

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

SHAWN CASSISTA

P R O C E E D I N G S

BEFORE THE HONOURABLE JUSTICE B.W. DUNCAN
on December 14, 2012, at BRAMPTON, Ontario

APPEARANCES:

P. John

Counsel for the Prosecution

Shawn Cassista

Self Represented

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WITNESS

Exam. Cr. Re-
in-Ch. Exam Exam

E X H I B I T S

EXHIBIT NO.

PAGE NO.

Proceedings

Transcript Ordered January 25, 2013

Transcript Required by April 1, 2013

Transcript Completed April 10, 2013

Friday, December 14, 2012

MS. JOHN: Good morning, Your Honour. Patricia John for the Prosecutions.

THE COURT: Yes.

MS. JOHN: If I can address on the Mississauga motions, number 11, Shawn Cassista.

CLERK REGISTRAR: Okay. Sorry, which line?

THE COURT: Eleven.

MS. JOHN: Eleven.

THE COURT: Cassista.

MS. JOHN: Mississauga motions.

CLERK REGISTRAR: Cassista.

THE COURT: Yes. The no insurance charge?

MS. JOHN: Yes.

THE COURT: What's your name, sir?

SHAWN CASSISTA: Shawn, Shawn Cassista.

THE COURT: Okay.

MS. JOHN: I understand it was a trial matter. He's seeking - he was fined \$5000. He's seeking leave to....

CLERK REGISTRAR: Sorry, line number?

THE COURT: Line, line number 11 on the Mississauga motions.

CLERK REGISTRAR: Yes, I could see this is - yes.

THE COURT: Yes?

MS. JOHN: He's seeking leave to appeal and is requesting the fine be waived.

THE COURT: The fine be?

MS. JOHN: Waived pending the appeal.

THE COURT: Okay. Yeah. Was there a trial?

MS. JOHN: Yes, there was a trial.

THE COURT: Okay. Why are you appealing, Mr.

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Cassista?

SHAWN CASSISTA: Well, I can't afford to pay the fine - oh, oh, why am I appealing? There's - a, a number of grounds for the appeal.

THE COURT: Mm-hmm.

SHAWN CASSISTA: I actually - I was waiting for the transcripts and I just got 'em yesterday.

THE COURT: Can you summarize them briefly what....

SHAWN CASSISTA: Oh, yeah. Sure.

THE COURT: It's a fairly simple matter.

SHAWN CASSISTA: Yeah. Well, I was....

THE COURT: Would - did you have insurance or didn't you?

SHAWN CASSISTA: Well, no. I'm talking about the whole trial process.

THE COURT: Well, I'm talking about the charge. Did you have insurance or didn't you?

SHAWN CASSISTA: I was, I was pleading not guilty to it.

THE COURT: Yeah.

SHAWN CASSISTA: Okay?

THE COURT: Yeah.

SHAWN CASSISTA: And I'm....

THE COURT: And what was wrong with the trial?

SHAWN CASSISTA: What was wrong with the trial?

THE COURT: Yeah.

SHAWN CASSISTA: Well, I was denied right - my right to bring a couple of motions forward.

THE COURT: Like what?

SHAWN CASSISTA: Well, I was gonna bring a forward - a motion forward to discuss the - to actually

address an 11(b) Charter challenge.

THE COURT: Ah-ha.

SHAWN CASSISTA: 'Cause it took 14 months for - or 13 months for me to get the full disclosure.

THE COURT: Mm-hmm.

SHAWN CASSISTA: And that is documented. It should be there in the courts, but there was some misrepresentation...

THE COURT: Okay...

SHAWN CASSISTA: ...as far....

THE COURT: ...so you have an 11, 11(b) argument. Yes.

SHAWN CASSISTA: That's right. And there were some other things that, you know, if I may I can enter some documentation into the record?

THE COURT: Just in a nutshell, what were you arguing about?

SHAWN CASSISTA: In regards to what? The motion? The 11(b) Charter?

THE COURT: Well, what are your grounds for the appeal? Before you get an extension of time, which I guess is what you're seeking here, you have to show some arguable merit for the appeal. You have any?

