

Agreed Statement of Facts

Justice Camp's Background

1. Justice Camp was born on August 18, 1952. He is married with three children. He grew up in South Africa. He attended the University of Stellenbosch, where he obtained a bachelor of commerce degree and a law degree. After obtaining his law degree, he joined the Johannesburg bar in 1978 and practiced as a barrister.
2. Justice Camp originally had a legal aid practice, consisting partly of criminal work. As he became more senior, he began to take on more civil litigation work and expanded his practice to Botswana. As a law student and as a lawyer, he was involved in the anti-apartheid struggle, eventually representing members of the African National Congress.
3. Justice Camp developed an expertise in construction and engineering litigation. In 1992, he moved his family to Botswana and then, in 1998, to Calgary. He qualified to practice Canadian law and got a job at a small litigation boutique. After that firm dissolved, he joined another small litigation firm in Calgary as a partner. His practice consisted mostly of contractual, trust, oil and gas, and bankruptcy litigation.
4. In March 2012, Justice Camp was appointed to the Alberta Provincial Court, Criminal Division, in Calgary. He was appointed to the Federal Court in Ottawa in June 2015. During his time as a Provincial Court judge, he did not receive training or judicial education on the law of sexual assault or on how to conduct sexual assault trials.

The *Wagar* Trial

5. This Hearing concerns Justice Camp's conduct in the criminal trial of Alexander Wagar. Justice Camp presided over the *Wagar* trial in the Alberta Provincial Court. Mr. Wagar was charged with sexual assault and breach of a recognizance. His trial began on June 5, 2014 and lasted five days. On September 9, 2014, Justice Camp acquitted Mr. Wagar of sexual assault and convicted him of breaching his recognizance. The transcripts of the trial proceedings in *R. v. Wagar* are attached as Exhibit A. The audio recording of the proceedings is attached as Exhibit B.

The Crown Appeal

6. The Crown filed an appeal from Mr. Wagar's acquittal on the sexual assault charge. Mr. Wagar did not participate in the appeal. Mr. Wagar was a homeless youth at the time of the trial. There was no evidence before the

Alberta Court of Appeal about whether he was homeless at the time of the appeal. The Court of Appeal did not appoint *amicus* to argue Mr. Wagar's position. The Court of Appeal heard argument solely from the Crown. The Crown's factum at the Alberta Court of Appeal is attached as Exhibit C.

7. After hearing the Crown's argument, the Alberta Court of Appeal overturned Mr. Wagar's acquittal and remitted the matter to the Provincial Court for a new trial. The Alberta Court of Appeal's reasons for judgment were rendered on October 27, 2015 and are attached as Exhibit D. Mr. Wagar's second trial is scheduled for November, 2016.

The Complaints to the Canadian Judicial Council

8. On November 9, 2015, four law professors filed a complaint with the Canadian Judicial Council against Justice Camp for his conduct in the *Wagar* trial. The law professors' complaint is attached as Exhibit E1. The law professors' complaint was followed by complaints to the Canadian Judicial Council by other members of the public related to the same subject matter. All of the complaints against Justice Camp are attached in Exhibit E.
9. The complaints are evidence of the public's reaction to the reports of Justice Camp's comments in *Wagar* and the public's interest in these proceedings. They are not evidence of the meaning or appropriate interpretation of Justice Camp's comments in *Wagar* or evidence of whether he committed misconduct under s. 65 of the *Judges Act*.

Media Reports relating to the Complaints

10. Various media outlets reported on the complaints against Justice Camp. A spreadsheet setting out a selection of these media reports is attached as Exhibit F. One of the initial media reports was a contributed article in the nationally published *Globe and Mail* dated November 9, 2015 from Professors Elaine Craig and Alice Woolley, two of the professors who had filed the complaint with the Canadian Judicial Council that same day. A copy of the *Globe and Mail* article is attached as Exhibit G.
11. The collective media reports show a significant public interest in Justice Camp's comments and widespread criticism of certain questions that he asked the complainant.
12. The media reports are further evidence of public reaction to Justice Camp's comments in *Wagar* and the public's interest in these proceedings. They are not evidence of the meaning or appropriate interpretation of Justice Camp's comments in *Wagar* or evidence of whether he committed misconduct under s. 65 of the *Judges Act*.

The Inquiry Committee Hearing

13. On December 22, 2015, the Attorney General of Alberta made a formal complaint and referred the matter to an Inquiry Committee. The Alberta Attorney General's complaint is attached as Exhibit H. The Inquiry is scheduled for September 6 to 14, 2016.
14. Upon receipt of the complaint from the Attorney General of Alberta, the Canadian Judicial Council decided to hold the remaining complaints against Justice Camp in abeyance.

