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Statement of Cst. Joe SMYTH.

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BURKE, Steve	P	
SMYTH, Joe	P	

Digital Recording
File:

STATEMENT OF: Cst. Joe Smyth

INTERVIEWED BY: Cpl. Steve Burke
August 26, 2015 commencing at 11:07 hrs
At B Division Headquarters

1

2 **Burke:** ...video and audio recorded.

3 **Smyth:** I'm sorry, I'm just trying to turn this off. This phone is...that should do it.

4 **Burke:** Okay, ah, let's open up the interview here. Ah, my name is Corporal
5 Steve BURKE. I'm with the RCMP Major Crime Unit here out of, ah, B
6 Division Headquarters in St. John's, currently in the interview room at B
7 Division Headquarters. Ah, I'm with, um, the date is, ah, 2015-08-26, and
8 the time is 11:07. I'm, ah, here with, ah, Constable Joe SMYTH of the
9 RNC. Um, I'm just going to, ah, just for the, ah, notebook here I'm going
10 to, ah, get your name and your position and where you work and stuff like
11 that. So it's, ah...

12 **Smyth:** Joe SMYTH, ah, Royal Newfoundland Constabulary, currently assigned to
13 Criminal Intelligence Unit.

14 **Burke:** Okay, ah, this statement is in regard to the, ah, sudden death of Donald
15 DUNPHY that happened in Mitchell's Brook on, ah, April the 5th, 2015.
16 Um, this is a, ah, kind of a...a supplement to the, ah, statement that you
17 provided to us on April 6th, 2015. Ah, there's, ah, just, ah, something there
18 I wanted to clarify with you and, of course, I wanted to do it on the record.
19 What I have here is a...is a transcript of your, ah, statement provided on
20 April the 6th, ah, and it's an approved transcript which means that I, ah, I
21 looked at the, ah, the, ah, typing and listened to the audio and video,
22 looked at the video and ensured that it was accurate. I didn't type it
23 myself, so I had to verify it and, ah, there's, ah, on page sixty-three of this
24 statement, ah, the, ah, statement is, ah, seventy-five pages so from one to

1 seventy-five, and on page sixty-three, ah, we're...we're involved in a
2 conversation, you and I, um, about the scene, ah, at, ah, Donald
3 DUNPHY's residence, and I'm just going to go back a couple of lines so I
4 can give you, ah, some parameters of, ah, the area I'm talking about.

5 **Smyth:** The context, sure.

6 **Burke:** Yeah. Ah, you provide...actually page sixty-two and sixty-three, ah, I'll go
7 back to page sixty-one. Um, we're talking about when you came in to the,
8 ah, when the shooting happened and the, ah, it's after your, kind of, your
9 narrative or your, ah, your pure version side of it and it's a Q and A
10 portion. Um, I talk about, ah, nothing that, ah, would say, you know, he
11 was waiting for you to come down and this is, ah, in the way he was going
12 to go. You...and we're kind of...it's...we're kind of talking about, ah, he
13 wasn't expecting you and wasn't waiting for you and kind of like a...a
14 suicide by cop scenario, right? And you said yeah, and I said yeah. You
15 asked me do you know where the firearm came from. Like, I mean, it's
16 probably pointless. It'll pro...it probably doesn't matter but...and I answer
17 to you, well, there were firearms. There's one firearm unaccounted for
18 that was in the family. Ah, the brother knew of two firearms, but there's
19 one that, ah, that was...they didn't know where it was really. His, ah, his
20 father had the firearms and he passed away a few years ago, and he had
21 three firearms. His brother had two of them and, ah, then it was, ah, the
22 brother that you spoke to, ah, before you went to, ah, Mr. DUNPHY's, ah,
23 Richard I believe it is.

24 **Smyth:** I think so, yeah.

25 **Burke:** Yeah. Ah, and he didn't know of the...he had two firearms, but he didn't
26 know where the other one was, and there was one outstanding, of course,
27 and you ask me, can you say what kind of firearm it was, and I respond,
28 we're not really sure yet. You say, okay, and do you know if it came from
29 the couch or the floor. I mean, you'll probably never know. Ah, and I said

1 there's...we don't know that either. We can only speculate. Ah, tell me
2 about, ah, using the word couch.

3 **Smyth:** Ah, just a...a probably a poor description of what I was trying to refer to.

4 **Burke:** Okay.

5 **Smyth:** I was referring to the chair that Mr. DUNPHY was sat in at the time.

6 **Burke:** Okay.

