

ONTARIO COURT OF JUSTICE
(PROVINCIAL DIVISION)
(REGION OF PEEL)

BETWEEN:

HER MAJESTY THE QUEEN

and

SHAWN CASSISTA



Respondent(s)

Applicant(s)

NOTICE OF APPLICATION FOR STAY OF PROCEEDINGS

SHAWN CASSISTA

MISSISSAUGA ON. [REDACTED]

OFFENCE NOs: TB 986480/986481/986482

CASE/FILE NO: 3161-999-12-000831

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TAKE NOTICE that an Application will be brought by SHAWN CASSISTA the Applicant, before the presiding Justice of the Ontario Court of Justice (Provincial Division), Courtroom #M2, at 950 Burnhamthorpe Rd W on the 14th day of June, 2013, at 10:30 a.m. or as soon thereafter as the Applicant may be heard, for an Order directing the prosecution of the charge herein – Operate Vehicle with No Insurance contrary to Compulsory Automobile Insurance Act – Section 2(1) (a) – which occurred on 24th day of January, 2012 be stayed, pursuant to section 7 of the Canadian Charter of Rights and Freedoms (hereinafter the “Charter”).

THE GROUNDS OF THE APPLICATION ARE:

1. That the Applicant's right, to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice, as guaranteed by s. 7 of the Charter, have been infringed;
2. That a stay of the proceedings is appropriate and just in the circumstances, as defined by s. 7 of the Charter;
3. Such further grounds and other grounds as the Applicant may advise and this Honorable Court may permit.

IN SUPPORT OF THIS APPLICATION, THE APPLICANT RELIES UPON THE FOLLOWING:

1. The Sworn Statement of the Applicant, Sworn on May 30th, 2013.
2. A motion to stay the proceedings that detail an argument based on the fundamental principles of law.
3. Jurisprudence-Copies of the Supreme Court decisions: R. v. Big M Drug Mart Ltd.
4. Such further and other material as the Applicant may advise and this Honorable Court may permit.

THE RELIEF SOUGHT IS:

1. An Order allowing the Application and granting a stay of proceedings.

May 30th, 2013

Shawn Casissta

Mississauga, ON

TO: The Attorney General of Ontario
Constitutional Law Branch
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SWORN STATEMENT OF SHAWN CASSISTA

I, Shawn Cassista, hereby attest to the following.

- 1) On or about January 24th, 2012, at Lakeshore Road West and Southdown Road in the city of Mississauga, I was charged with the following offence:

Operate M/V with No Insurance,
contrary to the Compulsory Automobile Insurance Act – Section 2(1) (a)
- 2) I was therefore commanded in Her Majesty's name to appear before the Ontario Court of Justice on the 6th day of March 2012. On that day I appeared in court in Mississauga and pleaded not guilty to the alleged offenses. I was then provided with a trial date of October 31st, 2012.
- 3) On the 17th day of August, 2012, I filed a motion to request further disclosure. The specifics of this request for further disclosure are within the court documents. The motion was heard on the 22nd of August, 2012 and the presiding justice was unfair when they denied the Defense further disclosure contrary to the landmark Supreme Court case **R v. Stinchcombe**.
- 4) On the 22nd day of October, 2012, I brought forward a motion to adjourn the trial date as this trial was one week apart from another court matter I was dealing with. A new trial date was then set for June 14th, 2013.
- 5) To the facts regarding the event in this matter:
 - On the day the event occurred, I was detained by a police officer for no reason whatsoever as I was not disturbing the peace at all and was simply exercising my unalienable right to use the roads within the confines of my private property.
 - Crown agents (Constable Orgill, Badge 1749) was provided with a Constructive Notice and Declaration on May 28th, 2011 which provided all the information they needed regarding my status at law. This documentation should have been inputted into their computers soon after this date. The Constructive Notice and Declaration states that I have reserved "all my rights" on any government documents that I have signed in the past, such as Drivers License applications. It also states that the vehicle I was traveling in is my private property, and also stated much more as to my legal status. A Fee Schedule was included stating my expectations for remedy if my rights are violated in any way.
 - My private property was towed home and I was given three (3) Summons to Defendant slips.
- 6) It is my understanding that the purpose of the courts is to determine the facts and law. I am being forced into doing things that I would otherwise choose not to do. I am being forced to enter into a private insurance contract and provide evidence of this private

insurance contract, and if I don't, my unalienable right to travel freely upon the road is infringed upon. It appears that the fundamental principles of law are being greatly ignored. (I will add that no man or woman can come forward and claim damages by my actions in my 30 years of traveling in my privately owned vehicles.)

