



***The Supreme Court rules that the sealing orders on the estate files of Toronto couple Barry and Honey Sherman were unjustified.***

Today's decision means the media may access the files that establish who would inherit the money and assets of the couple who police say were murdered in December 2017.

The Sherman Estate had sought sealing orders to block public access to estate files. It wanted the individuals concerned to be spared from further intrusion into their privacy and protected from what they allege was a risk to their safety. The sealing orders were initially granted, but challenged by a journalist and the Toronto Star newspaper. They said the sealing orders violated their constitutional rights of freedom of expression and freedom of the press, as well as the principle that courts should be open to the public. The Ontario Superior Court of Justice upheld the sealing orders. The journalist and the Toronto Star appealed the decision to the Ontario Court of Appeal, which overturned that decision and set aside the sealing orders.

**The open court principle**

As a general rule, court proceedings are open and public, including estate files. This is known as the open court principle, and is protected by the constitutional right to freedom of expression. It is an essential feature of our democracy.

The Supreme Court said there is a strong presumption in favour of open courts. It noted that this “*allows for public scrutiny which can be the source of inconvenience and even embarrassment to those who feel that their engagement in the justice system brings intrusion into their private lives. But this discomfort is not, as a general matter, enough to overturn the strong presumption that the public can attend hearings and that court files can be consulted and reported upon by the free press.*”

**Was the dignity or safety of the individuals at risk?**

The Supreme Court noted that privacy concerns can justify a sealing order if the dignity of the individuals in question is at risk. It said the Sherman Estate had to prove that the information in the court file is “*sufficiently sensitive such that it can be said to strike at the biographical core of the individual and, in the broader circumstances, that there is a serious risk that, without an exceptional order, the affected individual will suffer an affront to their dignity*”.

The Court found that the information in the court files was not of such a highly sensitive nature. It said the Sherman Estate failed to show how lifting the sealing orders would affect the dignity of the individuals. It also said the safety of the individuals was not at serious risk.

The Supreme Court concluded that the sealing orders were properly set aside by the Court of Appeal.

---

**Breakdown of the decision: *Unanimous*:** Justice Nicholas [Kasirer](#) dismissed the appeal (Chief Justice [Wagner](#) and Justices [Moldaver](#), [Karakatsanis](#), [Brown](#), [Rowe](#) and [Martin](#) agreed)

**More information (case # 38695):** [Decision](#) | [Case information](#) | [Webcast of hearing](#)

**Lower court rulings:** [judgment](#) (Ontario Superior Court of Justice) | [appeal](#) (Court of Appeal for Ontario)

---

*Cases in Brief are prepared by communications staff of the Supreme Court of Canada to help the public better understand Court decisions. They do not form part of the Court's reasons for judgment and are not for use in legal proceedings.*