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# Crown withdraws weapons charges against Goldlist's client



The Crown has withdrawn weapons charges against a man and woman after Toronto criminal lawyers **Jordana Goldlist** and Leora Shemesh argued that police didn't have reasonable and probable grounds to execute a search warrant at their home and that it violated their constitutional rights.

"What is clear to me is to remind the participants, especially the officers and the Crown, that a case like this arguably shows that it is important from time to time that police officers refresh their knowledge of fundamental concepts, like the meaning of reasonable and probable grounds as defined in s. 472 and in the CDSA (**Controlled Drugs and Substances Act**), as compared to suspicion or belief that may exist but is not supported by evidence," writes Justice Michael G. Quigley of the Ontario Superior Court.

Court documents show that police sought and obtained a search warrant under the CDSA to search three residences, one of which was the home of the couple. The execution of those warrants resulted in weapons possession charges against them.

The judge notes that originally police suspected the couple of nothing and that the officers "would never have accessed their house were it not for the issuance of warrants to search those three properties relative to alleged offences committed by their son."

Defence counsel challenged the admissibility of the firearms-related evidence that arose out of the search on the basis that police didn't have reasonable and probable grounds to obtain the warrant for their home and that the affiant (the officer who wrote the Information to Obtain) was not frank and fair in the statements made in the ITO to the issuing justice.

As such, the defence argued that the warrant ought never to have been issued and that the search and seizure violated their rights. They further argued that the entire product of the execution of that search ought to be excluded from evidence, say the court files.

Goldlist, associate at **Edward H. Royle & Associates**, says problems with the Crown's case became apparent following co-counsel Leora Shemesh's cross-examination of the officer who submitted the Information to Obtain.

The case was resolved before the judge made any findings on the sufficiency of the warrant.

The judge noted in his written remarks that the resolution of the charges obviates the need for him to make any findings in the matter.

"I know the affiant has extensive experience in such cases, and I do not doubt that he approached his task with good intentions, but I will finish by repeating that that is not enough," he writes.

The Crown agreed to withdraw all charges against the couple, who forfeited three firearms on consent.