SHAWN CASSISTA: Yeah. Well, yes...

THE COURT: Okay.

SHAWN CASSISTA: ...but the main one is that it took 14 months...

THE COURT: Okay. Got that.

SHAWN CASSISTA: ...or 13 months to get disclosure.

THE COURT: Yeah.

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SHAWN CASSISTA: And I will bring in some other documentation. I wasn't prepared to make an argument. Actually, I did - because I did get the transcripts later....

THE COURT: Well, what possible disclosure would you need? I mean you know whether the vehicle is insured or not. You know whether you were driving. It's not exactly a complex matter. What....

SHAWN CASSISTA: Sir, I'm, I'm arguing the - there are other issues that I am making...

THE COURT: Okay.

SHAWN CASSISTA: ...to the court...

THE COURT: Okay.

SHAWN CASSISTA: ...in regards to that and that is one of the reasons why I filed another motion which was not allowed to be heard that day...

THE COURT: Now...

SHAWN CASSISTA: ...and if you review the court....

THE COURT: ...and what was it? What was it?

SHAWN CASSISTA: Oh, it was just the, the, like, you know, with the, the fact that the, the compulsory Automobile Insurance Act...

THE COURT: Yeah.

SHAWN CASSISTA: ...is not in harmony with the fundamental principles of the law.

THE COURT: Oh, yeah?

SHAWN CASSISTA: And I was going to make an argument based on that. And I was not allowed to bring forward that argument.

THE COURT: You're not allowed to make it or...

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SHAWN CASSISTA: I was not...

THE COURT: ...it was rejected?

SHAWN CASSISTA: ...allowed - I was denied the right to bring it forward to even to be heard.

THE COURT: Really? All right. Okay. What do you say, Ms. John?

SHAWN CASSISTA: And I was not shown any mercy whatsoever in the courtroom that day.

THE COURT: You what?

SHAWN CASSISTA: I was not shown any mercy whatsoever in the courtroom that day as I was defending myself.

THE COURT: Yeah. So what do you say about this, Ms. John? The conviction was July of this year?

MS. JOHN: Yes...

THE COURT: Yeah.

MS. JOHN: ...and he filed his motion in August.

THE COURT: Yeah. Okay.

MS. JOHN: Yeah. I think you still have to come back and argue it.

SHAWN CASSISTA: I....

MS. JOHN: And I see, as he signed his motion Shawn Allen of the Cassista family.

THE COURT: Sorry. Say that again?

MS. JOHN: No. I was watching the - how he signed his motion...

THE COURT: Yeah.

MS. JOHN: ...which is....

THE COURT: I was signing it my family name.

MS. JOHN: Shawn Allen of the Cassista family.

THE COURT: Yeah. What's that....

MS. JOHN: So I'm, I'm going to - so the motion, I

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think he's talking about, that he was denied is probably one of the individuals who consider themselves a freeman of the land.

THE COURT: Oh....

SHAWN CASSISTA: Ah, no. Actually, it wasn't.

MS. JOHN: It wasn't?

SHAWN CASSISTA: It wasn't. There was nothing, nothing like that.

THE COURT: Well, what is this about? Of the Cassista family, what's that hoax?

SHAWN CASSISTA: I'm just - I - I'm just signing a signature as my family name, just clarifying my family name.

THE COURT: Well, why wouldn't you write Shawn...

SHAWN CASSISTA: As, as compared to....

THE COURT: ...why wouldn't you write Shawn Cassista?

SHAWN CASSISTA: Well, that's my legal name.

THE COURT: Yeah.

SHAWN CASSISTA: Okay? There's a legal name...

THE COURT: Right.

SHAWN CASSISTA: ...there's a legal name...

THE COURT: And that's what people go by...

SHAWN CASSISTA: ...and a family name. It - by....

THE COURT: ...that's what people sign, that's what people sign important court documents with, right? Wait, what is this stuff?

SHAWN CASSISTA: I'm, I'm just....

THE COURT: You know, I, I, I, I got to say, I have very little sympathy for people like you who come here and play these little games with the

court...