7 **Smyth:** And when I say it came from the couch (unintel), I...it would have been
8 bet...more accurately described as it came from the chair. I would
9 describe what he was sitting in as a chair, not a couch. There was a
10 couch in the room; that's not where he was sat, and it's not what I was
11 referring to in terms of where the gun came from, um, 'cause I hadn't...I
12 didn't see the gun until it was in his hands. All I know is that he reached
13 down to his right hand side so, you know, it was before I was able to kind
14 of focus in on it, it was in his hands, you know, in this kind of fashion and,
15 ah, ah, being held...I don't know where his hands were now, I can't recall
16 but, um, so I don't know if it was on his side in the chair or if it was
17 fashioned to the side of the chair or if it was on the floor next to him. You
18 know, I...I feel he went down over the side of the chair like this. Ah, you
19 know, I...you kind of go back on these things and you...you evaluate the
20 living hell out of them and, you know, why would...and my thoughts were,
21 I guess, in...in (unintel) looking at people that sometimes, ah, arm
22 themselves with weapons who are protecting drugs and knowing now, of
23 course, it was, you know, some semblance of a...of a grow operation
24 there; whether it was legal or illegal I don't know but, ah, I...I...my
25 thoughts were maybe it was adhered to the side of the chair and
26 fashioned in such a way that I wouldn't have...it wouldn't have been
27 overtly, you know, noticeable.

28 **Burke:** Um-hum.

- 1 **Smyth:** Or was it down by...on the floor, because there was a lot of garbage
2 around there too, and whether it was covered in garbage I...I don't know.
3 I didn't see it until it was in his hands. It came from somewhere on the
4 right side of him, and that's all I know, but it was nothing to do with the
5 couch that was in the room. I was kind of stood next to that couch. That
6 comment was, I guess, a slip of the tongue if nothing else.
- 7 **Burke:** Okay. The, um, you said earlier in your statement that you recognized a
8 stick or a bat or some sort of a long -
- 9 **Smyth:** It was a bat, yeah.
- 10 **Burke:** - object. Ah, can you tell me where that was.
- 11 **Smyth:** That was on the left side of the chair he was sat in.
- 12 **Burke:** Okay.
- 13 **Smyth:** Yeah. On the floor, um, I think it was...there was some other things
14 around it. There was a lot of stuff around. Ah, my memory is not fresh on
15 it now. I think it might even have been a lamp or a radio or something on
16 the floor.
- 17 **Burke:** Um-hum.
- 18 **Smyth:** And...but the...the bat was...that was very noticeable. It was a shorter
19 bat I think, almost like a...one of those junior bats, and I think there might
20 have been some duct tape around it.
- 21 **Burke:** Okay. And if, ah, if you saw the bat out on the floor, can you kind of
22 speculate why you didn't see the gun on the floor or in that area?
- 23 **Smyth:** It was...it would have been on the other side.
- 24 **Burke:** Um-hum.
- 25 **Smyth:** I was more, like, if...if I'm Mr. DUNPHY sat in the chair -

1 **Burke:** Um-hum.

2 **Smyth:** - I tended to be over this way, where...the left side being more visible and
3 probably maximum in front of him, and I have no good reason for that
4 Steve to be honest with you. I should have noticed. It was a –

5 **Burke:** (Unintel).

6 **Smyth:** - a long gun rifle. There was...I can tell you right now, there was nowhere,
7 there was no great hiding spot.

8 **Burke:** Right.

9 **Smyth:** I bloody well should have noticed.

10 **Burke:** Okay.

11 **Smyth:** And there's not a day gone by since that I haven't wracked my brains over
12 that.

13 **Burke:** Yeah.

14 **Smyth:** So I don't have a good excuse for that.

15 **Burke:** Okay. Um, no, I was just, you know, if you saw the bat, ah, and...

16 **Smyth:** I should...one plus one, I should have been looking for something else.

17 **Burke:** No and, you know, I –

18 **Smyth:** Yeah. No question.

19 **Burke:** It's...it's just a question I had to ask because –

20 **Smyth:** Yeah.

21 **Burke:** - ah, you know –

22 **Smyth:** It's a good question.

- 1 **Burke:** I...I don't...I don't know if it was visible or not. I have no idea and –
- 2 **Smyth:** I wish I could...(unintel). I can't say it...it was obvious.
- 3 **Burke:** Hmm.
- 4 **Smyth:** I'd like to think if it was obviously I would have noticed it.
- 5 **Burke:** Um-hum.
- 6 **Smyth:** And...and certainly the bat did raise my alert level a bit more.
- 7 **Burke:** Sure.
- 8 **Smyth:** But I was looking in the wrong places.
- 9 **Burke:** Um-hum. And the first time you saw the firearm was?
- 10 **Smyth:** When it was coming towards me.
- 11 **Burke:** Okay.
- 12 **Smyth:** And it was out of my peripheral vision.
- 13 **Burke:** Um-hum. Okay. Ah, is there anything else you want to say about the
14 couch, the chair, the firearm, that area?
- 15 **Smyth:** The couch had nothing...it was really had little to do with it, nothing to do
16 with it.
- 17 **Burke:** Okay.
- 18 **Smyth:** With him.
- 19 **Burke:** Um-hum.
- 20 **Smyth:** You know, I might have had to skirt around the couch.
- 21 **Burke:** Um-hum.

1 **Smyth:** But it had nothing to do with the incident. It could have been not even
2 been in the room and it wouldn't have impacted what happened.

