

**IN THE MATTER OF THE THOMAS R. BRAIDWOOD, Q.C.,  
COMMISSIONS OF INQUIRY UNDER THE *PUBLIC INQUIRY ACT*,  
S.B.C. 2007, c. 9**

Room 801  
Federal Courthouse  
701 West Georgia Street  
Vancouver, B.C.

March 30, 2009

---

PROCEEDINGS AT  
HEARING (DAY 32)

---

**COPY**

*McEachern & Associates*  
2390 Kensington Avenue  
Burnaby, B.C. V5B 4E2  
Phone: (604) 299-3595; Fax: (604) 299-3545  
Toll-free: 1-866-366-2202

**IN THE MATTER OF THE THOMAS R. BRAIDWOOD, Q.C.,  
COMMISSIONS OF INQUIRY UNDER THE *PUBLIC INQUIRY ACT*,  
S.B.C. 2007, c. 9**

Room 801  
Federal Courthouse  
701 West Georgia Street  
Vancouver, B.C.

March 30, 2009

---

PROCEEDINGS AT  
HEARING (DAY 32)

---

Commissioner:	T.R. Braidwood, Q.C.
Commission Counsel:	A. Vertlieb, Q.C.
Associate Commission Counsel:	P. McGowan
Counsel for Zofia Cisowski:	W. Kosteckyj, S. Whiteley, S. Parhar

(ii)

Counsel for Government of Canada:	H. Roberts, J. Brongers
Counsel for Vancouver Airport Authority:	D. Stewart, C. Friesen
Counsel for B.C. Civil Liberties Association:	G. Pastine, S. Dubinsky
Counsel for Government of Poland:	D. Rosenbloom
Counsel for Corporal Benjamin Robinson:	R. Harris
Counsel for Constable Gerry Rundel:	T. Beaubier
Counsel for Constable Bill Bentley:	D. Butcher
Counsel for Constable Kwesi Millington:	R. Hira, Q.C.
Counsel for Public Service Alliance of Canada:	C. Buchanan, B. Matthews
Counsel for City of Richmond:	J. Goulden, M. Kleisinger, G. Trotter
Counsel for TASER International, Inc.	D. Neave, J. Spencer
Interpreter:	Kris Barski
Registrar:	L.N. Giles
Court Recorder:	P. Kealy, C.V.R., C.M.
Transcriber:	P. Kealy

Vancouver, B.C.  
March 30, 2009

1  
2  
3  
4 THE REGISTRAR: Order. The hearing is now resumed.  
5 THE COMMISSIONER: Yes. Good morning, all.

6  
7 KRIS BARSKI, Polish  
8 interpreter, sworn.  
9

10 THE REGISTRAR: Thank you. Mr. Commissioner.  
11 THE COMMISSIONER: Yes. I'd like to make a brief  
12 statement. I have been appointed by our attorney  
13 general, the Honourable Wally Oppal, to  
14 investigate the events that occurred at our  
15 International Vancouver Airport. I am a retired  
16 Court of Appeal judge, and then, as now,  
17 completely independent from government.

18 I would like to thank the consul of the  
19 Republic of Poland for his assistance in this  
20 inquiry, and also those citizens who are now  
21 coming forward as witnesses.

22 I want this inquiry to be open and as  
23 complete as possible. Your participation will  
24 further my aim in this regard.

25 The events that took place at one of Canada's  
26 international airports have saddened all  
27 Canadians, and indeed the citizens of Poland, I am  
28 sure, and certainly other peoples of our civilized  
29 world.

30 I will accurately report what happened as I  
31 have been commissioned to do.

32 Yes, Mr. Vertlieb.

33 THE REGISTRAR: Ms. Kosowska, we will now affirm you.

34  
35 IWONA KOSOWSKA, a witness,  
36 affirmed.  
37

38 THE REGISTRAR: Would you state your full name, please.  
39 A Iwona Kosowska.

40 THE REGISTRAR: Thank you. I will now turn you over to  
41 counsel.

42 MR. VERTLIEB: Ms. Kosowska, thank you very much for  
43 coming. We understand it's perhaps seven o'clock  
44 or so in the evening. We appreciate you taking  
45 the time. As you're watching on the television,  
46 hopefully you can see Mr. Barski, the interpreter,  
47 and behind me is the Commissioner. And I am the

1 Commissioner's lawyer, and so I will ask you some  
2 questions. And if any time you do not hear or  
3 you're not sure what you're being asked, please  
4 stop and we will make sure you understand. Do you  
5 agree with that?

6 A Yes, of course.

7 MR. VERTLIEB: Thank you very much. Also in the  
8 courtroom are some other lawyers who represent  
9 some of the people involved in the case. Some of  
10 those lawyers may want to ask you questions when I  
11 am finished. Is that okay?

12 A Yes.

13 MR. VERTLIEB: Thank you. Now, all of us, Mrs.  
14 Kosowska have seen the interview that you had many  
15 months ago in Poland. People came and asked you  
16 questions about this case. And so that's the  
17 information we have. We've seen your earlier  
18 interview and we know about that. And all I'm  
19 going to do today is cover some of the same  
20 questions you were asked months ago. Is that  
21 okay?