Action taken by Federal Court

15. After learning of the November 9, 2015 complaint by the law professors, Justice Camp agreed to recuse himself from any matter then before him involving issues of sexual conduct or that would raise comparable issues. Later in the week of November 9, 2015 Chief Justice Crampton of the Federal Court directed that Justice Camp not be assigned to any further sittings of the court, apart from one case with which he was seized. The actions taken by Chief Justice Crampton and Justice Camp in this regard are set out in a letter written by Chief Justice Crampton dated December 15, 2015, a copy of which is attached as Exhibit I.

November 2015 Apology

16. After being made aware of the November 9, 2015 newspaper article in the *Globe and Mail*, Justice Camp wrote an apology the same day and asked his Chief Justice to have it posted to the Federal Court website. Justice Camp's apology and a statement from the Federal Court are attached as Exhibit J.

Issues raised in other Federal Court proceedings

17. Since November 9, 2015, legal counsel in two Federal Court cases raised issues arising from Justice Camp's comments in *R. v. Wagar*. In the first case, the applicant sought the recusal of Justice Camp from hearing a judicial review scheduled for November 12, 2015. This application became moot and was not considered on the merits. Copies of relevant documentation are attached as Exhibit K.
18. In the second case, the applicants brought a motion for reconsideration and reopening of a judgment rendered by Justice Camp on November 6, 2015. They made two arguments, one of which alleged a reasonable apprehension of bias on the part of Justice Camp based on his comments in *R. v. Wagar*. This application was dismissed as lacking merit. Copies of relevant documentation are attached as Exhibit L.

Expert Opinion

19. At the request of Presenting Counsel, Professor Janine Benedet prepared an expert report on the legislative and social history of sexual assault law in Canada and statistical information on the reporting and prosecution of sexual assault. The parties have agreed that Professor Benedet is an expert on the topic of sexual assault law in Canada. A copy of Professor Benedet's report is attached as Exhibit M. A copy of Professor Benedet's *curriculum vitae* is attached as Exhibit N.

Steps taken by Justice Camp since apology

20. In addition to apologizing, Justice Camp engaged in a process of mentoring, counseling and teaching, from a senior judge, a psychologist and a law professor, respectively.
21. Justice Deborah McCawley, a Superior Court judge, mentored Justice Camp. She discussed with him the role of the judge and the ethical guidelines that apply. They had extensive discussions about social context and judging. She provided suggested reading material to Justice Camp. Justice McCawley spoke to Justice Camp several times and met with him in person at seminars and elsewhere. A copy of Justice McCawley's *curriculum vitae* is attached as Exhibit O.
22. Dr. Lori Haskell, a psychologist and expert in the neurobiology of trauma, counseled Justice Camp about the ways in which victims of abuse respond to trauma. She taught him about how trauma affects reaction and memory and about the neurological impact of trauma. She assigned reading material for Justice Camp, discussed the material with him in detail, and tested him on his understanding of the assigned material. Dr. Haskell will testify that he read and understood the material. Justice Camp additionally underwent psychotherapy with Dr. Haskell so that he could interrogate his own beliefs and experiences with a view to better understanding the perspectives of a sexual assault complainant. A copy of Dr. Haskell's *curriculum vitae* is attached as Exhibit P.
23. Brenda Cossman, a law professor and expert on feminist legal theory and sexual assault law, taught Justice Camp about the history and current state of sexual assault law. A copy of Professor Cossman's *curriculum vitae* is attached as Exhibit Q. Professor Cossman counseled Justice Camp on the ways in which gender intersects with law, the myths surrounding sexual assault, and the purpose of the substantive and evidentiary provisions in the *Criminal Code* relating to sexual assault. She assigned reading material, discussed the assigned material with Justice Camp, and tested him on his understanding of the assigned material. Professor Cossman will testify that Justice Camp read and understood the material.

Character Letters

24. Various members of the public and one member of Justice Camp's family have written letters in support of Justice Camp attesting to his good character at the request of Justice Camp's legal counsel. These letters are attached as Exhibit R. The character letters are evidence of Justice Camp's general reputation and character from the perspective of the authors. They are not evidence of the meaning or appropriate interpretation of his comments in the *Wagar* trial. They are not evidence of whether he committed misconduct under s. 65 of the *Judges Act*.