

IN THE SUPREME COURT OF BRITISH COLUMBIA

HER MAJESTY THE QUEEN

v.

PRAPAHARAN THAMBITHURAI

ADMISSIONS OF FACT
(Pursuant to s. 655 of the Criminal Code)

Pursuant to section 655 of the *Criminal Code of Canada*, the accused, Prapaharan Thambithurai, by his counsel, admits the following facts alleged against him for the purposes of dispensing with proof thereof at his trial of the charges set forth on Indictment 24958-1, or any amended or substituted version thereof:

Events of March 11, 2008

1. On March 11, 2008, Prapaharan Thambithurai arrived at the Vancouver International Airport on an Air Canada flight from Toronto, Ontario. At 10:57 p.m., he rented a 2008 gray Mazda 3 vehicle bearing B.C. license plate 654-CVW from the AVIS outlet at the Vancouver International Airport. The vehicle was due to be returned on March 14, 2008 at 11:00 p.m.

Events of March 13, 2008

2. On March 13, 2008, the R.C.M.P.'s Integrated National Security Enforcement Team (INSET) commenced an investigation against Thambithurai for raising funds for a listed terrorist group, specifically the Liberation Tigers of Tamil Eelam ("LTTE"), contrary to s. 83.03 of the *Criminal Code*. Investigators conducted surveillance at various addresses in Greater Vancouver in an effort to locate Thambithurai and his rental vehicle. No observations were made of Thambithurai on this date.

3. On March 13, 2008 at approximately 8:00 p.m., Thambithurai went to the residence of Sri Thevendram at [REDACTED] in Burnaby. Thambithurai asked him to contribute money for humanitarian aid to help the Tamil people in Sri Lanka but did not mention the LTTE. Thevendram gave Thambithurai \$600 in \$20 bills. Thambithurai then gave him a pledge form bearing serial number 5588 which Thevendram filled out, signed and returned to Thambithurai. Thambithurai then gave Thevendram a receipt bearing serial number 3743 for the donated amount.

Tab A - Statement of Sri Thevendram, pp. 40-50

4. On March 13, 2008 between approximately 6:30 p.m. and 7:00 p.m., Thambithurai went to the residence of Nageswaran Easwarathevan at [REDACTED] [REDACTED] in Burnaby. Thambithurai asked Easwarathevan to donate money to help the Tamil people in Sri Lanka. Easwarathevan did not have any money to contribute at the time but offered to donate \$300 at a later date. Thambithurai gave Easwarathevan a pledge form with the serial number 5587 which he filled out, signed and returned to Thambithurai. No receipt was issued since no money was given to Thambithurai at the time. Thambithurai gave Easwarathevan a Tamil monthly calendar in exchange for his donation pledge.

Tab B - Statement of Nageswaran Easwarathevan, pp. 25-62

Events on March 14, 2008

5. On March 14, 2008 at 5:13 p.m., Constable Buttar observed Thambithurai's rental vehicle parked and unoccupied in front of the residence at [REDACTED] in Vancouver. A few minutes later, Constable Buttar observed Thambithurai enter the vehicle and drive away.

6. At 5:19 p.m., Constable Royce observed Thambithurai attend the residence at [REDACTED] in Vancouver. Thambithurai departed the residence at 5:34 p.m.

7. At 5:40 p.m., Corporal Maure observed Thambithurai enter into the Nooru Mahal restaurant located at 4353 Fraser Street in Vancouver. At 5:42 p.m., Constable Maure observed him return to his vehicle and using his cell phone. At 5:52 p.m., Constable Buttar observed Thambithurai depart from this location in his rental vehicle.
8. At 6:01 p.m., Corporal Maure observed Thambithurai park his vehicle at 37th Avenue and Victoria Street in Vancouver. Constable Royce observed Thambithurai sifting through the trunk which contained two duffle bags of clothing and a black bag. Constable Royce also observed a Tamil business directory on the passenger seat.
9. At 6:03 p.m., Constable Buttar observed Thambithurai walk towards the apartment building at [REDACTED] carrying a black bag and speaking on his cell phone. Corporal Maure observed Thambithurai enter the building at 6:05 p.m. At 6:41 p.m., Constable Lafrance and Constable Lundie observed Thambithurai exit the building and return to his vehicle with the black bag. At 6:46 p.m., Constable Lundie observed Thambithurai drive away while speaking on his cell phone.
10. At 6:52 p.m., Constable Lundie observed Thambithurai attend to the residence at [REDACTED] in Vancouver carrying the black bag. At 7:31 p.m. Thambithurai left the residence carrying the black bag.
11. At 8:00 p.m., Constable Lundie observed Thambithurai attend the Thirkadevi Temple located at 7468 Edmonds Street in Burnaby. Thambithurai left the temple at 9:15 p.m.
12. At 9:22 p.m. Thambithurai was stopped by members of INSET at 8th Avenue and McBride Boulevard in New Westminster. Constable Royce arrested Thambithurai for terrorist financing contrary to s. 83.03 of the *Criminal Code* and advised him of his right to counsel and of the police caution.