22 A Yes.

23 MR. VERTLIEB: Thank you.

24

25 EXAMINATION IN CHIEF BY MR. VERTLIEB:

26

27 Q Now, you are born in Gliwice --

28 A Yes.

29 Q -- in December of 1964?

30 A Yes.

31 Q And you've lived in Gliwice all your life?

32 A Yes.

33 Q You know Mr. Dziekanski and his mother?

34 A Yes.

35 Q And how long did you know Mr. Dziekanski?

36 A It was very long. I cannot even remember how long  
37 I knew him.

38 Q How did you meet Mr. Dziekanski and his mother?

39 A Well, it's been so many years that my memory  
40 cannot reach that far.

41 Q You live in a building in Gliwice?

42 A Yes. It's an old building.

43 Q And which floor of the building do you live on?

44 A First floor.

45 Q And did Mrs. Cisowski and Mr. Dziekanski live in  
46 the same building?

47 A Yes.

- 1 Q And which floor did they live on?  
2 A Main floor.  
3 Q In the written material we've seen, we were told  
4 that you knew Mr. Dziekanski and his mother for 20  
5 years or so.  
6 A Yes, at least.  
7 Q At least 20 years?  
8 A Yes, at least.  
9 Q If you were describing Mr. Dziekanski to someone  
10 who had never met him, how would you describe him?  
11 A Like a normal person, a man.  
12 Q He was your neighbour for many, many years?  
13 A Yes.  
14 Q And as a neighbour, how would you say he was? Was  
15 a good neighbour? Did he give you problems? How  
16 would you describe him as a neighbour?  
17 A Yeah, I can confirm now what I said before, that  
18 he was very helpful. Generally he was a very,  
19 very good man.  
20 Q What type of work was Mr. Dziekanski trained to  
21 do?  
22 A I can never remember what he was trained for, but  
23 from what I can recall, he was -- he had something  
24 to do with books or bookbinding. That was his  
25 training.  
26 Q And do you know what kind of work Mr. Dziekanski  
27 was doing before he was coming to Canada?  
28 A Different jobs.  
29 Q What type of jobs?  
30 A Well, he was a handyman. He could paint, he could  
31 do repairs. Long, long time ago he worked in a  
32 coal mine, so he was versatile.  
33 Q Did he help you with your apartment?  
34 A No, not in my apartment. I have a husband to do  
35 it.  
36 Q Now, tell us about the hobbies or interests Mr.  
37 Dziekanski had. What did he like to do?  
38 A That has already been written. We have already  
39 talked about it. Yeah, his greatest passion was  
40 geography and he ordered materials from *Reader's*  
41 *Digest*.  
42 Q Did you see him or talk to him about -- see him  
43 reading his geography materials?  
44 A Yes, of course.  
45 Q In terms of friends, was he the kind of man who  
46 had many, many friends and went out often, or was  
47 he more to himself?

- 1 A Yeah, he was very -- he was a very open man. He  
2 had a group of friends that he was meeting  
3 regularly. But he wasn't to himself.
- 4 Q How would you describe his personality?
- 5 A Could you give me a supplementary question?
- 6 Q Well, did you ever see him get angry?
- 7 A No.
- 8 Q What about Mr. Dziekanski's health?
- 9 A Yeah, he was healthy man. I cannot recall him  
10 complaining about the health issues. He was  
11 healthy.
- 12 Q Tell us about any smoking or alcohol. Help us  
13 with that.
- 14 A Could you give me a supplementary question?
- 15 Q So did Mr. Dziekanski smoke or drink alcohol?
- 16 A Are you talking about social drinking or heavy  
17 drinking?
- 18 Q Yes, exactly.
- 19 A Yeah, he was smoking, but when it comes to  
20 alcohol, I've never seen him drunk.
- 21 Q You mentioned social drinking.
- 22 A Okay. I didn't see him drinking more than one  
23 beer or maybe one drink. It was like a social  
24 drinking. That's it. I...
- 25 Q Did Mr. Dziekanski drive a car? Did he have a  
26 driver's licence?
- 27 A No. I cannot recall him getting a driver's  
28 licence.
- 29 Q Now, let's discuss his move to Canada. Did you  
30 talk to Mr. Dziekanski and his mother, Ms.  
31 Cisowski, about Mr. Dziekanski moving to Canada?
- 32 A Yes. Just as I testified before, I'm confirming  
33 that yes, he was talking to me about his trip to  
34 Canada.
- 35 Q And was he looking forward, from what you could  
36 tell, to moving to Canada?
- 37 A Yes. Yeah, he couldn't wait. He really want to  
38 go to Canada.
- 39 Q You mentioned that Mr. Dziekanski liked geography.  
40 Did he show you books about Canada?
- 41 A Yeah. Yes, he did have atlases and about Canada  
42 and he want to learn about Canada because he want  
43 to come here prepared.
- 44 Q Do you know if Mr. Dziekanski had ever been out of  
45 Poland?
- 46 A No, I cannot recall.
- 47 Q So let's talk about the day or two before he was

1 going to fly on the plane to come to Canada.  
2 A Yes?  
3 Q Do you remember the time shortly before he was  
4 going to get on the airplane?  
5 A Yes.  
6 Q Tell us about how he was in the time when he was  
7 going to be getting on the plane, in the day or so  
8 before.  
9 A It was his -- it was his first -- it was his first  
10 trip on the plane so he was nervous, but at the  
11 same time he was curious.  
12 Q And how do you know he was nervous about being on  
13 the plane?  
14 A Because we're talking about it.  
15 Q Do you know if he was having any problems sleeping  
16 before he was going to get on the plane?  
17 A Yeah. For a long -- for a long time, from what I  
18 can remember, he couldn't sleep for at least 48  
19 hours prior to boarding the plane because -- and  
20 then that's why he was nervous, and of course he  
21 was looking forward to seeing his mother.  
22 Q Did you keep contact with Mrs. Cisowski, the  
23 mother, even though she had moved to Canada?  
24 A Yes. Yes. From time to time, Mrs. Zofia Cisowski  
25 would call me. It wasn't very often, but yes, we  
26 were in touch.  
27 Q And did Mrs. Cisowski ever talk to you about  
28 helping her son to get ready to come to Canada?  
29 A Of course. That was her only dream.  
30 Q Now, you knew that Mr. Dziekanski was planning to  
31 move permanently to Canada?  
32 A Yes, I knew about it.  
33 Q And so did you realize that that meant he would be  
34 leaving people behind in Poland?  
35 A Yeah. But of course in the sense that he'll still  
36 be in touch with his friends in Poland. It's not  
37 that he will sever the relationship completely.  
38 Q When is the last time you saw Mr. Dziekanski?  
39 A Yeah. I saw him a few hours -- a few hours, quite  
40 a few hours before his departure.  
41 Q You did not take him to the airport?  
42 A No.  
43 Q Others did?  
44 A Yes. His friends.  
45 MR. VERTLIEB: Thank you very much.  
46 A [Not interpreted]  
47 THE INTERPRETER: [Addresses the witness]

Iwona Kosowska

Cross-exam by Mr. Brongers (for Government of Canada)

1 THE WITNESS: [Addresses the interpreter]

2 THE COMMISSIONER: Now, what questions do we have?

3 MR. BRONGERS: Mrs. Kosowska, my name is Jan Brongers.

4 I'm a lawyer with the Government of Canada. Thank  
5 you very much for coming today to assist our  
6 inquiry. I just have a few questions for you.

