**Imagine a Trial…**

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Where there is a political agenda to convict someone, anyone, of the crime.

Where not a single witness actually saw the crime occur, much less saw you do it.

Where the police choose to ignore a far more likely suspect for reasons of their own.

Where the media is free to vilify you as the “panhandler killer” for more than three years, while you and your loved ones are strictly forbidden by the court from speaking about the case in public.

Where the police try to deliberately frame you on an unrelated charge for the purpose of having your bail revoked.

Where an uncertain criminal “justice” system deals in three versions of the charge against you, such that if you didn’t do the first, maybe you did the second, and if you did neither you are still somehow guilty for being there.

Where the authorities are allowed to “lose” the video evidence that could have proven your innocence, without the slightest consequence to their case.

Where DNA tests of critical evidence are not performed, while the defendant’s clothing is ordered to be tested again and again until a trivial and readily explainable amount of the victim’s DNA is found.

Where any witness they produce is held against you, regardless of what they actually say, by cherry picking which pieces of each one’s testimony to accept or reject.

Where foreign citizens who are vital defense witnesses are prevented by law from entering the country to testify at your trial.

Where the judge plays “detective”, assuming facts not in evidence, always against your interests, and the appeal decision both rubber stamps this practice and adds assumptions of its own.

Where the resulting sentence offers the chance of parole after 12 long years, but only if you give up your right to maintain your innocence, or else you can live out your entire life in prison, starting from age 24.

Where in the aftermath of your wrongful conviction, the nation’s top television news program wants to interview you in prison, but the authorities refuse to allow it.

What are they hiding?

Every one of these points is a factor in the wrongful conviction of Nicole “Nyki” Kish. Together they make up one of the most egregious injustices I have ever encountered. If they can convict Nyki in this way, they can literally convict anyone of any crime at any time. That could be you, a friend or a loved one. Please read on for a detailed explanation of each of the points above.

**Imagine a trial…**

**Case Overview:**

On the night of August 8th, 2007 Nicole “Nyki” Kish was celebrating her 21st birthday with her friends. What should have been the first day of her adult life would soon become the start of a decade long nightmare of personal liberty stolen by a criminal justice system either incompetent, corrupt or both.

Shortly before midnight, Internet entrepreneurs Ross Hammond and his associate George Dranichek were drawing funds from an ATM machine when they were approached by a young woman asking for money. One of the men suggested that she earn it by performing a sex act, thus starting an angry verbal argument that soon turned into a physical brawl. The incident escalated as it moved down the street, ultimately engulfing both sides of a stopped street car. At some point Hammond received a number of knife wounds, one of which proved fatal two days later.

After 3 ½ years under house arrest, Nyki was convicted of second degree murder in a bench trial where the verdict features shocking gaps of logic and evidence and in which there are numerous instances of actually editing and cherry-picking testimony to suit the goal of conviction. A subsequent appeals court confirmed these practices, and added still more errors of its own.

**Where there is a political agenda to convict someone, anyone, of the crime.**

For many years, Toronto had chafed under a social problem dubbed “aggressive panhandling” which was giving the city a reputation of having unsafe streets. This long standing issue served to attract undue media attention to the fatal stabbing of Ross Hammond as soon as word got out that the wielder of the knife may have been a panhandler. An opportunity occurred for law enforcement to make an example of a panhandler, while the media cheered them on.

Is Nicole Kish therefore the victim of a political agenda as well as a miscarriage of justice?   
I believe this to be the case, and I reach that conclusion from the trial verdict itself, in which Justice Nordheimer explicitly concludes that Nyki was the panhandler who started the entire incident.

From the verdict: “He went to the ATM and, whether before or after using the machine, he and Mr. Hammond were approached by a female who asked for money. I am satisfied that the female who approached them was Nicole Kish. In that regard, I have concluded that Mr. Dranichak is mistaken in his identification of Ms. Watts as the person who approached him.”

Justice Nordheimer states that is he rejecting the evidence of the only witness to specifically offer an identification of the panhandler, George Dranichak, as not being Nicole Kish. He does this in spite of Dranichak having been the individual who was actually asked for money. He does not stop at rejecting testimony, he is actually correcting it to be what will support his reasoning.

