

FORM 37a
Courts of Justice Act

NOTICE OF MOTION

BETWEEN HIS MAJESTY THE KING - artificial person Prosecutor

and

Cassista, Shawn ("Shawn") - a Man Moving Party

TAKE NOTICE that a Motion will be made by Shawn Cassista to the court on Monday the 23rd of September, 2024, at 10:00 am, or as soon after that time as the motion can be heard, and will be so at the Ontario Court of Justice at 15 Bridge St. W, Belleville, Ontario, courtroom 202 in the following matter:

Case ID number C23023357 Occurrence number E23033255.

Charges: Failure or refusal to comply with a demand - Criminal Code of Canada; drive motorized snow vehicle while license suspended Motorized Snow Vehicle Act (MSVA); drive - no insurance - MSVA; fail to notify change of address - permit MSVA.

Date of charge: March 20, 2023

for an order as follows:

THE MOTION IS FOR a Dismissal of all charges with prejudice as the above Code and Act apply to corporations only and are not of the jurisdiction relating to man.

THE GROUNDS FOR THE MOTION ARE:

- 1) The Criminal Code of Canada applies to *"Her Majesty (or His Majesty) and an organization"* (artificial person(s)) only and charges related to the MSVA apply to *"corporations"* only and therefore has no jurisdiction over Shawn - a man;

- 2) Given the long established indisputable truths in law (maxims), *Every man is a person, but not every person is a man*, it is clear and evident that it cannot be construed that a person is absolutely a man for as a *Man is a term of nature; person of civil law*;

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

Defining Words In Acts And Statutes

- 3) For all Acts and codes etc., of legislation where the definition of a word is not provided, the Legislation Act, 2006 for the Province of Ontario and/or the Interpretation Act, 1985 for Canada provides the definition;
- 4) The word “*person*” is not defined in the MSVA, whereas the Legislation Act, 2006, under the Definitions section states:

87. In *every* Act and regulation,
“*person*” ***includes a corporation*** (“*personne*”);

- 5) And the Interpretation Act, 1985 states:

87. In *every* Act and regulation,
person, or any word or expression descriptive of a person, includes a corporation; (personne);

- 6) In the matter of the Criminal Code of Canada, under Interpretations, the Definitions section 2 states:

In this Act... *every one, "person" and owner, and similar expressions,*
include Her Majesty and an organization;

- 7) Moreover, the Moving Party has found the essential word in the above definitions to be the word “*includes*” and “*include*”;
- 8) The purpose of defining a word within a statute or code is so that its ordinary dictionary meaning is not implied or assumed by the reader. A definition by its terms excludes non-essential elements by mentioning only those things to which it shall apply;
- 9) The definition of the word “*definition*” is as follows: *A description of a thing by its properties; an explanation of the meaning of a word or term. The process of stating the exact meaning of a word by means of other words. Such descriptions of the thing defined, including all essential elements and excluding all nonessentials, as to distinguish it from all other things and classes (Back's Law Dictionary, 6th Edition)*;

- 10) Defining "*define*" is as follows: *To explain the meaning; to limit; to clarify* (The Dictionary of Canadian Law, Third Edition);
- 11) A Maxim of Law states: ***The inclusion of one is the exclusion of another;***
- 12) Another Maxim of Law states: ***The designation of one is the exclusion of the other; and what is expressed prevails over what is implied;***
- 13) To reaffirm this in association with the word "person", another Maxim of Law states: ***The mention of one person is the exclusion of another.*** With these maxims, it must necessarily be so that the certain designation of one person is an absolute exclusion of all others;
- 14) In accordance with several authoritative sources, the word "*include(s)*" is defined as:
- **INCLUDE** (*Lat. – includere*): *To shut in, keep within. To confine within, hold, as in an enclosure, take in, attain, shut up, contain, enclose, comprise, comprehend, embrace, involve.*
- *Black's Law Dictionary Revised 4th Edition*
 - **INCLUDE:** *To enclose within limits; made up of.*
- *The Winston Canadian Dictionary New Revised Edition*
 - **INCLUDE:** *Contain, comprise, cover, embrace, encompass, incorporate, involve, subsume, take in.*
- *Collins Essential Canadian English Dictionary and Thesaurus.*
 - **INCLUDE:** *1. put, hold, or enclose within limits 2. contain, comprise.*
- *Gage Canadian Dictionary.*
- 15) Furthermore, the Moving Party is of the view that it is axiomatic that the statutory definition of the word "*includes*" excludes unstated meanings of that term;
- 16) The phrase "including, but not limited to", as commonly employed in the legal profession, inherently implies that, without the qualifier, the term INCLUDE(S) is limiting in nature;
- 17) This is further evidenced by the definitions of a "*peace officer*" within the Legislation Act, 2006, as well as the Criminal Code of Canada. Both of which use the word "*includes*" in restricting what kind of person is a peace officer;
- 18) It is clear and evident that the use of the word "*includes*" when codifying the definition of the word "*peace officer*", is restrictive in its use, for it limits to define what exactly a peace officer is so as to provide society with an absolute determination regarding who is, and who is not a peace officer;

