

IN THE SUPREME COURT OF ONTARIO

(Toronto Motions Court)

B E T W E E N :	)	
HER MAJESTY THE QUEEN	)	<u>S. Casey Hill and</u>
	)	<u>Ms. Bonnie J. Wein</u>
Respondent	)	for the Crown,
	)	respondent
-and-	)	
THE CHURCH OF SCIENTOLOGY	)	
	)	for the applicant
Applicant	)	
	)	<u>Heard: January 14, 16, 17,</u>
	)	18 and 21, 1985.

OSLER J.:

As a discrete portion of the motion to quash the search warrant, to which reference has been made in prior rulings, the applicant requests leave to examine the Informant, Detective Sergeant A. Ciampini, and perhaps other unspecified witnesses, for the purpose of adducing evidence tending to indicate support for the proposition that the search warrants herein should be quashed.

As found upon an earlier ruling in this matter, and not now questioned by counsel, this application is in fact a motion under the criminal rules by way of certiorari.

The test representing the threshold which must be crossed before a cross-examination will be permitted, contains, as I have indicated, matters of fact and questions of mens rea, although perhaps not so phrased in my earlier paragraphs. I know of no way in which the latter question can be explored other than by cross-examination of the Informant. Such cross-examination and of course re-examination may be conducted viva voce before me as soon as convenient to the parties. The examination will be confined, at least initially, to factual matters arising from the Informant's reference to the SNOW WHITE program and to mental elements stated to have significance in the test laid down.

Before leaving this aspect, it is not without significance that the affidavit of Fletcher Prouty, appearing in Volume BA of the record at tab KK, makes it appear that he formed the conclusion, as a highly placed official of the Central Intelligence Agency of the United States, that since 1950 there has been a definite campaign of harrassment against this organization (Scientology) for nearly thirty years, primarily by means of the dissemination of false and derogatory information around the world to create a climate in which adverse action would be taken against the Church and its members. Defence

against this type of activity was, of course, the stated objective of the SNOW WHITE program.

The applicant raises a point having to do with what has been described as a blue folder containing lists of materials, and it is said that in the execution of the search warrant certain peace officers relied on this document rather than on the warrant itself.

There is little or no material indicating a direct connection between the Information and the blue folder material. So far as it discloses the possibility of "oversearch", it is doubtful whether that is an appropriate matter for certiorari. In any event, the question of oversearch and any other material issues arising from the "blue folder" evidence will be separately addressed by counsel and dealt with in due course.

A further submission was made by the applicant to the effect that, because of the length of the Information and the complexity of material it contained, it is unrealistic to assume that either Chief Judge Hayes, in the one case, or Justice of the Peace Kostecka, in the other, was able to read the Information and reach a proper judicial conclusion in the time available.