SHAWN CASSISTA: I'm...

THE COURT: ...you know.

SHAWN CASSISTA: ...not playing games with the court, sir.

THE COURT: Yeah, you are playing games with the court. You start signing documents like that, you know. You got a name, Shawn Cassista. You're the, you're the applicant here. You sign your affidavit in that name not this garbage about being of the Cassista family.

SHAWN CASSISTA: With all due...

THE COURT: What is this stuff?

SHAWN CASSISTA: ...with all due respect, sir, I - all I'm trying to do is bring forward....

THE COURT: Well, I don't know that you show any respect for the court. You, you, you treat it as a - as if it's a playground for you.

SHAWN CASSISTA: I'm not treating it as a playground...

THE COURT: Yeah.

SHAWN CASSISTA: ...sir.

THE COURT: Well, what is this junk? You know. I mean really.

SHAWN CASSISTA: Sir, can we get back to the facts at law here based on....

THE COURT: Well, the...

SHAWN CASSISTA: That's what the purpose of the court is...

THE COURT: ...the fact is you have to show some....

SHAWN CASSISTA: ...is it not?

THE COURT: I'm sorry?

SHAWN CASSISTA: Isn't the purpose of the Court...

THE COURT: Yeah. You had a...

SHAWN CASSISTA: ...not to bring forward the facts of law.

THE COURT: ...you had a trial. You were convicted. You come here and you ask for an extension of time...

SHAWN CASSISTA: Well, sir....

THE COURT: ...and, and, and you, you know, you file documents like that.

SHAWN CASSISTA: Okay. Excuse me, sir. If I....

THE COURT: Why should we pay any attention...

SHAWN CASSISTA: ...Okay. Can I just...

THE COURT: ...somebody who's playing games?

SHAWN CASSISTA: ...bring something to your attention here?

THE COURT: What?

SHAWN CASSISTA: Okay. On December 21st an 11(b) Charter application was filed and I did appear in court on January 4th, which was a trial date, that's 2012. And because of the short time frame, there was a - you know, I did not have the transcripts available. So on that date they actually said that I - in order to deal with this properly that, that I needed the transcripts.

THE COURT: This is....

SHAWN CASSISTA: So from there we set up another date for July 19th. And on July 19th...

THE COURT: This....

SHAWN CASSISTA: ...I was approached by a Court Reporter...

THE COURT: Yeah.

5 SHAWN CASSISTA: ...to present a number of -
actually, the - she was going - she gave me two
transcripts out of four. Okay. So I didn't have
full transcripts to provide the 11(b) Charter
application. And I tried to bring that to the
attention to the sitting Justice at that time and
she didn't want to hear any of it.

10 THE COURT: Yeah. Well, I'm looking at your, your
motion here the motion to grant a stay of
proceedings. All this - "Every man is a person
not every person is a man", referencing, I guess,
Lax Law Dictionary (ph).

SHAWN CASSISTA: Well, that was a motion...

15 THE COURT: That the....

SHAWN CASSISTA: ...to acquire the definition of
the word, "Person"...

THE COURT: Yeah. You know what...

SHAWN CASSISTA: ...as it applies to the....

20 THE COURT: ...it's garbage. It's absolutely
garbage...

SHAWN CASSISTA: Sir, it's....

25 THE COURT: ...when people like you bring this
stuff, clog up the courts with your nonsense as if
it's a playground...

SHAWN CASSISTA: Sir...

THE COURT: ...for you.

SHAWN CASSISTA: ...I....

30 THE COURT: But - just shut-up. This is an - he's
only applying for an extension, right?

MS. JOHN: Yes.

THE COURT: And he required an extension because

he had to come to court and enter into a
recognizance, right?

MS. JOHN: Yes.

THE COURT: Okay. So I guess we can't deny him
that.

MS. JOHN: But should we not look at the one
heard...

THE COURT: Yeah.

MS. JOHN: ...even though it's an extension...

THE COURT: Yeah.

MS. JOHN: ...did he have insurance on the vehicle
at the time?

THE COURT: Yeah.

MS. JOHN: If he didn't have insurance...