More telling still, he is also contradicting the Crown’s own narrative of the events in question. From the Crown’s opening remarks at trial:

“They stop at an outdoor green machine, TD green machine to get some funds. And there, they are approached by a woman on a bike, who wants some money. They refuse, and a shouting match ensues, and as they head west, additional quote "street people", join up with them, and one of which is Ms. Kish, the accused before the court, Nicole Kish.”

One additional point stands out above all others. There is nothing, neither in law nor logic, regarding the charges brought against Nyki that in any way depends upon her having been the panhandler. So if this conclusion, which contradicts the Crown’s assertions and the testimony of the only witness, is completely gratuitous as far as the law is concerned, why is it there?

To borrow Justice Nordheimer’s most infamous phrase, I find an “irresistible inference” that we are seeing the Agenda at work, not just to prosecute Hammond’s killer, but to make an example of a panhandling street kid. Therefore Nyki must be the panhandler, regardless of the facts, as much as she must be the killer, again regardless of the facts.

**Where not a single witness actually saw the crime occur, much less saw you do it.**

From the verdict: “I tum then to the issue of the identity of the female involved in the two fights. Before reviewing the evidence on that issue, I want to say that I am aware that, with one exception, none of the witnesses, on whose evidence I rely, positively identified Ms. Kish, or indeed Ms. Watts, from any photographic line-ups that they were shown by the police. Given the circumstances of these events, I am not surprised by that fact. These events took place in a matter of minutes -not over days as they took to be recounted at this trial. They were fast moving and chaotic -as more than one witness described them

He notes that the events were fast and chaotic, and is not surprised by that lack of eyewitness identification. But is that not an admission of uncertainty, indeed of reasonable doubt? See how he deals with only witness to make a photo identification.

“The one exception is Ms. DeSilvia who did pick out a photograph of Ms. Watts as looking like the female who had been stabbed. She was obviously in error in that regard as we know that Ms. Kish was the only female who was stabbed. At the same time, Ms. DeSilvia also picked out a photograph of Ms. Kish as someone who looked familiar as being involved in the events. The actual photo line-up process was not shown in evidence so I do not know the certainty with which Ms. DeSilvia made her selections but I am satisfied that Ms. DeSilvia simply interchanged the two females in the process.”

So the one witness who did make a definite identification got it wrong. Here the judge is also missing the fact that he has just confirmed a major point of the defense, that witnesses can and do confuse Kish and Watts. Should a judge say that a witness simply “interchanged” the defendant with someone else, and then use that witness’s testimony anyway? If witness testimony can be thus “corrected” by the judge, who could ever prove their innocence?

**Where the police choose to ignore a far more likely suspect for reasons of their own.**

From the video conference testimony of Faith Watts at the prelim, being questioned by Attorney John Scarfe:

“Q. Are you aware as to whether or not Hal *(Amero)* carried a weapon, at any time?

A. I know that he was a very violent person.

Q. M'hmm.

A. And before we were actually showed up in Toronto, people had warned us about him to not hang out with us.

Q. M'hmm.

A. And then, we ended up meeting him. And I don't know for a fact if he had any --I mean know from what I heard, later on, being in jaiI with people that got arrested later, that had seen what had actually happened, and were not completely intoxicated, what they had told me was that he had a knife, that it was a purple knife.

Q. Okay.

A. And that it was in the sewer somewhere.

Q. All right.

A. But I did not see it, myself.”

Hal wasn’t brought in for an interview until more than a year had passed. By this time the police were completely committed to the prosecution of Nyki. Indeed, that was true from the day she was charged with murder, which has also the day of Hammond’s funeral and therefore the peak of the media pressure on the police to arrest someone, anyone, for the crime.

Once the police have made an arrest, they are no longer investigating to discover the truth, they are looking for confirmation to aid the prosecution. The media should NEVER rush them.

The police did finally check the sewer, but did not find a knife. However, this was also months later, during which time city maintenance crews had cleaned out the sewer.

As a follow up to the above, again from Justice Nordheimer’s verdict:

[131] … Still further is the fact that the only other knife, that we know was present at any time in the course of these events, belonged to Douglas Fresh.”