7 A Yes. I'm ready.

8

9 CROSS-EXAMINATION BY MR. BRONGERS ON BEHALF OF THE  
10 GOVERNMENT OF CANADA:

11

12 Q You explained that Mr. Dziekanski never travelled  
13 outside of Poland before this trip to Canada,  
14 correct?

15 A Yes.

16 Q Had Mr. Dziekanski ever travelled away from  
17 Gliwice before this trip?

18 A Yes, of course, because his family was outside of  
19 Gliwice.

20 Q Approximately how often did he go on trips away  
21 from Gliwice overnight?

22 A I don't think it's appropriate question.

23 Q You are refusing the answer the question?

24 A I don't -- okay. Okay. I don't know why I should  
25 answer that question, you know. I didn't control  
26 Robert, you know. I don't know what he did at  
27 night. After all, we live one floor apart.

28 Q I understand that. And if you don't know the  
29 answer to the question, that's fine. We are --

30 A I don't know.

31 Q You see, we are trying to get an understanding of  
32 how much experience Mr. Dziekanski had with  
33 travelling in the past. So I was wondering if you  
34 knew how often he had travelled within Poland  
35 prior to this trip.

36 A [Not interpreted]

37 THE INTERPRETER: [Addresses the witness]

38 A Sorry, I don't know. But I know for sure that he  
39 never flew a plane or was on a plane, and he never  
40 went abroad.

41 MR. BRONGERS:

42 Q Do you know if he would go on train trips outside  
43 of Gliwice?

44 A Well, he had family outside of Gliwice so he had  
45 to get there somehow, so he was travelling by  
46 train and by bus.

47 Q Do you know what level of education Mr. Dziekanski

- 1 had?
- 2 A Trade school.
- 3 Q We had information that the trade he had learned
- 4 was typesetting in a print shop. Is that correct?
- 5 A Yes, that's correct.
- 6 Q Do you know if Mr. Dziekanski performed his
- 7 compulsory military service in Poland?
- 8 A I cannot answer that question. It was so long ago
- 9 that I just cannot remember.
- 10 Q You do not know if he did his compulsory military
- 11 service; is that correct?
- 12 A Simply I cannot recall. I don't remember.
- 13 Q In addition to the small occasional jobs that Mr.
- 14 Dziekanski would do, do you know if Mr. Dziekanski
- 15 was receiving financial support from his mother?
- 16 MR. KOSTECKYJ: With respect, Mr. Commissioner, I'm not
- 17 sure how that's relevant.
- 18 THE COMMISSIONER: How is that relevant, Mr. Brongers?
- 19 MR. BRONGERS: What we're trying to establish is the
- 20 level of independence Mr. Dziekanski had and his
- 21 ability to function independently as he travelled.
- 22 In our submission, that is relevant to
- 23 understanding the events of October 13th and 14th.
- 24 THE COMMISSIONER: Well, you see, the difficulty is if
- 25 the mother, in terms of our money, if the mother
- 26 gives him five dollars or ten dollars or a hundred
- 27 dollars -- you see, the degree is so enormous that
- 28 I really don't think it achieves your object. I
- 29 won't allow that.
- 30 MR. BRONGERS: Thank you, Mr. Commissioner.
- 31 THE INTERPRETER: [Addresses the witness]
- 32 THE WITNESS: [Addresses the interpreter]
- 33 THE INTERPRETER: [Addresses the witness]
- 34 MR. BRONGERS:
- 35 Q Is it true that the only language Mr. Dziekanski
- 36 knew how to speak fluently is Polish? Is that
- 37 right?
- 38 A No, he didn't speak any other language but Polish.
- 39 Q Do you know how much exercise or physical activity
- 40 Mr. Dziekanski would do? Did he practise any
- 41 sports?
- 42 A No, he wasn't over-extended physically.
- 43 Q So you weren't aware of him practising any sports?
- 44 A No, I don't know.
- 45 Q You said that Mr. Dziekanski did not drive a car.
- 46 Did he bicycle to travel around the city?
- 47 A Well, it was in the city. You probably never

- 1 visited Gliwice. It's impossible because we have  
2 cars, we've got buses, we've got trams on the  
3 road.
- 4 Q So I take it the answer is no. We're trying to  
5 get an understanding of how much physical activity  
6 Mr. Dziekanski was doing when he was in Poland.
- 7 A That's correct.
- 8 Q You indicated that you weren't aware of any  
9 medical problems that Mr. Dziekanski had. Were  
10 you aware that he had a knee problem, that he wore  
11 a brace on his knee?
- 12 A Yes.
- 13 Q Do you know if Mr. Dziekanski visited a doctor  
14 regularly?
- 15 A Well, it's obvious that -- it's obvious that when  
16 the knee hurts, one has to go to a doctor, so of  
17 course he went to a doctor.
- 18 Q I'd like to ask you some questions about Mr.  
19 Dziekanski's plans for his travel to Canada. You  
20 said that you did discuss this with Mr.  
21 Dziekanski, correct?
- 22 A Yes.
- 23 Q Did you know what Mr. Dziekanski expected to do  
24 when he was in Canada, what his plans were?
- 25 A Just like I testified before, he would like to  
26 travel across Canada, see Canada, learn about  
27 Canada, not just from the books. Just real  
28 experience.
- 29 Q Did Mr. Dziekanski expect to work in Canada?
- 30 A From what I know, yes, he did have a job lined up.
- 31 Q Do you know what sort of job he had lined up?
- 32 A I'm not sure, but I think he would be working with  
33 his mom.
- 34 Q Do you know the nature of the work he would be  
35 planning to do with his mother?
- 36 A Well, I -- well, I would suspect -- I would  
37 suspect that he would be helping her with some  
38 heavy-duty tasks like lifting, carrying, and so  
39 on.
- 40 Q Now, you testified that Mr. Dziekanski could not  
41 speak any languages other than Polish, so we  
42 understand he could not speak English. Is that  
43 right?
- 44 A No, he didn't know English.
- 45 Q And did Mr. Dziekanski discuss with you how he  
46 planned to cope with the language barrier, the  
47 fact that in British Columbia we speak English?

