

**SUPERIOR COURT OF JUSTICE - ONTARIO****MASTER DASH:**

**Action:** Smith v. Attorney General of Canada  
**Court File Number:** CV-09-383001

**Conference held:** November 10, 2010

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**Counsel:**

Jackie Esmonde, fax no. 416-929-8179, *for the plaintiffs*

Nancy Noble, Natalie Henein and Sadian Campbell, fax no. 416-973-5004, *for the defendants*  
*AGC et al*

David Brooker, fax no. 416-225-7112, *for the defendant Pauline*

Reginald McLean, fax no. 416-512-1212, *for the defendant Eves*

Alison Dewar, fax no. 1-613-567-2921, *for the defendant Berry*


**Endorsement:**

[1] Certain documents and DVDs previously withheld as a result of a sealing order will now be produced as a result of a determination last week by the Court of Appeal but subject to certain blurring of faces in the videos resulting from AGC's requirements to protect privacy of other inmates. Some of these inmates may have been witnesses to activities alleged as against the defendants. Disagreements will be resolved by the court. The AGC has also now determined to unredact other documents such as those showing use of force materials used on Ms. Smith. Before parties return to the Wagg motion, Ms. Esmonde and Ms. Noble will meet to answer questions about continued redactions so as to agree where possible and to narrow and to provide focus for the issues remaining to be determined and documents to be reviewed by the court. A number of DVDs demonstrating use of force have been produced and while each DVD is dated the location has not been provided. They are described as a bundle in the affidavit of documents. Clearly each video must be listed in schedule A as a separate document identified at a minimum by date and institution, leaving unanswered questions to examination for discovery or a future motion. Three of the defendants have not particularized their schedule Bs. The defendants are now not opposing the plaintiff's proposed amendments to the statement of claim.

**[2] Order to go as follows:**

1. The November 19, 2010 special half day hearing date for the plaintiffs' motion to amend their statement of claim is now adjourned to **November 18, 2010** for 10 minutes as an unopposed motion on Master Dash's regular motions list. Plaintiffs' lawyers must remember to confirm the return of the motion in accordance with the rules.
2. The AGC shall by November 18, 2010 produce the documents previously subject to a sealing order vetted for privacy concerns, but subject to determination by me as to the appropriateness of any redactions or blurring of faces on video. The AGC shall prepare redacted and unredacted versions of the videos on DVD for the court's review should that become necessary.
3. The AGC shall by December 10, 2010 provide a list of each DVD contained in the production currently listed in their affidavit of documents as a "bundle" of DVDs and identify each at a minimum by date and institution where the video was taken. Each DVD must be listed as a separate document in the affidavit of documents with a different document number or sub-number.

4. The AGC shall by December 10, 2010 provide copies of use-of-force documents previously withheld.
5. The defendants AGC, Pauline and Eves shall by December 10, 2010 provide a particularized Schedule B to their respective affidavits of documents.
6. Before November 22, 2010 the lawyer for the AGC shall meet with the lawyers for the plaintiff to review any redactions they intend to maintain on Crown Brief documents, explain what has been redacted and the reasons therefor.
7. No formal order is required.



Master Ronald Dash

Date: November 10, 2010

**Notes:**

The registrar for Master Dash is Ms Christine Meditskos, 416-327-9355  
The case management fax number is (416) 326-5416

Telephone conference arrangements are made by the responsible person connecting all parties on the telephone conference line and then calling in to Master Dash at (416) 326-8106. Any administrative inquiries shall be directed in advance to Master Dash's registrar at (416) 327-9355. If your office does not have conference facilities, use the Conference Operator service provided by your telephone service provider.