- 19) If the word “*includes*” is used in an expansive sense, then no kind of assurance would be afforded to members of society to know exactly what person may or may not be a “*peace officer*”. If this is the case, used expansively, the definition would then be open to subjective interpretation as to the meaning of the word “*peace officer*”. Therefore the word “*includes*” must be utilized restrictively when defining the word “*peace officer*”;
- 20) When the word “*include(s)*” is used in the definition of the word “*person*” in the Legislation Act, 2006 and the Criminal Code of Canada, it is only reasonable to conclude, that the use of the word “*include(s)*” in defining the word “*person*”, must also be used restrictively;
- 21) If the use of the word “*includes*” is restrictive in one definition and then used expansively in the other, then the Moving Party is of the view that Parliament has written laws that are vague and uncertain, for a reasonable man who reads the Act, which is either unknown or uncertain, would be hard pressed to know the difference in the use of the word “*includes*”. For “***It is a wretched state of slavery which subsists where the law is vague or uncertain.***” (maxim);
- 22) Therefore it is clearly evident to the Moving Party that what has been defined in the Legislation Act, 2006 and the Criminal Code of Canada regarding the word “*person*” in relation to the word “*include(s)*” is the intention of Parliament to exclude anything other than a “*corporation*” (artificial person - not a man or a individual or a natural person) and “*Her Majesty and an organization*” (artificial person(s)) respectively;
- 23) In other words, the word “*include(s)*”, in accordance with the Legislation Act, 2006 and the Criminal Code of Canada excludes anything that is not a corporation and Her/His Majesty and an organization (respectively) as being defined as a “*person*”. The MSVA and the Criminal Code of Canada, which the Moving Party was charged under, specifically **includes only a corporation** and Her/His Majesty and an organization and **by implication excludes the potential of any other thing in the universe from being defined or considered as a person**;
- 24) When a term is defined within a statute, that definition is provided usually to supersede and not enlarge other definitions of the word found elsewhere, such as in other Acts or Codes, or dictionary sources;
- 25) And whereas, “*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*” – *Canadian Bill of Rights*;
- 26) In matters where the law is vague or uncertain, the following Maxims of Law offer the following in guiding this court:
- ***The words of a statute must not be departed from.*** A court is not at liberty to disregard the letter of a statute in favor of a supposed intention.

- *In doubtful cases, the construction of the law is what the words indicate.*
- *Doubtful words will be construed most strongly against the party using them.;*

- 27) Where the words of a statute must be strictly observed, and a supposed intention is to be avoided, and where the Crown is the party referring to, relying on and using the said Act, it is respectfully submitted that the word "*person*", which the definition is **not** provided in the said Act, but is in the Legislation Act, 2006 and the Interpretation Act, 1985, must be construed as being limited to corporations, and does not extend to mere individuals, physical persons or natural persons - in this case, a **Man** of God's creation by nature.
- 28) The same must be construed with the Criminal Code and its definition of the word "*person*";
- 29) Maxim: *The meaning of words is the spirit of the law;*
- 30) As the Moving Party has referred to "corporations" (artificial persons) as the true definition of the word person in the Act and Code, it's true meaning is supported by case law and our common law heritage as written by William Blackstone who is recognized as a man who best described the doctrines of English Common Law;
- 31) In the Dictionary of Canadian Law, Third Edition, has historic case law quoted in the definition of the word "person". In *Hague vs Cancer Relief and Research Institution 1939*, the presiding judge stated, "*Persons are of two classes only - natural persons and legal persons. A natural person is a human being that has the capacity for rights and duties. A legal person is anything to which **the law gives a legal or fictional existence** or personality, with capacity for rights and duties. **The only legal person known to our law is the corporation - the body corporate.***";
- 32) In Blackstone's *Commentaries on the Laws of England, Vol. 1, The Rights Of Persons, Chapter I, Of The Absolute Rights Of Individuals* (Exhibit 1), William Blackstone described it best when he wrote, "*Persons also are divided by the law into natural persons or artificial, Natural persons are such as the God of nature formed us; artificial are such as are created and devised by human laws for the purposes of society and government, which are called corporations or bodies politic. ... The rights of persons considered **in their natural capacity also are of two sorts, absolute and relative.***"
- 33) He goes on to say, "*By the absolute rights of individuals, we mean those which are so in their primary and strictest sense; such as would belong to their persons merely in a state of nature, **and which every man is entitled to enjoy, whether out of society or in it.***"
- 34) Therefore, with the support of the authoritative sources above, it is the view of the Moving Party that it is the duty of the judiciary to construe legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who has not even read it;