- 1 A We talked about it a while ago. I would say that  
2 it's hard at his age to learn a new language. But  
3 one would suspect that a huge airport like  
4 Vancouver International, somebody would speak  
5 Polish.
- 6 Q You would expect that, but did he explain to you  
7 that his expectation was that the personnel at the  
8 Vancouver Airport could speak Polish?
- 9 A No, he didn't talk about it, but he was going to  
10 Canada and he knew his mom will be waiting for him  
11 at the airport.
- 12 Q Did he discuss with you how he planned to deal  
13 with the airlines, given that he can't speak  
14 English, flying to Canada?
- 15 A No, we didn't talk about it. A lot of people  
16 travel without the language knowledge, and nothing  
17 happens.
- 18 Excuse me, can I ask a question?
- 19 MR. BRONGERS: I suppose you have to ask our  
20 Commissioner if you can ask a question.
- 21 THE COMMISSIONER: Yes, go ahead.
- 22 A Could you please ask a concrete questions because  
23 we're going in around in circle, so I can give you  
24 a concrete answer.
- 25 MR. BRONGERS: I will do my best, Mrs. Kosowska.
- 26 THE WITNESS: Thank you.
- 27 MR. BRONGERS:
- 28 Q Do you know if Mr. Dziekanski contacted the  
29 airlines before flying to tell them he would be  
30 travelling and cannot speak English?
- 31 A No.
- 32 Q And do you know if Mr. Dziekanski contacted any  
33 Canadian government officials before he travelled  
34 to indicate that he might need assistance at the  
35 airport?
- 36 A Please, I ask you to give me a concrete question  
37 and don't go around the issue. I need a concrete  
38 question so I can answer -- give you a concrete  
39 answer.
- 40 Q I simply asked if you know if Mr. Dziekanski  
41 contacted any Canadian government officials to  
42 warn them that he was arriving and could not speak  
43 English.
- 44 A But I already answered that he didn't know the  
45 English, so the second question was unnecessary.
- 46 Q I take it the answer is no.
- 47 A No, I don't know anything about it.

Iwona Kosowska

Cross-exam by Mr. Brongers (for Government of Canada)

Cross-exam by Mr. Butcher (for Cst. Bentley)

1 Q One last question.

2 THE WITNESS: Thank you.

3 MR. BRONGERS:

4 Q We understand that Mr. Dziekanski was supposed to  
5 travel to Vancouver two weeks before the date he  
6 actually travelled.

7 MR. KOSTECKYJ: With respect, the way that that  
8 question is framed pre-supposes that that is in  
9 evidence somewhere. I --

10 THE COMMISSIONER: No, I don't mind the question. Go  
11 ahead.

12 A Yes. Yes, of course. Yeah, he's supposed to  
13 travel earlier.

14 MR. BRONGERS:

15 Q Do you know why he rescheduled his trip?

16 A I'm sorry, that's supposed to be last question.

17 Q Oh, I'm sorry. It was the last subject that I  
18 wanted to cover.

19 A No, I don't know. I don't know why he  
20 rescheduled. Maybe it was the stress of the  
21 travel. Because one has to get ready for a trip  
22 like that.

23 MR. BRONGERS: Thank you very much for answering my  
24 questions, Mrs. Kosowska.

25 THE COMMISSIONER: Now, there will be one more lawyer  
26 at least.

27 A [Not interpreted]

28 THE INTERPRETER: [Addresses the witness]

29 MR. BUTCHER: Ms. Kosowska, my name is David Butcher  
30 and I'm a lawyer for another of the parties before  
31 this Commission.

32 A [Not interpreted]

33

34 CROSS-EXAMINATION BY MR. BUTCHER ON BEHALF OF CONSTABLE  
35 BILL BENTLEY:

36

37 Q First of all, can you tell me what you do for a  
38 living, Ms. Kosowska?

39 A Well, that's not reason why we are here. I'm  
40 sorry.

41 Q It's a background question that I'm trying to  
42 understand.

43 A I'm working, I raise a child, and I take care of  
44 my household.

45 Q I'm going to try to ask some questions to help me  
46 understand how well you knew Mr. Dziekanski. The  
47 first question is, how many apartments are there

1 in the building that you live in?  
2 A Nine.  
3 Q How often would you see Mr. Dziekanski?  
4 A Quite often.  
5 Q Would it be every day or twice a week or once a  
6 month?  
7 A Well, sometimes I would see him two, three times a  
8 day and sometimes I wouldn't see him for a week.  
9 Q When you saw him, what sort of occasions were you  
10 having these meetings with him?  
11 A Well, there was no specific reason. I have a dog,  
12 a stray dog, and so I have to walk the dog, so  
13 that was one of the reasons why I would meet Mr.  
14 Dziekanski, when walking the dog.  
15 Q So is it fair to say, then, that you would run  
16 into him coming and going from the building and  
17 maybe out on the streets around your house?  
18 A Yes. Yes, that's correct.  
19 Q Did he come to your apartment at all?  
20 A Of course. We would meet at my place and then we  
21 would go to his place.  
22 Q So you did socialize with him?  
23 A Yes.  
24 Q When you socialized with him, did you ever see him  
25 drinking alcohol?  
26 A (No response)  
27 THE INTERPRETER: Hello?  
28 A No.  
29 MR. BUTCHER:  
30 Q Did you ever go to his house when alcohol was  
31 being consumed by other people?  
32 THE INTERPRETER: [Addresses the witness]  
33 A No, I cannot recall the situation like that.  
34 MR. BUTCHER:  
35 Q You told the people who interviewed you the last  
36 time that he lived with a woman called Elzbieta  
37 Dibon. Is that true?  
38 A Yes.  
39 Q And you thought that she was an alcoholic, didn't  
40 you?  
41 A Well, I knew that she was an alcoholic.  
42 Q You thought that she drank every day?  
43 A If not every day, then every second day.  
44 Q And you saw her drunk a lot?  
45 A Yeah, I saw her influence of alcohol but not  
46 drunk.  
47 Q And how often would that be?

