



May 25, 2015

### **Ontario Judicial Council**

**This letter in response to the April 17, 2015 brush off response from your office to my January 6, 2015 request to investigate the Misconduct of Judge D.A. Harris Decisions of April 4, 2011, and January 11, 2012 on Appeal to cover up the law perverted, biased Decisions of J.P. Prior Bonas, March 30, 2009, and December 9, 2009.**

Dear Ontario Judicial Council Members:

I am totally unimpressed with your failure to investigate the Errors in Law and Misconduct to Failure to provide Justice of Judge. D.A. Harris, which was identified in my letter, Page 7, 1 – 7, and Page 11. #70. #71 and conclusion #1 - #8. No Allegations to Misconduct?

### **Judge Harris Reasons for Judgment**

1. False
2. J.P. Bonas Dismissed Application to Quash M.N.R. Search Warrant Evidence on a Constitutional question and to Charter Rights of Gary Nichols **not** mentioned and **not** addressed on Appeal by Judge D. A. Harris.
3. The Justice of the Peace ultimately convicted both Appellants with respect to all the Charges through the Crown and Court Enforcement of the Superior Court, October 23, 2008, Estoppel Order to Nichols Gravel Limited, but **not** Gary Nichols to exclude and disregard all Appellant Evidence to again Infringe the s 7, Charter Rights of Gary Nichols.
4. Original Fines in total with Victim Surcharge \$502,500.00 **not** 402,000.00.
- 5.
6. Counsel for the Appellants raised a number of issues. I will address each of these separately.

**Comment:** No this did not happen, only in Part.

# I REF: Copy of Appeal filed, February 8, 2012, and issues **not** addressed by Judge Harris, <sup>#44</sup> marked by an X for not addressed.

**Appeal Against Conviction.**

- 7.
- 8.
9. Decision

**Comment:**

So now we are discussing credibility?

- (A) Was this a credible process on the part of the J.P. and Crown Prosecutor to have a conversation in Court Recess of Evidence the Crown intended to present when Court reconvened on, March 30, 2009. Collusion???
- (B) Was it credible for the Crown and J.P. Bonas to disregard the Superior Court, June 15, 2006, Decision of Judge Reilly, which confirmed that Licence 103717 had been Revoked illegally, September 2004, based upon "Pre Operational Conditions: **not** in the Licence and therefore the charges before J.P. Bonas were a Fabrication and a Fraud on the Court by the Crown, and also therefore, Ultra-Vires?
- (C) Was it credible for Judge Harris also to disregard this standing Superior Court Order **not** Appealed of June 15, 2006, knowing that both himself, and J.P. Bonas had **no** Jurisdictional Authority whatsoever, to disregard this Higher Court Decision, which they both did in Contravention of the Rule of "Stare Desisis", which prohibits any Review by a Lower Court of a Higher Court Decision?
- (D) Was it credible for J.P. Bonas on, April 27, 2009, to hear and review a Motion concerning his own conduct?

Was this **not** a Conflict of Interest??

This is Credible?

Was this the Administration of Justice or Injustice?

**No**, this has been a Fraud and a Miscarriage of Justice upon Nichols Gravel Limited, and Gary Nichols promoted by the Abuse of Process by the Crown and unlawfully accepted and rubber stamped as Bonafide by the Courts of. J.P. Bonas, and Judge D.A. Harris.

No Error in Law???

No Misconduct of either, J.P. Bonas or Judge D.A. Harris???

I suggest that both the Judicial Review Counsel and the Ontario Judicial Council should try again, and further review these requests to investigate instead of performing this brush off, opting out act. at the public expense.

This response to this Crown and Court Fabricated, Manipulated, Perverted, Miscarriage of Justice does **not** in any way serve or protect the Public Interest from arbitrary Government or Government patronizing Government Appointed Officials of the Court.

In my view your objective, and responsibilities should be to stop this corruption of our Courts and our Justice System, and not try to cover up for Government and Court collusion and Misfeasance, which is in fact the responses received as of the letter of March 13, 2015, and April 17, 2015 from your offices.