- 7) It is my understanding that the courts use reason to base their decisions on the facts and law. My actions have indicated nothing more than living free to travel, a God-given unalienable right in a country that recognizes the supremacy of God. This is a Natural Right.
- 8) Since, *principia probant, non probantur principes prove, they are not proved*, most of my Defense is based on the same principles Canada is founded upon. So I attest in this, my Sworn Statement, that I'm not doing anything wrong, but I am being forced into doing things against my free will and that is an infringement on my liberties and section 7 of the Charter.

Quotiens dubia interpretatio libertatis est, secundum libertatem respondendum erit
**Whenever there is an interpretation doubtful as to liberty (or slavery),
the decision must be in the favor of liberty.**

- 9) Therefore, as a result of the legislated Act mentioned and the Crown's actions to enforce it, my unalienable rights have been violated and it is for this reason that I have filed this motion/Application, requesting that a stay be granted pursuant to section 7 of the Canadian Charter of Rights and Freedoms.

I swear this statement to be true.

Dated this 30th day of May, 2013 in the City of Mississauga.

Shawn Cassista of the Cassista family
Shawn Cassista

Mississauga ON.



WINETTE VERONICA SIMPSON, a Commissioner,
Regional Municipality of Peel, for the
Corporation of the City of Mississauga.
Expires March 10, 2015.

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Motion to Grant a Stay of Proceedings

Grounds for Stay of Proceedings

- 1) The Defense is motioning this honourable court to stay the proceedings bringing a permanent discontinuance to the matter regarding the Compulsory Automobile Insurance Act (CAIA), based on the grounds that the Crown's claim of the Defendant's obligation to enter into a private insurance contract is not in harmony with fundamental principles of law, and creates an environment where one is coerced through force, fear and overwhelming pressure to pledge consent towards such a contract and therefore is a violation of his section 7 Charter rights;
- 2) The law that governs the use of automobiles on the highway compels the Defendant by statutory enforcement to enter into a private insurance contract;
- 3) The **Compulsory** Automobile Insurance Act **compels** a person to contract with a private insurer, contradicting the principles of law and infringing upon the **right** of the Defendant to not be **coerced** to contract;
- 4) The name of the Act itself clearly expresses publicly, force and submission. Such force is detested and loathed in the view of fundamental freedom;
- 5) The definition of "**compulsory**" will evidence the coerciveness of the act:
 - **COMPULSORY**: *compelled* (BL7 P281)
 - **COMPEL**: *to cause or bring about by force or overwhelming pressure* (BL7 P276)

- **COERCE**: *compelled to compliance; constrained to obedience, or submission in a vigorous or forcible manner.* (BL4R P324).
- **FORCE**: *to compel by physical means or by legal requirement* (BL7 P657);

6) Whereas the definitions of “free” and “freedom” state the following:

- **FREE**: *Not subject to legal constraint of another.*
Unconstrained: having power to follow the dictates of his own will.
Not compelled to involuntary servitude.
As opposed to “slave”. (BL4R P791)
- **FREEDOM**: *In a broad sense embraces both the absence of coercion or constraint, and the right to manifest beliefs and practices.* (DCL3 P506);

7) Moreover, “freedom” is characterized in *R. v Big M Drug Mart* (1985) (13CRR 64 at 97), as:

“...the absence of coercion or constraint. If a person is compelled by the state or the will of another to a course of action or inaction **which he would not otherwise have chosen**, he is not acting of his own volition and he cannot be said to be truly free.”;

8) And whereas a Maxim of Law states: *Omnes Homines Aut Liberi Sunt Aut Servi*, **All men are free men or slaves.** (BL4R P1238);