- 1 A Could you please ask me a concrete question.  
2 Q How often would you see her drunk, or under the  
3 influence of alcohol?  
4 A I am sorry. We're here to talk about Mr.  
5 Dziekanski, not Elzbieta Dibon, and I'm really  
6 getting tired of these questions.  
7 Q I may come back to this but I've got some other  
8 questions to ask you. In the period between,  
9 let's say -- I'll go back a bit. I'll start  
10 again. We know that he travelled to Canada on  
11 October the 13th, 2007. Between June and October  
12 2007, did you have any discussions with him at all  
13 about his health?  
14 A What do you mean? Could you elaborate?  
15 Q Do you know a Dr. Janina Jablonska?  
16 A She's not -- can we have a short recess?  
17 MR. BUTCHER: I'm in the Commissioner's hands.  
18 THE INTERPRETER: Can we have a short recess? She's  
19 getting tired.  
20 THE COMMISSIONER: Yes. Just a few moments. Is that  
21 enough?  
22 A Okay. Two, three minutes.  
23 THE COMMISSIONER: All right. Let's just break for two  
24 or three minutes.  
25 A Okay.  
26 THE INTEPRETER: [Addresses the witness]  
27  
28 (PROCEEDINGS RECESSED)  
29 (PROCEEDINGS RECONVENED)  
30  
31 MR. BUTCHER: Can we start again, please.  
32 A Yes.  
33 Q Did Mr. Dziekanski tell you that the doctor had  
34 found that his heart was working too fast?  
35 A Well, I'm sorry. Where do you have that  
36 information? Because that's the first I've heard  
37 about it.  
38 Q So is it your evidence that he didn't tell you  
39 that?  
40 A No. And I don't think that things like that took  
41 place.  
42 Q Did he tell you that he was prescribed medication  
43 by the doctor, by Dr. Jablonska?  
44 A No, unfortunately not. No, I don't know anything  
45 about this or I don't know anything about any  
46 other drugs that he was taking.  
47 Q I want to ask you some questions about the last

1 time that you saw him. It was on the evening of  
2 October the 12th, wasn't it?  
3 A Late afternoon.  
4 Q Do you remember what time?  
5 A Between 6:00 and 8:00 p.m.  
6 Q Did you see him for two hours?  
7 A No, I didn't see him for two hours. I saw him  
8 between 6:00 and 8:00 p.m.  
9 Q And can you tell us how he was when you saw him?  
10 A He was excited. Yeah, he was excited. He was a  
11 little bit nervous before the flight.  
12 Q And was it then that he told you that he hadn't  
13 slept for 48 hours?  
14 A No. I saw him during the day because he was  
15 taking care of some chores. So it wasn't the only  
16 time that I saw him between 6:00 and 8:00.  
17 Q So you saw him several times that day?  
18 A Of course. I saw him earlier. Yeah. It's not  
19 that he was moving from one small place to  
20 another. He was moving to another country. He  
21 was changing everything.  
22 Q And it was during one of those occasions that he  
23 told you he hadn't been able to sleep for two  
24 days?  
25 A Yes, that's correct, because he couldn't fall  
26 asleep and I -- if I were in his situation, in his  
27 boots, I wouldn't probably sleep at all.  
28 Q When you saw him, did you think that he had been  
29 drinking?  
30 A No. No, absolutely not.  
31 Q Did you know who was taking him to the airport?  
32 A His friends.  
33 Q How far away is Katowice Airport from where you  
34 live?  
35 A I don't know how many kilometres, but it's about  
36 an hour, an hour and a half trip. I don't know  
37 exactly because I've never been there.  
38 Q You know that among the things he was worried  
39 about the trip were the turbulence on the plane?  
40 A [Not interpreted]  
41 THE INTERPRETER: Turbulence, right?  
42 MR. BUTCHER: Yes, turbulence.  
43 THE INTERPRETER: [Addresses the witness]  
44 A Of course. Of course he was afraid. If I were on  
45 the plane, I would be afraid that the wing would  
46 fell off. You know, it's logical.  
47

1 MR. BUTCHER:

2 Q And he was also worried about having to change  
3 planes in Germany?

4 A Yes, of course he was afraid, especially that he  
5 didn't know any language other than Polish. But  
6 he knew that when he arrives in Canada, his mom  
7 will be waiting at the airport.

8 Q And you know as well that his mother was speaking  
9 to him regularly before he left?

10 A Of course because I was talking to her as well.

11 Q How many cigarettes did he smoke a day?

12 A Probably around twenty cigarettes a day. Well,  
13 it's hard to say, but of course before the trip,  
14 because he was nervous, he probably smoked more.  
15 But he wasn't a heavy smoker. He didn't smoke too  
16 much.

17 Q I've just got two more questions about Elzbieta  
18 Dibon so that the record here is correct.

19 A Do I have to answer these questions?

20 Q Well, let me answer the questions first. There  
21 are three questions really. One is how long did  
22 he live with her?

23 A I'm sorry but I won't answer these questions.

24 Q Why not?

25 A Well, that's his private life and I didn't have  
26 right to interfere with his life, especially after  
27 his death. I don't have right. Especially that  
28 you probably read my answers to the previous  
29 interviews and you know what's going on, so I  
30 don't want to answer these questions any more.

31 Q Well, I'm going to put some questions on the  
32 record and you can answer them because I just want  
33 the Commissioner and the other people in Canada to  
34 understand the history of the relationship. It's  
35 my understanding that they lived together for  
36 about eight years, that during the first -- and  
37 that during the --

38 A I'm not going to answer these questions. It's  
39 unpleasant to me. I already answered these  
40 questions to Polish prosecutors and I'm not going  
41 to be answering them any more.

42 Q Can you just tell us one last thing perhaps, then?  
43 You told us just then that you answered questions  
44 to a Polish prosecutor. Did you have a court  
45 order from a local court in Poland?

46 THE COMMISSIONER: No, I'm sorry. I object to that.  
47 You can't ask that.

1 MR. BUTCHER: Those are my questions.

2 THE WITNESS: Okay.

3 THE COMMISSIONER: A little bit more yet, ma'am.

4 A [Not interpreted]

5 MR. HIRA: Good evening, Ms. Kosowska. My name is Ravi

6 Hira. I'm a lawyer for one of the parties and I'm

7 grateful that you're giving us your time and

8 helping us on this matter. Thank you. Please

9 bear with me. I do have some questions for you

10 and I'd be very much obliged if you could help us

11 with the answers.