The response was, that in all of the evidence provided with the Decision that the Judicial Council could find **no** evidence of Judicial Misconduct by Judge Harris. This is a most astounding misrepresentation comparable to the Law perverted Decisions of J.P. Bonas, and Judge D.A. Harris.

### **Reference Identified Misrepresentation to Judicial Misconduct Judge Harris.**

1. Dismissal, April 4, 2011, of the Application for “New” and Complete, March 30, 2009 Transcripts. for Appeal purposes, and the further withholding of a written Decision to prevent any Appeal to this Decision.
2. The **False** Statement that the Appellants could not identify what, if anything, was missing from the March 30, 2009 Transcripts.  
  
**#2 REF:** (April 4, 2009 Transcript, Page 10), confirmation of what was missing, which False statement was duplicated and repeated in the March 13, 2015 response from the Justice of the Peace Review Council.
3. Judge Harris proceeded thereafter to render a Court Decision based upon incomplete and uncertified Transcript of the evidence to the Court Record.
4. Judge Harris failed to address or protect the Charter Right of Gary Nichols to make Full Answer in Defence, which is a responsibility of the Court, with no Comment to Charter Rights whatsoever as Appealed. **REF:** E (1) (11)
5. Disregard of the Evidence of Crown Fabrication, Misfeasance, Abuse of Process, and Fraud to unlawful charges by the Crown.
6. Disregard of the, June 15, 2006, Superior Court Judicial Review Declaratory Orders, 1, 2, and 3, to Licence 103717 included in Nichols Evidence to Appeal October 2011, which in fact, rendered the Decision of J.P. Bonas, December 9, 2009, to prosecution of unlawful charges, and the Justice Harris Appeal Dismissal Decision of, January 11, 2012, as “Stare Desisis” and without authority in Law and therefore, both Decisions are Ultra-Vires and without any Authority of Enforcement in Law. Further confirmed by the, November 26, Press Release of Court Process to Criminal charges of, November 24,

2009, that J.P. Bonas accepted as evidence as Exhibit 23, to the illegal enforcement of "Pre Operational Conditions" by M.N.R. District Manager, Alec Denys, and Inspector Paul Cutmore, which most certainly provided reasons for consideration beyond a Reasonable Doubt, that this entire M.N.R. enforcement was unlawful, and illegal, but also, was evidence disregarded by both, J.P. Bonas and Judge D.A. Harris.

- 7. **Reasons #59 to 69** Boxed comments by J.P. Bonas, December 3, 2010, comment and advisement to the Appeal Justice to Nichols evidence that should be disregarded, quoting the Superior Court Estoppel Order of, October 23, 2008, and directed specifically what need not be relitigated. With this advisement, J.P. Bonas attempts to enforce this Estoppel Order on the Appeal Process without any jurisdictional authority whatsoever, which Crown Evidence at Trial has now been identified as Fraud on this Court.

**#65** This is a further misrepresentation by Judge Harris.

This clearly was not supplemental reasons to his oral reasons previously given in Court, not Additions and not Reasons.

This was a direction and instructions of extreme bias to Appellant Appeal Evidence to be disregarded.

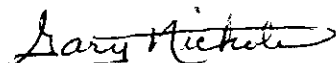
**#68** This definitely was apprehension of bias.

J.P. Bonas possessed no Jurisdictional Authority whatsoever to make these comments and include them 1 year after the fact of his decision, to the Crown attempt and interference without authority to enter the Court Appellant Appeal Record and make unauthorized changes to the Transcript of Evidence, December 3, 2010 without notification to the Appellant.

All of this performance is contrary to the Rules of Civil Procedures and should be grounds alone to declare a Mistrial. What a profound unlawful Farce and Abuse of Process in the name of Justice.

Whether or not you have the authority to review the Misfeasance of these Justices of The Court, or you choose to fulfill you obligation to serving the Public Interest, in the Interest of Justice, the Evidencier Record confirms a Miscarriage of Justice inflicted upon this Family through the Discriminatory Corrupted Enforcements of both Government Ministries and Government patronizing Courts which we will now proceed to expose by every means possible. In the end the Truth Shall Prevail.