13. Constable Royce and Constable LaFrance searched Thambithurai incidental to arrest. In addition to personal identification, Thambithurai had \$932 in Canadian currency in his jacket and pants pockets. The denominations consisted of one \$100 bill, eight \$50 bills, twenty-one \$20 bills, one \$10 bill, and a \$2 coin. He also had a receipt dated March 12, 2008 for room #207 at the Motel Hollywood located at 9155 King George Highway in Surrey. The receipt had the guest name "Prapapaharan" and showed a check-in date of March 14 and a check out date of March 15. Thambithurai also possessed a key card for the motel room.

14. At 10:06 p.m., Constable Royce and Thambithurai arrived at the R.C.M.P. detachment in Richmond. Thambithurai spoke to legal aid duty counsel at 10:29 p.m. and again at 11:08 p.m.

Events on March 15, 2008

15. On March 15 at 9:40 p.m., Constable Lafrance obtained a warrant to search Thambithurai's rental vehicle which by then was located at the R.C.M.P. storage bay at 13130 76th Avenue in Surrey.

16. On top of the front passenger seat, investigators located and seized a black Reebok shoulder bag that contained twenty-five pledge forms written in the Tamil language and entitled "Tamil's Uprising Fund."

Tab 1 – Crown Exhibits Binder.

- a. The pledge forms listed three categories of donations based on amount. The "Uprising Fund" was for contributions of no less than \$1500. The "Up Building Fund" was for contributions of no less than \$1000. The "Life Fund" was for contributions of no less than \$600 or monthly contributions of \$60.
- b. The bottom of each form stated "The thirst of the Tamil people is a Tamil Homeland."

- c. The top of each form contained the following quote:

This is a prideful historical time period when the Tamil race has risen up in the path of liberation and we are requesting the help and great support of the world Tamils. At this time I like to express my love and gratitude for the contribution and help of the Tamil Diaspora for the freedom fight. Also I request with love and authority to continue to do your moral duty and to support our struggle toward and independent state by offering us help and support.

*National Leader, Tamil Eelam
Honorable V. Prabhakaran*

- d. The pledge forms were numbered 5586 to 5610 inclusive. Four of the forms - 5586, 5587, 5588, and 5610 – had been filled out.
- e. Pledge form No. 5586 was dated March 13, 2008 and was filled out and signed in the name of [REDACTED] of [REDACTED] in Vancouver. According to the form, [REDACTED] pledged to donate \$1000 to the "Up Building fund".
Tab 2 - Crown Exhibits Binder
- f. Pledge form No. 5587 was dated March 13, 2008 and was filled out and signed in the name of [REDACTED] Easwarathevan of [REDACTED] in Burnaby. According to the form, Easwarathevan pledged to donate \$300 to the "Life Fund".
Tab 3 - Crown Exhibits Binder
- g. Pledge form No. 5588 was dated March 13, 2008 and was filled out and signed by Sri Theiventhiram (Thevendram) of [REDACTED] in Burnaby. According to the form, Thevendram pledged to donate \$600 to the "Life Fund."
Tab 4 - Crown Exhibits Binder
- h. Pledge form No. 5610 was dated March 15, 2008 and was filled out and signed in the name of [REDACTED] of [REDACTED] in Richmond. According to the form, [REDACTED] pledged to donate \$500 to the "Uprising Fund."
Tab 5 - Crown Exhibits Binder

17. The black Reebok shoulder bag on the front passenger seat also contained a booklet of donation receipts written in the Tamil language that were entitled "Tamil's Uprising Fund."

Tab 6 - Crown Exhibits Binder

- a. The booklet contained a total of 19 receipts that were numbered 03741 to 03760. Receipts 03741, 03742 and 03743 were filled out.
- b. Receipt No. 3741 was dated January 20, 2008 and was in the name of [REDACTED] of Vancouver for the amount of \$1000. It was signed as having been received by Isaivaanan.

Tab 7 - Crown Exhibits Binder

- c. Receipt No. 03742 was dated January 20, 2008 and was in the name of [REDACTED] of Coquitlam, B.C. for the amount of \$1000. It was signed as having been received by Isaivaanan.

Tab 8 - Crown Exhibits Binder

- d. Receipt No. 03743 was dated March 13, 2008 and was in the name of Sri Theiventhiram (Thevendram) of [REDACTED] in Burnaby for the amount of \$600. It was signed as having been received by Isaivaanan.