12 A And from my side, I ask for concrete questions.

13 MR. HIRA: I understand. I will do the best that I

14 can.

15

16 CROSS-EXAMINATION BY MR. HIRA ON BEHALF OF CONSTABLE

17 KWESI MILLINGTON:

18

19 Q Now, I understand that in the days, the few days

20 before he flew to Canada, you noticed that he was

21 smoking more.

22 A Yes, he smoked more but not to the extent that

23 would do any damage to his health.

24 Q I understand that. He was understandably nervous

25 and was smoking up to two packets of cigarettes

26 per day. Is that a fair comment by me?

27 A No. No, he didn't smoke that much.

28 Q Can you tell us how much he smoked?

29 A Well, he wasn't smoking too much. He wasn't

30 addicted that he had to smoke. So I think he was

31 probably smoking about ten cigarettes a day.

32 Q I'm going to suggest that it was more than ten

33 cigarettes and at least twenty cigarettes. Would

34 you agree with me?

35 A No. Maybe just before he left, because myself

36 would smoke more, but I don't think he exceeded

37 twenty cigarettes a day.

38 Q So just --

39 THE WITNESS: Excuse me.

40 A And also he had lots of things to do, you know.

41 He had to meet and -- meet friends. So I don't

42 think he had enough time to smoke too many

43 cigarettes because he was too busy.

44 Q Yeah. But in the couple of days before he flew,

45 he was smoking up to twenty cigarettes a day.

46 That's a fair statement by me, is it not?

47 A Yeah, he could. Yeah, up to twenty cigarettes a

1 day, which is one pack.  
2 Q Thank you, and I'm grateful to you for your  
3 candour.  
4 A You're welcome.  
5 Q You've told us that he was understandably nervous  
6 about flying and coming to Canada.  
7 A Of course.  
8 Q Yes. And I understand that his mother had to call  
9 a few times to try and calm him down?  
10 A Well, of course she was calling but it wasn't the  
11 main reason, you know. Like he had to say goodbye  
12 to his friends and the flight and he was leaving  
13 the country.  
14 Q Of course. But one of the reasons why she was  
15 calling was to reassure him, to calm him down, to  
16 make him understand that everything will be okay?  
17 A Of course.  
18 Q Thank you. Now, before he left -- and I'm talking  
19 about the day or two before he left, maybe even  
20 the week before he left -- did you notice whether  
21 he was starting to sweat?  
22 A I'm sorry, what are you getting at? Because I  
23 don't understand your question.  
24 Q Sorry, I'll try again. Forgive me. I'm not very  
25 good at this.  
26 A Trust me, he wasn't sick. He didn't have any  
27 illnesses. I'm -- I think I know your intent.  
28 Please ask me questions other than what you are  
29 trying to establish.  
30 Q Okay. You say that you know he wasn't sick. What  
31 information do you base that on?  
32 A Well, because -- well, because, you know, I knew  
33 him for a long time. If he was sick or anything,  
34 he would have told me. We were in close contact.  
35 But he never even had flu for a long time, and he  
36 was allergic to doctors.  
37 Q Oh, I see. What do you mean by allergic to  
38 doctors? I may have the same condition?  
39 A It's simple. He didn't want to go to doctor  
40 because he didn't need to. The real man -- the  
41 real man is afraid of needle. He didn't go to  
42 doctors. He wasn't sick.  
43 Q All right. So as far as you know, he wasn't on  
44 any -- he wasn't taking any prescribed drugs?  
45 A That's correct.  
46 Q Now, after this tragedy in Canada, you spoke to  
47 some newspaper reporters from Canada, did you not?

- 1 A Do you really want to know the answer? Because  
2 I'm really getting upset. Of course you know I  
3 talked to a journalist from Canada.
- 4 Q I'm sorry, it's not my intention to upset you. I  
5 have to ask these questions so that we have a  
6 record at this inquiry. I apologize if I'm  
7 upsetting you.
- 8 A Yeah, but these questions are starting to sound  
9 like the questions with your representatives from  
10 Canada before.
- 11 Q I'm sorry. Let me keep going, and if you could  
12 just help me and help us, I'd be obliged.
- 13 A [Not interpreted]
- 14 THE INTERPRETER: [Addresses the witness]
- 15 MR. HIRA:
- 16 Q Now, back in November of 2007, around November 14,  
17 you remember speaking to a reporter by the name of  
18 Peter O'Neill from Canada?
- 19 A Yeah, there was -- there was somebody at my  
20 apartment. I cannot remember or I don't know what  
21 newspaper he was with, but I know that he was a  
22 journalist from Canada.
- 23 Q Thank you. And you discussed Robert's life with  
24 this journalist from Canada, did you not?
- 25 A Well, that was just a general discussion, but  
26 whatever was written in that paper didn't come out  
27 of my mouth.
- 28 Q Have you read the newspaper article?
- 29 A My friend got it off the Internet for me.
- 30 Q And this was an article of November 14, 2007, by  
31 Peter O'Neill?
- 32 A Honestly, I had several different articles printed  
33 at that time, but frankly neither of them reported  
34 what I said and the stuff that they reported  
35 didn't come out of my mouth.
- 36 Q I see. All right. Well, I'll come back to that  
37 in a few moments. Let me ask you some questions  
38 about the video. You've seen the video of Robert  
39 in Vancouver?
- 40 A Yes.
- 41 Q And is it a fair statement by me that you've never  
42 seen any behaviour -- let me start again. Would  
43 you agree with me that in the video he appears to  
44 be acting aggressively?
- 45 A For me, absolutely not.
- 46 Q In the video, you'll agree with me that he throws  
47 a computer onto the ground?