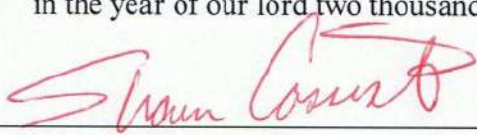
- 35) Furthermore, the Moving Party submits that he does not possess government/corporate identification and has declared himself - from the very beginning - to exist in his natural state with his natural God-given unalienable rights fully intact - out of the membership of society;
- 36) And once again, the principle that *Man is a term of nature; person of civil law* is clearly upheld by the intention of the legislature when it defined the word “*person*” in the Legislation Act, 2006, the Interpretation Act, 1985 and the Criminal Code of Canada;
- 37) In the wise words of Judge Irving in **Rex. v. Sung Chong (1909), 14 B.C.R 275 (C.A.) 1909 1900-09** (Exhibit 2):


*“Where a restraint is sought to be put upon any person in respect of the exercise of any of those natural rights, I think it is the duty of the Court to assume that **the legislature did not intend to interfere with them, unless clear and unequivocal words have been used.**”*

- 38) In accordance with this case law, the judiciary was specific in stating that clear unequivocal language must be used by the legislator when defining the words which express the legislative intent;
- 39) It is then self-evident to the Moving Party that the legislator did not intend for the word “*person*” to include or mean a “*man*” - a term of nature - or even natural person, otherwise it would have stated such with clear and unequivocal language in the definition of “*person*” in the Legislation Act, 2006 and the Interpretation Act, 1985;
- 40) It is the view of the Moving Party that presumptions can not be used in determining the meaning of a statute. A person reading a statute cannot be required by statute or by judge made law to read anything into an Act or code etc. of parliament that is not expressly spelled out in that Act or code etc.;
- 41) It is self evident to the Moving Party that there are inherent *jurisdictional limitations* to the Criminal Code of Canada and the MSVA, for it is clear that this act and code do not apply to other territorial jurisdictions such as South Africa or California, nor does it apply to children, to private property, or on waterways;
- 42) The Moving Party is of the view that there is a presumption at play *prima facie*, that the Moving Party is under the jurisdiction of the Criminal Code of Canada - **when no crime (damaged party) has taken place** - and the MSVA;
- 43) Considering a presumption is an inference in favour of a particular fact, the Moving Party brings to the attention of this court, that the presumption is inferring that the Moving Party is automatically under the jurisdiction of the Criminal Code of Canada and the MSVA;

- 44) A presumption which is not rebutted, is held to be true, however, when a presumption is challenged, that presumption is absolved because a presumption in and of itself, is not a fact;
- 45) Through the direction of this motion, the Moving Party does hereby rebut the presumption that Shawn is subject to the jurisdiction of the Criminal Code of Canada and the MSVA. As this Maxim of Law states: ***The presumption is always in favour of the one who denies;***
- 46) The Moving Party asserts that the court has not been provided with any evidence that the Moving Party is a corporation subject to the MSVA and is not the King or part of an organization under a King subject to the Criminal Code of Canada, and has further not been provided with any evidence proving the Moving Party is a person subject to the aforementioned Act and code. As the following Maxims of Law solidify:
- The burden of proof is upon him who affirms, not upon him who denies*** and;
- When the plaintiff does not prove his case, the defendant is acquitted (or absolved);***
- 47) Therefore, the Moving Party moves this court to enter an order for a **full dismissal of the said charges with prejudice** based on the grounds that the Crown has failed to provide evidence which directly proves that the Moving Party is under the jurisdiction of the Criminal Code of Canada and the MSVA, and obligated to perform under the said act and code, and therefore lacks *in personam* jurisdiction, thus rendering the charges against the Moving Party void *ab initio*.

Dated this tenth day of September
in the year of our lord two thousand and twenty four

Signed: 

Shawn Cassista, 

To: A copy has been sent via email to both the Prosecutor and Clerk of the Court

Distribution: Prosecutor \ Clerk of the Court \ Agent for Defendant