Tab 9 - Crown Exhibits Binder

- e. Seven pages of paper with Tamil writing and B.C. area phone numbers.
- f. Four plastic-wrapped, Tamil-language CD's entitled "Tigers with Stretched Out Wings", "Wind of Victory", "Heroes Resting in the Ground", and "Our New Birth".

Tab 10 (a) – (d) – Photocopy of Cover of CD's, Crown Exhibits Binder

- g. A plastic-wrapped DVD entitled "Vision of Motherland".

Tab 11 – Photocopy of Cover of DVD, Crown Exhibits Binder

18. Investigators also seized the following items from the front passenger area of the vehicle:

- a. An AVIS rental car agreement in the name of P. Thambithurai dated March 11, 2008 for the Mazda 3 bearing B.C. licence plate 654-CVW.
- b. A day-timer work organizer with handwritten phone numbers and Tamil writing.
- c. An Air Canada boarding pass dated March 11, 2008 in the name of P. Thambithurai for Flight AC033 from Toronto to Vancouver.

- d. A plastic-wrapped Tamil language CD entitled "Our New Birth" and a plastic-wrapped DVD entitled "Vision of Motherland".
 - e. A blue and silver Motorola cell phone that was turned on. The screen saver on the phone was the flag of the LTTE.
 - f. A Levi's store bag with a 30 cm x 30 cm colour photo of Tamil people.
 - g. A business card for the Nooru Mahal restaurant.
 - h. A guest parking receipt dated March 11, 2008 for the Quality Inn Airport Hotel.
 - i. A room receipt for the Quality Inn Airport Hotel in the name of P. Thambithurai.
19. Investigators seized the following items from the trunk of the vehicle:
- a. A black duffle bag that contained personal clothing items.
 - b. Twenty-two plastic-wrapped Tamil-language CD's entitled "Tigers with Stretched Out Wings" (5 CD's in total); "Heroes Resting in the Ground" (6 CD's in total); "Our New Birth" (5 CD's in total); and "Wind of Victory" (6 CD's in total).
 - c. Eleven Tamil-language DVD's entitled "Vision of Motherland."
 - d. A red duffle bag that contained personal clothing items.
 - e. Two Tamil-language calendars for 2008 entitled "Tamil Mother Calendar". Each page summarized a significant historic event, primarily in relation to the war between the "Liberation Tigers" and the Sri Lankan military. Each page also had a picture and biography of an LTTE soldier or prominent Tamil civilian who died fighting on behalf of the "Liberation Tigers." The calendars contained the following dedication:

We dedicate this calendar to the thousands of Liberation Tigers who gave up their precious life and embraced a martyr's death in their young age for the sake of freedom and peace of our race which has lost its traditional living place, the right to rule itself with its culture and which is enslaved and humiliated at present.

Tab 12 – Photocopy of calendar pages, Crown Exhibits Binder

- f. Two poster size calendars for 2008 entitled "Mother Tamil Calendar" with a photograph of the leader of the LTTE, V. Prabhakaran and the logo of the LTTE.

Tab 13 – Photocopy of poster/calendar, Crown Exhibits Binder

- g. A piece of paper with money figures and Tamil writing that read:

Feb/25/08

Blood Bullets – 15x\$10=\$150

Ray of Motherland – 2x\$5=\$10

Monthly Calendar – 4

Mother Tamil Calendar – 21

Tab 14 - Photocopy of pages, Crown Exhibits Binder

- h. Four editions of the Paraparapu Weekly newspaper for February 15, February 22, February 29 and March 7, 2008. The cover of each newspaper depicts LTTE soldiers wearing army fatigues.

Tab 15 (a) – (d) – Photocopy of newspaper pages, Crown Exhibits Binder

Events of March 16, 2008

20. On March 16, 2008 at 1:30 p.m., Corporal Alafriz and Constable Royce took a warned statement from Thambithurai that was both audio and video recorded (**see Tab C – Statements Binder**). The statement was voluntarily given after Thambithurai consulted with legal counsel. During the interview Thambithurai stated the following:

- a. He stated that he came to B.C. to collect money to help the people suffering in Sri Lanka (pp. 14, 30).
- b. He said that he was collecting the money to give to the WTM ("World Tamil Movement") and that the LTTE was "totally different" (pp. 8, 19-20).
- c. He said that after he collected the money, other people would come to his residence in Maple, Ontario to get the money. He did not know how the money was sent to Sri Lanka (pp. 30-31).

- d. He acknowledged that at least some of the money he collected would make its way to the Tamil Tigers (p. 36):

Put it put it this way my friend, okay. Like, I I I think I spend a hundred dollars, I'm sending my hundred dollars to go back home okay ... like 50% may get may go to Tigers, 50% may go to my people. I'll say at least 50% is going to. 'kay.