3 **Burke:** Um-hum.

4 **Smyth:** Other than the fact that he told me to sit down on it, and I never sat on it.

5 **Burke:** Okay. Okay and, um, I remember you talking about DUNPHY sitting in a
6 chair. Ah, did he...during your interaction with him, once he sat down, ah,
7 did he get up or...?

8 **Smyth:** He stayed in that chair. He...once he sat down in that chair, which wasn't
9 long after I arrived there.

10 **Burke:** Hmm.

11 **Smyth:** And that's where he stayed.

12 **Burke:** Okay.

13 **Smyth:** The entire time, and he didn't get any further than this -

14 **Burke:** Sure.

15 **Smyth:** - from the...from the chair.

16 **Burke:** Okay. Okay let's, ah, I wanted to clarify the, ah, couch versus chair. Um,
17 ah, I didn't know if it was a, ah, you know, a mistake in wording, ah, in
18 description or if, you know, you inadvertently used that word for...I, you
19 know, the...the way that the, ah, document reads and the way, you know,
20 I had to read over the transcript obviously and, from what I remember of
21 our conversation, it didn't, ah, tweak my interest at that time in saying, oh,
22 you said couch instead of chair -

23 **Smyth:** Um-hum.

24 **Burke:** - because, ah, it seemed to be, you know, the way the conversation was
25 going, um, I didn't even notice that you said couch instead of chair so I'm

1 just going to go, just for the record, just going to go on with the...the rest
2 of the conversation a couple of more lines. Um, can you say what kind of
3 firearm it is. I said, we're not really sure yet. Okay, you'll probably
4 know...do you know if it came from the couch or the floor, I mean, you'll
5 probably never know. And, ah, there's, ah, we don't know that either. We
6 can only speculate. It wasn't like it was...it wasn't like...it wasn't like a gun
7 holster on the side not chair or anything. I said no, no. And what about,
8 ah, was there anything else found in the house other than weapons do
9 you know, and I said the scene is still being processed. So we're
10 discussing the same thing as being the chair, and you asked if there was a
11 holster on the side, and I didn't think there was, ah, so when you say
12 couch –

13 **Smyth:** I was referring to the same thing.

14 **Burke:** Okay.

15 **Smyth:** Yeah.

16 **Burke:** You're referring to –

17 **Smyth:** Where he was sat.

18 **Burke:** Yeah.

19 **Smyth:** Ah, you can, I guess, refer to it as a loveseat, a couch, a chair.

20 **Burke:** Yeah.

21 **Smyth:** A stool.

22 **Burke:** Yeah.

23 **Smyth:** It was –

24 **Burke:** (Unintel).

25 **Smyth:** - a chair he was sat in.

- 1 **Burke:** Yeah. Yeah. You would describe a chair as what?
- 2 **Smyth:** As what I'm sat in right now.
- 3 **Burke:** Okay.
- 4 **Smyth:** You know, and this...the chair he was in was, you know, probably from
5 a...a couch set.
- 6 **Burke:** Okay.
- 7 **Smyth:** But it was a...a single person chair.
- 8 **Burke:** Okay.
- 9 **Smyth:** I mean, not fitting more than one person in it.
- 10 **Burke:** And you would describe a couch as what?
- 11 **Smyth:** As a longer version of that that would fit multiple people -
- 12 **Burke:** Okay.
- 13 **Smyth:** - on it.
- 14 **Burke:** All right.
- 15 **Smyth:** What he was sat in was a chair.
- 16 **Burke:** Okay, appreciate that.
- 17 **Smyth:** Yeah.
- 18 **Burke:** And the firearm came from?
- 19 **Smyth:** Somewhere on his right side. His right, you know, side of him.
- 20 **Burke:** Okay.
- 21 **Smyth:** The floor, beside a chair.

1 **Burke:** Yeah.

2 **Smyth:** Somewhere in that region.

3 **Burke:** The same chair he was sat in.

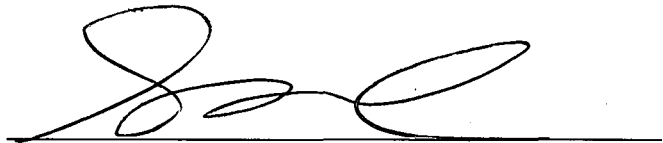
4 **Smyth:** Yeah.

5 **Burke:** Okay. All right, I appreciate that. I wanted to clear up that, ah, that part
6 and that's basically, ah, it for this, ah, this statement. I'll end it off. Ah, the
7 time is 11:20. The date is still August 26, 2015, and that's the end of the
8 statement.

9

10

11

A handwritten signature in black ink, appearing to read "Steve Burke", written over a horizontal line.

12

Cpl. Steve Burke

13

14

15

16 *Transcribed by: Donna Evans*

17 *2015-09-03 (Transcribed statement provided to investigator)*

18 *Proofread by: Cpl Steve BURKE on 2015-09-08*