The vital core of Justice Nordheimer’s verdict depends utterly on their having been only one knife involved in the fight, with Fresh’s having remained in his pocket. Yet all of the above indicates at least one other knife not only present, but in the hands of someone very much involved. The judge has apparently mistaken the “fact” that we know of only one other knife as proof of the “fact” that there was no other knife. There is a very old adage being ignored, “Absence of evidence is not evidence of absence.”

Did Amero stab Ross Hammond? I do not know. Nor can I know whether he had a knife and subsequently put it down a sewer. I do know that if the above information was available to the police they had no business charging Nyki with the crime before at least questioning this man. Note that Watts and the other people she is referring to were ALL in police custody except for Amero.

Was this miscarriage of justice as simple and banal an evil as the police having Nyki in custody, whereas Amero was nowhere to be found? Was the pressure the police felt to charge someone by the day of Hammond’s funeral enough for them to destroy the life of an innocent young woman? Alas, all too many of the wrongful convictions to have been reversed in recent years have shown exactly such a pattern of official misconduct.

**Where the media is free to vilify you as the “panhandler killer” for more than three years, while you and your loved ones are strictly forbidden by the court from speaking about the case in public.**

From the start the media went into one of its typical feeding frenzies over this case, immediately grabbing and hyping the “panhandler” element to the extent of branding Nyki the “Pandhandler Killer” long before her trial had even begun. They were free to publicize this image as much as they pleased, while Nyki, as well as her friends and family, were barred by court order from making any public comments about the case. It was this negative and highly prejudicial disinformation campaign that led to the fateful decision to ask for a bench trial in the hopes that a judge would be more fair and objective than a jury tainted with such blatant propaganda. It turns out to have been mistake. The warning signs were there in the fact that the Crown initially opposed the bench trial, but only until Justice Nordheimer, the judge in charge of assigning cases, took the unusual step of asking both sides to be the trial judge himself. This was highly unusual given that he had been the judge at the bail hearing. He had seemed reasonable and fair at that hearing, causing Nyki’s side to accept, but more ominously it caused the Crown to drop its objections.

**Where the police try to deliberately frame you on an unrelated charge for the purpose of having your bail revoked.**

There was a failed attempt by the police to literally “frame” Nyki on an unrelated assault charge from an incident several weeks prior to Hammond’s death. The only probable motive is that under the terms of her bail, Nyki was living under house arrest at her grandmother’s home. It is far more difficult to aid in one’s own defense while in custody. In jail, the authorities have more control over the environment, they can record conversations, visitors and gather information in multiple ways.

From Justice Vallencourt’s ruling:

“It strikes me as strange that the Officer-in-Charge here found it appropriate to have the accused surrender with Counsel at a date to be arranged, expressing no concern, as to risk of flight.”

“However, senior officers who are involved with a murder charge, in which this accused has been granted bail, decided that the arrest had to be made immediately. I detect an undercurrent of unhappiness, perhaps, with a Superior Court Judge’s determination on an original bail for the murder count.”

In addition to the weakness of the identification, there are Nyki’s alibis. First, there was a family gathering at her grandmother’s home on the day the assault was originally supposed to have taken place, which provided plenty of witnesses as to her whereabouts. Incredibly, the police then tried to overcome this problem by simply changing the date on which the assault was to have taken place. This time Nyki had signed an electronic receipt at her grandmother’s home for cable TV service at the critical date and time. Having had their clumsy attempts fail twice, the police chose to give up. The question remains, after tactics like this, how can anything the authorities say about this case be trusted?

**Where an uncertain criminal “justice” system deals in three versions of the charge against you, such that if you didn’t do the first, maybe you did the second, and if you did neither you are still somehow guilty.**

The three versions of the charge reflect different versions of events:

1. That Nyki stabbed Ross Hammond causing his death.
2. That she carried the knife across the street to give to someone who then stabbed Hammond.
3. That she is guilty simply by being an “aider” in some unspecified way.

The last two rely on the “felony murder” doctrine by which anyone involved in a crime can be considered guilty of murder if someone is killed. But there are two glaring problems here. By bringing up all three versions in this trial the Crown blatantly admits that it is not certain as to what happened that night. Instead, they are inviting the judge to sort it out at trial. A judge is not supposed to do the Crown’s work for it, although this one unfortunately did.