- 1 A I'm sorry. I'm losing it. Either you stop this  
2 line of questioning or I won't answer any more  
3 questions.
- 4 Q It is not my intention to upset you [not  
5 interpreted].
- 6 THE INTERPRETER: [Addresses the witness]
- 7 A I'm sorry. I'm not a psychologist and, you know,  
8 I'm not going to analyze what happened there. You  
9 guys made a mistake. Now you're going to turn  
10 everything around.
- 11 Q Ma'am, it's not my intention to upset you. I'm  
12 just trying to do my duty, and your assistance  
13 would be very much appreciated.
- 14 A What do you want me to help with? That he was  
15 killed, that he was (indiscernible - overtalking).  
16 For me, my friend got killed and he got killed in  
17 front of my eyes.
- 18 Q So let's deal with some of the things that you see  
19 on the video. And I'd like to compare what you  
20 see on the video with the behaviour and  
21 observations that you had of Robert over over  
22 twenty years.
- 23 A I'm sorry. I'm not going to talk about it at all  
24 because despite that two years have passed, it's  
25 still fresh and I'm not going to answer these  
26 questions.
- 27 Q Let me try to explain my line of questioning and  
28 maybe you can assist us. All I'm going to ask  
29 you --
- 30 THE WITNESS: Okay.
- 31 MR. HIRA:
- 32 Q All I'm going to ask you is whether -- firstly,  
33 whether you see certain things on the video, and  
34 secondly, whether those are things that you have  
35 seen Robert do before.
- 36 A No, he didn't do it and I'm not going to answer  
37 these questions. I just cannot. I just cannot  
38 describe what I saw.
- 39 Q All right. Have you ever seen Robert throw any  
40 furniture against any walls?
- 41 A Never. I told you that before. He was normal  
42 man. He wasn't aggressive.
- 43 Q Thank you. Have you ever seen him throw a  
44 computer down onto the ground to break it?
- 45 A Sir, I'm going to tell you. When a normal person  
46 comes to a foreign country without knowledge of  
47 language, without having a cigarette on him,

1 without having water to drink, and nobody paid any  
2 attention to him, didn't help him, so what kind of  
3 a reaction are you expecting?

4 Q Fair enough. That's very helpful. So let me  
5 continue with this line and you go ahead and  
6 explain it in the way you feel comfortable. In  
7 the video, it appears that he is sweaty and wiping  
8 his brow. Have you ever seen him in that  
9 condition?

10 A No.

11 Q In the video, he at one stage appears to hold a  
12 chair up towards the people on the other side of  
13 the area that he's in. Have you ever seen him do  
14 that?

15 A No, I never saw anything. Then if I were there  
16 and nobody help me, I would do exactly the same  
17 thing. He was asking for help. He was asking for  
18 attention.

19 Q In the video, would you agree with me that he  
20 appears to be angry?

21 A No, he wasn't angry. He was a helpless person  
22 begging for help.

23 Q I see. And you haven't seen him act in that way  
24 ever in Poland. Is that a fair statement by me?

25 A Never on your life.

26 Q Now, do you know a local journalist in your city  
27 or town by the name of Aldona Minorczyk?

28 A No, I don't know. I don't know that person.

29 Q Would you agree with this statement by me? And  
30 I'm not trying to be hurtful or disrespectful, but  
31 I have to do my duty and ask these questions, so  
32 please bear with me. Would you agree that he,  
33 that is Mr. Dziekanski, had a drinking problem, an  
34 alcohol problem?

35 A Can we stop it? Can we stop this line of  
36 questioning? Because you are trying --

37 THE INTERPRETER: [Addresses the witness]

38 A -- because you are trying to make a bad person out  
39 of him, which means that you can kill a bad person  
40 but you cannot kill a good person. And I'm fed  
41 up. I'm not going to answer any more questions.  
42 How can you?

43 MR. HIRA:

44 Q I'm trying to word the questions so that you can  
45 [not interpreted] --

46 THE INTERPRETER: [Addresses the witness]

47 A No, no, no, no. You are trying to -- you are

1           trying to put your words into my mouth so I say  
2           that he was the bad person, that he had a drinking  
3           problem. But you will never hear it from me or  
4           anybody else.

5       MR. HIRA:

6       Q     So is it your evidence that he had no drinking  
7           problem?

8       A     Of course he didn't have.

9       Q     Thank you. Now, you were aware that he had served  
10          a period of time in jail?

11      THE COMMISSIONER: Just a moment now.

12      MR. KOSTECKYJ: With respect --

13      THE COMMISSIONER: Just a moment now. What's this got  
14          to do with it?

15      MR. HIRA: Mr. Commissioner, there is a motion before  
16          this Commission regarding his circumstances. I  
17          don't wish to elaborate on it. In my submission,  
18          it is relevant. It may explain certain actions in  
19          front of the police. The authority that I'm  
20          relying upon --

21      THE COMMISSIONER: Well, it shouldn't come from this  
22          witness.

23      MR. HIRA: This witness may actually have knowledge of  
24          that based upon the information that is part of  
25          the application, Mr. Commissioner.

26      THE COMMISSIONER: The difficulty here is that this  
27          witness is so far away that we have to finish now  
28          with her. And I think that I will let you ask the  
29          question and consider it in a moment. I'll see  
30          how far you go. Take the first step.

31      MR. HIRA: I was only going to take the first step and  
32          not go very much farther.

33      THE COMMISSIONER: All right.

34      MR. KOSTECKYJ: Before my friend proceeds, what my  
35          friend is referring to, and he well knows this, is  
36          that Mr. Dziekanski had an incident when he was a  
37          juvenile which occurred when he was 17 years of  
38          age. And so he's trying to turn an event that  
39          occurred when Mr. Dziekanski was 17 years of age  
40          and make it relevant to now. There was a search  
41          done of Mr. Dziekanski by Canada Immigration as is  
42          required, and that Mr. Brongers can advise the  
43          court, as to whether or not he had a criminal  
44          record. And so in those circumstances, this  
45          question is totally inappropriate, in my  
46          submission.

47      THE COMMISSIONER: Does this relate to something when

1 he was 17?

2 MR. HIRA: It relates to a conviction for robbery for  
3 which he served a five-year jail sentence, I  
4 understand.

5 THE COMMISSIONER: All right. Even if that's true --  
6 and I have no idea whether it is or not -- that  
7 question is irrelevant.

