

R v Shawn Cassista

COURT OF APPEAL FOR ONTARIO

BEFORE CLYDE F.A.

DATE September 18, 2013

REASONING OF MOTION

Mr. Cassista, a self represented litigant, moves for leave to appeal the decision of B. Duncan J. of the Ontario Court of Justice, dated May 28, 2013, dismissing his appeal from the conviction, entered and sentence <sup>in the order</sup> hereof by Justice of the Peace. Service of a copy hereof by Justice of the Peace

admitted this 9..... day

of ..... SEPT....., 2013.

For the Attorney General of Ontario

0-6.

M. McLeod, dated July 19, 2012, on the charge of operating a motor vehicle without insurance. Should a leave be granted Mr. Cassista also seeks an extension of time to perfect his appeal, as well as an extension for his leave motion. In support of his leave motion, Mr. Cassista

COURT OF APPEAL FOR ONTARIO  
PROCEEDING COMMENCED AT

MISSISSAUGA  
Osgoode Hall - Toronto

MOTION RECORD

Shawn Cassista  
Mississauga, ON

extension of time motion.



- 4 -

denies various complaints concerning the alleged unfairness of both his trial and his appeal hearing. In the main, he complains that the Crown made late disclosure to him, he was denied the opportunity to bring a Charter s. 11(b) motion and a motion challenging, on various grounds, the application to him of the Compulsory Automobile Insurance Act (the "Act").

He also contends that the appeal judge was biased against him, failed to consider the materials that he had filed on the appeal hearing and, more generally, denied him a fair hearing.

3) In my view, Mr. Cassista has failed to satisfy the exacting test for leave to appeal under the Provincial Offences Act. That well-established test requires that Mr. Cassista establish (1) special grounds for leave, (2) on a question of law alone, and (3) that it is essential in the public interest or for the due administration of justice that leave be granted. See Ontario (Ministry of Labour) v. UnbrIDGE Gas, 2011 ONCA 13.

4) The appeal judge's reasons are thorough and detailed. They reveal that he considered ~~the~~ Mr. Cassista's various complaints on the merits, including his s. 11(b) Charter argument, his attack on the Act and his ~~the~~ Crown disclosure complaint.



The appeal judge rejected Mr. Cassista's complaints for clear and cogent reasons

5) I see no question of law in this case requiring resolution by this court in the public interest or for the due administration of justice. The appeal judge considered Mr. Cassista's s.11(b) Charter argument thoroughly, and rejected it. I see no error in his analysis or reasoning, ~~that~~ nor any general question of law arising from it that rises to the requisite level for reconsideration by this court.

5) I see no question of law in this case requiring resolution by this court in the public interest or for the due administration of justice. The appeal judge considered Mr. Cassista's s.11(b) Charter argument thoroughly, and rejected it. I see no error in his analysis or reasoning, that nor any general question of law arising from it that rises to the requisite level for reconsideration by this court.

Mr. Cassista's attack on the Act is premised on the assertion, which he acknowledged before me, that his rights and liberties are violated by a statute of general application that requires automobile insurance on a compulsory basis, in the interests of public safety, as a precondition for the operation of a motor vehicle.

This contention is misconceived in law and holds no prospect of success were it considered at a second appeal hearing. Finally, Mr.

Cassista acknowledges that while Crown disclosure may have been late, he received it more than one year prior to his trial. In any event, some of the matters sought by him from the Crown, and provided, are not the proper subject-matter of a Crown disclosure obligation.



for example, Mr. Cassista's request that the Crown provide him with a definition of the word "person" as used in the Act, ostensibly to permit Mr. Cassista to build an argument around his challenge to the Act).

- 6) It is important to emphasize that the decision sought to be appealed by Mr. Cassista is that of B. Duncan J. dated May 28, 2013. That decision, as I have said, is supported by clear and cogent reasons that directly addressed Mr. Cassista's complaints. Mr. Cassista's current attempt to obtain leave to appeal that decision is devoid of any broad-ranging public import or issue related to the due administration of justice. At its core, Mr. Cassista simply disagrees that he is subject to the requirement of compulsory automobile insurance and wishes to pursue that theme further in the courts. That does not suffice to warrant the granting of leave to appeal.
- 7) Finally, I add this. I see nothing in the appeal judge's reasons for his dismissal decision that supports the claim of hearing unfairness. To the contrary, the reasons
- (over)



confirm that the appeal judge addressed the matter before him in an objective and impartial fashion. While the appeal judge's references to OPCA litigants may have been inappropriate in this particular case, they do not ~~displace~~ displace this conclusion.

8) The motion is dismissed in all aspects.

J.A. Cronk J.A.