If the supposed “proof” that Nyki stabbed Hammond falls through, so does the argument that she carried the knife across the street. Unless we are to believe that Watts gave it her, she gave it to someone else, who stabbed Hammond, only to have Hammond seize it and then stab her. It must be noted that this is a knife, not a basketball. Also that no one saw this supposed transfer of the knife from Watts to Nyki.

There are uncountable ways to be “involved” in a street brawl without being culpable. One might be a random spectator, or perhaps someone actively trying to stop the brawl or to pull a friend away from it. Some witnesses report Nyki as the only person yelling for someone to call the police. Most importantly, if they can convict you as an “aider” without having to specify exactly what they think you did, who is safe?

The Crown has always known that this was a possibility. By mentioning a version of events in which Nyki neither stabbed Hammond nor carried the knife, they also leave open the only other possibility, that Hammond transported the knife himself.

**Where the authorities are allowed to “lose” the video evidence that could have proven your innocence, without the slightest consequence to their case.**

One of the most troubling aspects of this case is that TWO surveillance videos that might have exonerated Nyki where lost. A pasta shop situated in the middle of the incident had a pair of digital cameras pointed in opposite directions above the entrance. A few days later a police technician retrieved two hour long recordings from each camera from the system’s computer. He thus violated protocol by not imaging the entire hard drive. Incredibly, he failed to retrieve the most important video by allegedly making the mistake of copying the right time but for the day he was there, rather than the day of the crime.

But ONLY for that one video, the other three were done correctly. This went “unnoticed” until it was too late to copy the right segment because the system records over the space after eleven days. The system automatically names the files retrieved with the date and time of the recording, making it hard not to wonder if this was really an “accident”. The filename for the correct date is 20070809\_000000.WMV. All three of the correct files start with 20070809. The most important one, the one could have recorded the fight itself, is called 20070814\_000000.WMV.

A second video tape from the neighboring store was collected only to be somehow “lost”, supposedly without ever being viewed.

When a motion to suspend the proceedings against Nyki was made, Justice Nordheimer acknowledged the violation of evidence collection protocol, and that it had indeed violated Nyki’s rights. However, he concluded that the video would not likely have shown the fight and would have been of insufficient importance to the defense. Without viewing the recordings, how could he know? Worse still, he asserts that the critical fight did not happen in the area covered by the camera, even though Melissa Gallately, the star witness the judge thinks actually witnessed the stabbing, does place whatever she saw in the area he chooses to ignore.

**Where DNA tests of critical evidence goes undone, while the defendant’s clothing is ordered to be tested again and again until a trivial and readily explainable amount of the victim’s DNA is found.**

Somehow Ross Hammond’s shirt was never tested for DNA, even though experts on DNA evidence confirm that a knife fight virtually guarantees the mutual transfer of DNA between the recipients.

More to the point, the ONLY trace of Hammond’s DNA on Nyki’s clothing was found only on the tip of her left shoe. This is readily explainable by her having stepped in it, since Hammond’s blood was found in multiple locations on the street. What is simply not explainable by the Crown is the failure to find it anywhere else on Nyki’s clothes. However, Hammond’s DNA was found on Watts’ clothing in multiple locations.

There is one other critical point concerning this matter. It wasn’t until the fifth round of testing, almost three years after the stabbing, that Hammond’s DNA was found on the tip of Nyki’s shoe. This was fifteen months after the shoe had been examined for the first time during the fourth round of testing. It is as if the lab was being ordered to go back again and again looking for the evidence the police had presumed was there, but now couldn’t find.

**Where any witness they produce is held against you, regardless of what they actually say, by cherry picking which pieces of each one’s testimony to accept or reject.**

Here is Mr. Thompson for the Crown asking Melissa Gallately about her prior sworn testimony at the preliminary hearing that the man who she saw being beaten had driven himself away in a car, which would preclude him being Hammond.

Thompson: Okay. Is that your evidence today? Or are you -- you've given us a little bit of a different version. Do you have a recollection of it or are you changing your evidence or are you mistaken or can you give us an explanation?