8 MR. HIRA: Fair enough.

9 THE COMMISSIONER: I rule against you.

10 MR. HIRA:

11 Q Now, would you agree with me that the relationship  
12 that he had with Ms. Dibon was a toxic  
13 relationship?

14 MR. KOSTECKYJ: Once again, these questions, are they  
15 really relevant to what we are doing here?

16 THE COMMISSIONER: How is this relevant, Mr. Hira?

17 MR. HIRA: Again, Mr. Commissioner, I'm trying to  
18 establish and explain some of his actions at the  
19 airport.

20 THE COMMISSIONER: Because of his relationship with  
21 someone he lived with?

22 THE WITNESS: [Addresses the interpreter]

23 THE INTERPRETER: [Addresses the witness]

24 MR. HIRA: That again relates to the materials that are  
25 before you in the form of my application.

26 THE COMMISSIONER: Well, the application wasn't brought  
27 before this witness was called, not to my  
28 attention.

29 MR. HIRA: Well, it was delivered actually. Notice of  
30 this application has been outstanding since the  
31 time of the break. I've written asking for some  
32 assistance regarding the application. My friend  
33 did not respond to those matters.

34 THE COMMISSIONER: Let me ask you, what do you say is  
35 the relevancy of the questions you're about to  
36 ask?

37 MR. HIRA: The relevancy of the questions, again, is to  
38 attempt to explain some of the behaviour at the  
39 airport. The question is this. If a person has a  
40 background or propensity towards violence or  
41 acting in a particular way with certain  
42 authorities -- with authorities, even if that  
43 propensity is not known to the authorities, that  
44 evidence is relevant and may explain his actions.  
45 The authority that I have for that proposition,  
46 which is part of my application, is a 1981  
47 decision of the Ontario Court of Appeal called

Iwona Kosowska

Cross-exam by Mr. Hira (for Cst. Millington)

Cross-exam by Mr. Stewart (for Vancouver Airport)

1           *Regina v. Scopelliti*. It is a wide-ranging case  
2           that permits this type of exploration of the  
3           behaviour of the subject.

4       THE COMMISSIONER: Why don't you start with square one  
5           and ask the witness whether or not she knows of  
6           any aggressive actions on behalf of Mr.  
7           Dziekanski.

8       MR. HIRA: I'm happy to do it that way.

9       THE COMMISSIONER: All right. Ask that to begin with.

10      THE INTERPRETER: [Addresses the witness]

11      THE WITNESS: [Addresses the interpreter]

12      THE INTERPRETER: [Addresses the witness]

13      MR. HIRA:

14      Q     Are you aware of any aggressive actions by Mr.  
15           Dziekanski?

16      A     Well, I already answered these questions. No, he  
17           wasn't.

18      THE COMMISSIONER: Well, that's the end of it.

19      MR. HIRA: That's why I turned to you, Mr.

20           Commissioner, because you can't see me the way the  
21           system is set up.

22           Ma'am, thank you very much for your  
23           assistance. We're all very grateful.

24      THE COMMISSIONER: Mr. Interpreter. I think we're  
25           nearly done. Come ahead.

26      THE WITNESS: [Addresses the interpreter]

27      THE INTERPRETER: [Addresses the witness]

28      MR. STEWART: Ms. Kosowska, my name is Dwight Stewart  
29           and I am the counsel for the Vancouver  
30           International Airport.

31

32      CROSS-EXAMINATION BY MR. STEWART ON BEHALF OF VANCOUVER  
33           AIRPORT AUTHORITY:

34

35      Q     You made mention of a friend giving you  
36           information from the Internet; is that correct?

37      A     Yes, not normally for me.

38      Q     Do you know whether Mr. Dziekanski was familiar  
39           with the use of computers and the Internet?

40      A     I don't think so because neither he nor I we had  
41           any computers.

42      Q     Okay, thank you. And then the next thing is that  
43           in the interview that was conducted of you in  
44           Poland, you made mention of the fact that you knew  
45           that Robert had obtained a cell phone?

46      THE WITNESS: Yes, okay.

47      A     (Indiscernible).

1 Q Am I correct that there was some plan that he  
2 would use that cell phone to call you and let you  
3 know that he had met with his mother safely in  
4 Canada?

5 A Yeah, of course. It was mandatory for him to call  
6 me.

7 Q Was there also perhaps some plan for him to let  
8 you know that he'd made it safely to Frankfurt?

9 A I don't think so. I don't recall talking about  
10 Frankfurt. Our agreement was that he would call  
11 me when he safely lands in Canada and meets his  
12 mom.

13 Q Do you have knowledge as to whether Mr. Dziekanski  
14 did call back to anyone in Poland to let them  
15 know, you or his friends, that he had made it  
16 safely to Frankfurt?

17 A Well, I don't know. Maybe he called his uncle but  
18 I'm not sure.

19 Q Turning your mind back to October 13th, 2007, do  
20 you recall, did Ms. Cisowski call back to you to  
21 see whether you knew if Robert had made it to  
22 Frankfurt?

23 A No.

24 MR. STEWART: Those are my questions, ma'am. Thank  
25 you.

26 THE COMMISSIONER: Is there any further questions?  
27 All right. Mrs. Kosowska -- Mr. Interpreter, I'd  
28 like to address her.

29 Mrs. Kosowska, thank you very much for your  
30 time. Bringing back these memories is not happy.  
31 All right. Thank you.

32  
33 [Conversation between interpreter and  
34 witness]

35  
36 THE REGISTRAR: The hearing is now adjourned. Thank  
37 you very kindly.

38 THE COMMISSIONER: Now, Mr. Vertlieb --

39 THE INTERPRETER: [Addresses the witness]

40 THE WITNESS: [Addresses the interpreter]

41 THE COMMISSIONER: -- where does that bring us?

42 MR. VERTLIEB: I think it brings us to a stage where  
43 we're going to reassess the rest of the week and  
44 the number of witnesses. There was a great deal  
45 of evidence that came out from this witness, and I  
46 want to avoid duplication. And I'm just going to  
47 consider where we go through the next couple of

1           days. We're scheduled to be here tomorrow with  
2           two more witnesses and those arrangements are all  
3           in place. I suggest we plan to do that, and if  
4           there's any rethinking of the number of these  
5           witnesses we need, we can give that information to  
6           you tomorrow morning.

7           THE COMMISSIONER: All right. So in the meantime we  
8           are adjourned then until tomorrow at 10:00?

9           MR. VERTLIEB: Yes, sir.

10          THE COMMISSIONER: All right. Tomorrow at 10:00.

11          THE REGISTRAR: The hearing is now adjourned until  
12          10:00 a.m.

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47

(PROCEEDINGS ADJOURNED TO MARCH 31, 2009, AT  
10:00 A.M.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47