THE COURT: Yeah.

MS. JOHN: ...I'll ask the motion be dismissed.

THE COURT: Yeah.

MS. JOHN: That's the difficulty.

THE COURT: Yeah. I, I - except, except, you
know, you know, even if he's completely guilty,
he's entitled to an appeal, right? And the only
reason he didn't appeal is because of this
business about entering a recog and he couldn't
get before the court before...

MS. JOHN: Okay.

THE COURT: ...that.

MS. JOHN: Okay.

THE COURT: Okay. So I'm prepared to grant the
motion. You'll enter into a recognizance in the
amount of the fine. Was it 5000?

MS. JOHN: Five thousand.

THE COURT: Yes. And, and....

MS. JOHN: He...

THE COURT: But....

MS. JOHN: ...he knows he has to order the transcript.

THE COURT: Yes. He has to order the transcript...

SHAWN CASSISTA: I did - I actually....

THE COURT: ...and the time to appeal is extended to January 15, 2013. And I can tell you, Mr. Cassista, if you're - the material you file is of the same tenor as the stuff you filed up until now, your appeal will be a very brief hearing. That's all.

SHAWN CASSISTA: Well, what about the 11(b) Charter?

THE COURT: What?

SHAWN CASSISTA: What about the 11(b)...

THE COURT: Bring your...

SHAWN CASSISTA: ...Charter?

THE COURT: ...bring your argument when you bring your appeal. Okay?

SHAWN CASSISTA: Okay. So you're going to hear the argument in regards to the 11(b) Charter on the January 15, is what you're saying?

THE COURT: No. No. No. Your - you have to file your Notice of Appeal by January the 15th. If you don't, it's all over. If you file your Notice of Appeal, then you can order the transcripts and bring your case to the appeal court when the transcripts are ready and you're...

SHAWN CASSISTA: Well...

THE COURT: ...prepared to argue it.

SHAWN CASSISTA: ...isn't this the Notice of Appeal though?

THE COURT: I don't know. It, it....

SHAWN CASSISTA: Sir, it says right at the top Notice of Appeal.

THE COURT: All right.

SHAWN CASSISTA: So I filed it already.

THE COURT: He filed it already?

MS. JOHN: The recognizance. He has to pay the fine before so he'll have to...

THE COURT: Yeah.

MS. JOHN: ...go downstairs to enter into the...

THE COURT: But he says he's filed it.

MS. JOHN: ...recognizance.

THE COURT: He may have prepared - I, I don't know. You weren't able to - they shouldn't have taken that if....

MS. JOHN: The - the fine wasn't paid.

THE COURT: Yeah. You haven't paid the fine, have you?

SHAWN CASSISTA: No.

THE COURT: No. Okay.

SHAWN CASSISTA: Okay...

THE COURT: You have to enter into a recognizance....

SHAWN CASSISTA: ...you're saying I should have only filed the Notice of Motion and not this Notice of Appeal?

MS. JOHN: Yes.

THE COURT: Yeah. That's right. That's all you've put before the court so far...

SHAWN CASSISTA: Okay. So....

THE COURT: ...Notice of Appeal has to be filed by January the 15th and you had - and you have to enter into a recognizance in the amount of the fine. You do that downstairs. That's all.

MS. JOHN: Okay. Wicket number two on the ground floor downstairs. If I may be excused, Your Honour?

THE COURT: Yeah. Thank you.

...WHEREUPON THESE PROCEEDINGS HAVE BEEN ADJOURNED

(Signature of overheard person)

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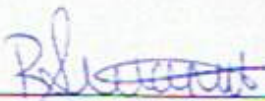
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FORM 2
Certificate of Transcript
Evidence Act, Subsection 5(2)

10 I, Rosaria A. Sirianni certify that this document is a true and accurate transcription of the recording of R. v. Shawn Cassista, in the Ontario Court of Justice, held at 7755 Hurontario Street, Brampton, Ontario, taken from Recording No. 3111-409-20121214-090300, which has been certified in Form 1.

15 April 10/13
(Date)


(Signature of authorized person)

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