Gallately: Either -- I don't remember, to be honest. I remember that he got to the dark vehicle, but to be honest the more I'm thinking about it I was focused on the girl still screaming on -- about being bloody and her hand, so I think as I thought he was going to the dark vehicle, I assumed he got in and left, but my attention was directed towards the fight on the sidewalk. Because he went near the vehicle and he was gone.

Thompson: Okay. Fair enough. …..

If you accept this explanation, then Gallately seems to have a tendency towards conflating memory with assumptions thus making her an unreliable witness. However, I question whether this testimony really was an error on her part.

If you saw someone approaching a door, and after glancing away when you look back they are gone, you might very well have the impression that they’ve gone through the door. But note that the door is still there.

Where a car is concerned, it wouldn’t make sense to assume that the person you saw and who is now gone has driven away unless you also observe an empty parking space left behind. I don’t think anyone asked her about that point. So either she did observe that and is remembering something real that should not be repudiated in her trial testimony or her imagination can defy logic itself. Either way, she should not be relied upon to identify Hammond as being beaten by Nyki.

In her account, the man being beaten was lying on his back with a woman kneeling beside him and making “flailing” motions over him while screaming about her hand being wounded. Nyki’s stab wound was to her forearm, nearer her elbow than her wrist. With such a wound, would you be yelling about your “hand”, or your “arm”. More to the point, if this were Nyki kneeling by Hammond and waving her wounded arm over his prone body, it would be physically impossible not to have gotten her blood on him. Yet NONE of Nyki’s DNA was ever found on Hammond’s body or his clothes despite repeated tests.

Strangely enough, his shirt was never tested during the three and half years before trial. At least, that’s what we’re told. It is an inconvenient fact Hammond’s DNA was found all over Watts’ clothing, yet she supposedly had far less contact with him.

One final point seems never to have been considered in the judge’s verdict. Dranichak testified that at one point he was lying flat on the ground being beaten. He then managed to break away and left the scene in a taxi. While not an exact match for Gallately’s testimony, it is far closer.

THE COURT: I have to be guided by the expert evidence that I have as opposed to going off on my own to come up with theories . As I understand Dr. Pollanen's evidence, he said that a serrated knife might leave serrated edges on -- when it makes a cut and it might not, depending on a number of factors, including how the knife goes into the substance that is being cut.

I truly have to ask, how could we possibly know, just because no one saw two knives at the same time, that they all saw the same knife? Should we really expect a witness to know that someone else didn’t see the same thing as they had seen? For that matter, who other than Stopford and Paget ever claimed to see a knife at all until after Hammond was stabbed, at which point most attention was on him, some on Nyki and very little on anyone else. Please note how poorly their drawings agree and judge for yourself whether a case can be made that right there and then that two different knives were seen.

This issue is very much at the heart of the verdict. In saying that no one ever saw another knife, Justice Nordheimer has already accepted Stopford and Paget as having seen Nyki with the only knife on the south side of the streetcar. Reading this section, I think he’s already found her guilty. But it is another instance of all too familiar backwards reasoning. If Stopford and Paget saw someone other than Nyki (or Watts) then they did indeed see another knife. But that can’t be true, since there’s only one knife and Nyki must have carried it in order to be guilty.

Imagine telling the police that you saw a tall, thin, Caucasian male running from the liquor store with a gun in his hand. But when called to testify by the Crown, you discover that the defendant is black. In any sane proceeding you should be a defense witness. Yet you testify for the Crown and while they like tall, thin, male, running, store and gun they simply disregard your testimony that the man you saw was white. Since the Crown called you, you count against the defendant, regardless of what you actually say.

This hypothetical example may seem too fantastic to be taken seriously, yet throughout Nyki’s trial there was an incredible pattern of cherry picking pieces of the witnesses’ testimony in exactly this manner. This practice effectively alters the testimony, turning it into whatever the Crown finds convenient, while suppressing anything that is not.

Melissa Gallately, touted as the Crown’s star witness, testified that the man she saw being beaten while on the ground broke free and drove himself away in a car. Yet all sides agree that the wounded victim, Ross Hammond, was dragged up the street by a cab he’d tried to enter and collapsed on the church steps, where the ambulance crew later found him. Should the judge disregard this part of the witness’ testimony while accepting whatever else fits the Crown’s scenario? Or should we take Gallately at her word, and acknowledge that whoever it was that she saw being beaten that night, he wasn’t Hammond?