9) Other maxims state: *Consensus facit legem*, **Consent makes the law** (BL4R P377) and *Nihil consensui tam contrarium est quam vis atque metus*, **Nothing is so opposed to consent as force and fear** (BL4R P1195);

10) Force and fear violate consent, and therefore, is a violation of a lawful contract;

11) And whereas an agreement is concerned, consent is needed, consent makes law to the contract: “*A contract is a law between the parties, which can acquire force only by consent.*” (Bouvier’s Law Dictionary);

12) Furthermore, insurance companies are private entities. They are businesses with whom the people of Canada can **freely choose** to engage in commerce if they so desire in order to purchase the services offered by these companies. The government **cannot force** the people to engage in commerce – entering into a private contract – for forcing them to do so is tantamount to coercion;

13) It is crystal clear, that such coercion expressed by a government which forces people to a course of action or inaction, which they would otherwise not have chosen, shatters the foundation of freedom, for if they are not acting upon their own volition, it cannot be said that they are truly free;

14) In respect to the coerciveness of the act – force, fear and overwhelming pressure occur when legislation compels, against necessity and free will, an individual to enter into a private insurance contract. And through coercion armed agents engage in creating fear by forcefully detaining an individual, confiscating their private property, and producing

overwhelming pressure which unwillingly motivates one to enter into such a private contract;

- 15) Even if one did submit to the CAIA, by entering into a private insurance contract under compulsion, such a contract is in principle, unlawful, for it would have been entered into through coercive measures;
- 16) Although one may exercise their available remedy to void such a contract, the state would again still be coercing one to re-enter into a private insurance contract, through force, fear, and overwhelming pressure;
- 17) Imagine the state, with all its force, standing over one's shoulders, forcing their hand to sign a private insurance contract;
- 18) This is the reality as it is today, which produces an environment where the individual who out of necessity seeks to use their private property on the public roads, cannot do so freely for they are being coerced to enter into a private insurance contract;
- 19) The central issue circulates around liability. For insurance absolves liability from the insured so that they do not have full liability. Every man has the right to hold responsibility and full liability in all his affairs, so insurance by necessity must be voluntary, purely upon the choice of the individual to waive that essential right;
- 20) Furthermore, considering that insurance is a contract, by contract law, all contracts have to be entered into voluntarily. And since every man has the right to hold full liability of his actions, and considering that the **Canadian Bill of Rights** states:

"Every law of Canada shall ..., be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights";

- 21) It can only be asserted that the essence of the CAIA cannot abrogate or remove the individual's right to have full commercial liability for all of his affairs;
- 22) It is respectfully submitted to the court, that the Defendant's right to have full commercial liability, supersedes the Crown's claim that the Defendant must enter into a private automobile insurance contract with a private insurance company;
- 23) In summary, the Defense has clearly provided numerous lawful reasons for a stay of proceedings in this matter:
 - Clearly, the definitions relating to "compulsory" is evidence of a forceful contract by the Province of Ontario.
 - Clearly, the coerciveness of the CAIA violates the fundamental freedoms of the Defendant, that which represents the foundation of our free nation.
 - Clearly, the CAIA contradicts the fundamental principles of law regarding consent and contracts;

- 24) The Crown does not have a lawful claim of right to force **free** people into a contract, as such force present, would constitute coercion, rendering it not a contract at all, but rather a dictate.
- 25) Therefore the Defense motions this honourable court to grant a stay of proceedings bringing a permanent discontinuance to this matter, based on the grounds that the obligation to enter into a private insurance contract is not in harmony with **fundamental principles** of law and creates an environment where one is **coerced** through force, fear and overwhelming pressure to pledge consent towards a private contract for automobile insurance – violating the Defendant's section 7 Charter rights.

Tab 4 is the case law for this document.

For the sake of scanning the document and to save time, the case be found on line by doing a search.

Here is one link:

<https://www.canlii.org/en/ca/scc/doc/1985/1985canlii69/1985canlii69.html>

RECEIVED
MAY 30 2013
CROWN ATTORNEY
BRAMPTON, ONTARIO