Defence in support of the resolution. I have received from the Criminal Justice Branch a detailed briefing regarding the proposed basis for the plea to manslaughter. I also have had the benefit of a further briefing by the prosecution team and executive members of the Branch regarding this matter.

The Branch has assessed the available evidence in this case, including the recent information provided by Defence detailing Mr. Panghali's version of events leading up to the death of his wife. The Branch has concluded that viable, not speculative, defences exist which would raise a reasonable doubt in relation to the proof of intent for second degree murder. The Branch is also of the view that the charge assessment standard for second degree murder is no longer met, taking into account that there is no direct evidence in the Crown's case regarding the circumstances immediately surrounding Mrs. Panghali's death. The Branch has determined that a plea to the lesser included offence of manslaughter be accepted, as this would be the likely outcome of this case, and would constitute a fair and principled resolution to this case. The Branch intends to seek a range of incarceration commensurate with "near murder" case law involving manslaughter sentences, commencing at 12 years.

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Mr. Robert W.G. Gillen, QC


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Having reviewed all the available evidence, I disagree with the view of the Branch. It is my opinion that there remains a strong, solid case of substance to present to the Court, and that there continues to be a substantial likelihood of conviction on the charge of second degree murder. It is also my opinion that it is in the public interest to proceed with the prosecution on the charge of second degree murder.

Therefore, pursuant to Section 5 of the *Crown Counsel Act*, this letter is my directive to you to retain an experienced criminal lawyer in British Columbia who is not an employee of the provincial government to continue with the conduct of the trial until its conclusion, and any subsequent appeal that may arise there from.

As you may designate him or her to be either Crown Counsel pursuant to Section 4(1) of the *Crown Counsel Act* or as a Special Prosecutor pursuant to Section 7 of the *Crown Counsel Act*, I leave that designation selection for your determination.

Sincerely,

A handwritten signature in cursive script, appearing to read "Wally Oppal".

Wally Oppal
Attorney General and
Minister Responsible for Multiculturalism