The Crown called Molly Stopford to identify Nyki as the woman with the murder weapon on the south side of the street. Not only could Stopford not positively identify Nyki as the woman she saw with a knife, she drew a picture of a knife with a smooth, non-serrated edge. Later she specifically testified that the knife she saw was not serrated, yet the Crown shows us as the alleged murder weapon a knife with a half-serrated edge. Isn’t the unadulterated meaning of Stopford’s testimony that the knife she saw was not the murder weapon, that the woman wielding it was therefore not Nyki and that the Crown’s theory of only one knife being involved in the fight is simply wrong?

‘Still further is the fact that the only other knife that we know was present in the

course of these events, belonged to Douglas Fresh. Not only was Mr Fresh still

in possession of that knife when he was arrested, it was tested for blood and none

was found.”

In spite of the inconsistency regarding the prominent serrations, both Justice Nordheimer, and later Justice MacFarland of the appeals court praise the detail of Stopford’s drawing. Apparently detail counts more than accuracy.

Jonathan Paget drew a knife that looked nothing like Stopford’s drawing. He acknowledged that he could not name a single characteristic to support his testimony, only his belief in the adage that the person who brings a knife to a fight is the one most likely to be injured by it. On this basis alone he claims that the knife he saw on the south side of the street car is the same knife he later saw in Hammond’s hand all the way on the other side of the street. Again, the judgment against Nyki keeps what is convenient and discards the rest.

**Where foreign citizens who are vital defense witnesses are prevented by law from entering the country to testify at your trial.**

Nyki was with three American friends during the incident in which Ross Hammond was killed. All three were deported to the US under an order that forbade their return for a period of five years. Despite the willingness of all three to attend the trial, and even to be held in custody for the length of their stay in Canada, the Crown refused to help the defense make their appearance possible.

One of the Americans, Faith Watts, did testify at the Preliminary Hearing via video link. Her testimony was shockingly misused and Nyki’s attorney could not have her amplify or defend the exculpatory aspects of her testimony at trial.

Watts testified that the Crown’s alleged murder weapon was HER knife, and that Hammond grabbed it from her hand while they were both still on the south side of the street. Justice Nordheimer accepts her statement that it was her knife, but simply decides not believe the rest of her testimony because she was drunk and high on drugs. His version of events requires Nyki to have been the one who carried the knife across the street, so that she would have it in her possession either to stab Hammond herself or to give it to someone else to stab him. Since the second part of Watts’ testimony flat out contradicts the outcome the judge wants, he simply drops it while keeping the part he needs. Again, who is safe if a judge can do this?

**Where the judge plays “detective”, assuming facts not in evidence, always against your interests, and the appeal decision both rubber stamps this practice and adds assumptions of its own.**

In his verdict Justice Nordheimer says, “in order to try and determine who caused the death of Ross Hammond, I must reach my conclusions based on the evidence of close to twenty different witnesses to the events that led to his death.” It is NOT the task of a judge to “determine” who committed a murder. It is his job only to decide whether the Crown has proven that the authorities have solved the murder beyond a reasonable doubt. An impartial judge does not try to help the Crown by filling in missing pieces of its case. Even if he forms an opinion about something, if the Crown does not argue that point, it shouldn’t be used as part of the verdict. It must also be pointed out that if the judge undertakes to “prove” who did the crime, the defense is being pressured to “prove” who else might have done it. Yet as Justice Nordheimer also states, “I fully understand and appreciate that there is no onus whatsoever on Ms. Kish to prove anything in this case.”

Justice Nordheimer accepts the knife presented by the Crown as the being the one used to fatally stab Hammond. However, the CFS expert witness, Dr. Pollanen, refused to definitively confirm or deny whether this was true. The limits of forensic simply do not permit such a conclusion.

Here the Judge makes his most egregious error. Despite Dr. Pollanen’s refusal to identify the knife, and despite his ruling that he must not theorize on his own, Justice Nordheimer draws his own conclusion that the presence of both Hammond’s and Nyki’s blood at the hinge of the knife somehow creates an “irresistible inference” that the same knife wounded both of them. This is the absolute central point of his verdict, such that everything else can be seen as having been reasoned backwards from this one point.