- e. He stated that during this trip to Vancouver he collected \$600 from "Sri" (Thevendram). He confirmed that \$600 of the money police seized from his pockets came from Thevendram (p. 67, 116-120).
- f. He identified the forms that were seized from his vehicle as "pledge forms" and "receipts" (p. 68). However, he reiterated that the only money he actually collected was the \$600 from Sri: "Only money I collected is from Sri, six hundred dollars" (pp. 179-180).
- g. He acknowledged that at least some of the money would make its way to the LTTE (pp. 127-128):

I know. I giving the LT ... WTM but the thing is I know, like a hundred percent is not going to go to the uh people I'm giving. It's going to go somewhere to LTTE administration or for some reason.

- h. He denied working for the Tigers (p. 129).
- i. In response to Cst. Royce saying "you know you're giving money to the LTTE", Thambithurai stated "Yeah, indirectly yeah ... Probably, yeah yeah of course (pp. 130-132).
- j. He was aware that the LTTE is a banned organization and it is illegal to collect money on its behalf in Canada. He stated that he "Not knowingly broken the law but I think in a certain way yeah I think I did this" (pp. 131-132 and 135).
- k. He admitted collecting \$2000-\$3000 since late 2007 (p. 150).
- l. He agreed with Constable Royce and Constable Alafriz that the CD's seized from his possession had pictures of "freedom fighters" (p. 151).

Events of March 27, 2008

21. On March 27, 2008, Constable Lundie and Constable Buttar interviewed Sri Thevendram, who gave a sworn statement [see **Tab A**, Statements Binder) in which he said the following:

- a. Thevendram came to Canada from Sri Lanka in 1993 (p. 36).
- b. He has known Thambithurai ("Prapa") since 1996 (p. 41).
- c. Two or three days prior to his arrest, Thambithurai visited Thevendram at his residence at [REDACTED] in Burnaby. Thambithurai arrived at approximately 8 p.m. and stayed for no more than two hours (p. 43-49).
- d. Thambithurai asked him to contribute money for humanitarian aid to help the Tamil people. Thambithurai did not mention the LTTE (p. 40, 41, 45; 46).
- e. Thevendram gave Thambithurai \$600 in \$20 bills (p. 45).
- f. Thambithurai then gave him a pledge form which Thevendram filled out and signed. Thevendram identified pledge form no. 5588 as the document he had filled out and signed (p. 49-50).
- g. Thambithurai then gave Thevendram a receipt (No. 3743) for the donated amount.
- h. Thevendram told investigators that his donation was for food and medicine for the Tamil people. (p.56)

Events of March 28, 2008

22. On March 28, 2008, Constable Lundie and Constable Buttar interviewed **Nageswaran Easwarathevan** who gave a sworn KGB statement (see **Tab B**, Statements Binder) in which he stated the following:

- a. Easwarathevan said he is a Tamil who came to Canada from Sri Lanka in 1991 (p. 10-11).
- b. He has known Thambithurai ("Prapa") for approximately 10 years and knew him to be a volunteer for the World Tamil Movement (p. 18).
- c. Between 6:30 and 7:00 p.m. on March 13, 2008, Thambithurai contacted Easwarathevan by phone and said that he was coming to visit.

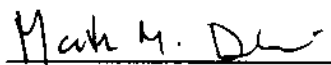
Approximately half an hour later, Thambithurai arrived at his residence at [REDACTED] in Burnaby (p. 25-28).

- d. Thambithurai brought with him monthly calendars with pictures from back home in Sri Lanka which included pictures of people, scenery, and military pictures of the Tamil Tigers and of the Tamil leader, V. Prabhakaran. Thambithurai asked Easwarathevan to donate money. Easwarathevan did not have any money to contribute at the time but offered to donate \$300 at a later date. Thambithurai then gave him a calendar (pp. 28-37).
- e. Thambithurai told Easwarathevan that the donation was for the purpose of helping the people in Sri Lanka who could not work because of the war (p. 39).
- f. Thambithurai gave Easwarathevan a piece of paper to fill out and sign. Easwarathevan identified pledge form no. 5587 as the document he had filled out and signed. No receipt was issued since no money was given to Thambithurai at the time (p. 51, 58-59).
- g. Easwarathevan turned over to investigators the calendars he had received from Thambithurai in exchange for his donation pledge.

Tab 16 - (a) Poster size monthly calendar (b) Poster calendar, Crown Exhibits Binder

All of which is respectfully submitted.

Dated at Vancouver, British Columbia, this 29th day of April, 2010.



Martha M. Devlin, Q.C.
Crown Counsel



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Counsel for Prapaharan Thambithurai