The judge is in error, not only because Hammond’s hands were bleeding, but because there is a far more plausible explanation. Ross Hammond lost the tip of his thumb during the fight. If he did take the knife from Watts and closed it he could easily have done that to his thumb himself. The injury to his thumb is an EXACT match for the wound often seen in emergency rooms when people close this type of knife, with a liner lock mechanism, but fail to move their thumb out of the way. In an adrenaline fuel drunken rage, Hammond might well have not even noticed that he’d done this to himself. His blood was found on his right rear pocket, suggesting that he placed the knife before retrieving it later in the fight.

A photo essay giving a detailed proof of this scenario is available from the sources mentioned at the end of this document. If it is correct, then Justice Nordheimer’s entire verdict is collapses. Please read it for yourself.

In the appeal decision, Justice MacFarland states that there is no basis for thinking that Nyki’s boyfriend Jeremy Wooley, known to have participated in the final north side fight, could be the stabber. Yet in virtually the next paragraph, she attributes the cry of “You die tonight!” as having come from Wooley. Here she is mistaken, as the only witness to have reported that cry, Cam Bordignon, never identified any as the source of it.

She also resurrects the ghost of the “aider” theory, already rejected by the trial judge. Again acknowledging the uncertainty of the Crown’s narrative to fall back on the she’s still guilty of something theory.

**Where the resulting sentence offers the chance of parole after 12 long years, but only if you give up your right to maintain your innocence, or else you can live out your entire life in prison, starting from age 24.**

It’s called the “Prisoner’s Dilemma” and is one the many loathsome complications of wrongful convictions. No matter how well behaved a prisoner may be, parole is simply not granted without the prisoner admitting guilt and expressing “remorse”. Imagine what is being asked of a wrongfully convicted individual. Such a person is effectively being told to lie to preserve the system’s reputation at the expense of their own, and is literally being held hostage until they do. It seems all too reminiscent of the tactics used in forced “re-education” camps such as those found in totalitarian dictatorships. Is our society really so childish as to believe that coerced expression of “remorse” can have any value or validity whatsoever?

Given that any newly discovered evidence might be fresh grounds for appeal even years after a wrongful conviction, this is essentially a violation of the cherished legal principle under which no one can be compelled to give evidence against themselves.

**Where in the aftermath of your wrongful conviction, the nation’s top television news program wants to interview you in prison, but the authorities refuse to allow it.**

CBC’s top news program, “The Fifth Estate”, was initially granted permission to interview Nyki by the warden at Grand Valley. Permission was withdrawn before the interview could take place, making it virtually certain that the warden was overruled by higher officials. It seems inconceivable that a responsible public official would be so frivolous as to arbitrarily reverse herself regarding very high level media access without orders from above. This also ignores precedents in which the media has been granted access to other inmates.

**What are they hiding?**

Every one of these points is a factor in the wrongful conviction of Nicole “Nyki” Kish. Together they make up one of the most egregious injustices I have ever encountered. If they can convict Nyki in this way, they can literally convict anyone of any crime at any time. That could be you, a friend or a loved one.

If I’ve caught your attention, please read on. There are some excellent articles on the **FreeNyki.org** website that summarize the crime and the legal proceedings that followed. Some pieces by Nyki herself are there that will give you a sense of who this extraordinary young woman really is. There are also two Facebook groups dedicated to freeing Nyki from this terrible injustice, with still more information and analysis of the wrong that was done here. This is a featured case on the Injustice-Anywhere.org website and its Facebook group as well.

When you’re done, please consider one of these three ways in which you can help:

1. Join the **Free Nyki Facebook Group**. The more members there are, the more seriously this cause will be taken.
2. Share the banner that brought you to this site on your own Facebook timeline and in any group you think appropriate. Please also share the banner pinned to the front of Nyki’s Facebook group, calling on “Fifth Estate” to proceed with their report using a phone interview of Nyki.
3. Contribute desperately needed funds via the PayPal button at the top of the FreeNyki.org webpage. Your contributions will help pay for legal fees, outreach efforts and the ongoing efforts of private investigators to uncover more of the truth.

Thank you for your interest and support.

Leon Myerson – October, 2016