Yours sincerely



Gary Nichols

c.c. Democracy Now, Amy Goodman

COPY

NOTICE OF APPEAL UNDER SECTION 116 OF THE PROVINCIAL DEFENCES ACT  
AVIS D'APPEL INTERJETÉ EN VERTU DE L'ARTICLE 116 DE LA LOI SUR LES INFRACTIONS  
PROVINCIALES

ONTARIO COURT OF JUSTICE  
COUR DE JUSTICE DE L'ONTARIO  
PROVINCE OF ONTARIO  
PROVINCE DE L'ONTARIO

(Part III)  
(Partie III)

Form / Formule 1  
Courts of Justice Act  
Loi sur les tribunaux judiciaires  
O. Reg. / Régl. de l'Ont. 723/94

FIDELITY & SECURITY  
OCLOCK  
FEB 10 2012  
SUPERIOR COURT OF JUSTICE  
COUR SUPÉRIEURE DE JUSTICE  
CAWUGA

- 1. Superior Court of Justice / Cour supérieure de justice at / à  
MUNSEE STREET, CAWUGA, ONTARIO
- 2. Appellant is / La partie appelante est
  - Defendant / le défendeur (la défenderesse)
  - Attorney General / le procureur général
  - Prosecutor / le poursuivant
- 3. Name of Appellant(s) / Nom de l'appelant(e) : Nichols GRAVEL LTD. AND GARY I. Nichols  
Address for service / Domicile élu : Box 172 Delhi ONTARIO N4B2W9
- 4. Counsel for Appellant: Name: Arrell Law LLP (PAUL J. OSIER)  
Avocat(e) de l'appelant(e) : Nom : 2 CAITHNESS STREET W.  
Address for service / Domicile élu : CALEDONIA N3W1C1
- 5. Name of respondent (if known) / Nom de l'intimé(e) (s'il est connu) : MINISTRY OF NATURAL RESOURCES  
Address for service / Domicile élu : 3RD Floor, Room 3420, 99 Wellesley St. W. TORONTO, ONTARIO M7A1W3
- 6. Counsel for respondent (if known) / Nom de l'avocat(e) de l'intimé(e) (s'il est connu) : Demetrius Kappas  
Address for service / Domicile élu : AS IN # 5
- 7. Decision of Ontario Court of Justice / Décision rendue par la Cour de justice de l'Ontario :  
(include name of Judge or Justice of Peace appealed from, if known) / inscrire le nom du juge ou du juge de paix dont la décision est portée en appel, s'il est connu) :  
Justice D. HARRIS upheld the decision of J. P. BONAS SAVE AND EXCEPT FOR MINOR CORRECTIONS OR PENALTIES.
- 8. Date of decision / Date de la décision : JANUARY 11, 2012
- 9. The Appellant appeals against / L'appelant(e) interjette appel :
  - conviction / de la déclaration de culpabilité
  - dismissal / du rejet de l'accusation
  - finding as to ability to conduct a defense / de la conclusion quant à la capacité du défendeur (de la défenderesse) d'assurer sa défense
  - sentence / de la sentence
  - order (s. 161 of the P.O.A.) / de l'ordonnance (art. 161 de la L.J.P.)
  - any other order as to costs.

by the Ontario Court of Justice / de la Cour de justice de l'Ontario  
at CAWUGA, MUNSEE ST.  
à/au (address of court / adresse du tribunal)

COPY

10. If Defendant is in custody, place where held: NA  
 Si l'appelant(e) est sous garde, lieu de détention:
11. (a) Description of offence<sup>1</sup>: / Description de l'infraction<sup>1</sup>  
OPERATING A QUARRY WITHOUT A LICENCE CONTRARY TO THE Aggregate Resources ACT S-7(1) and 57(1) (4 counts)
- (b) Information number (if known):  
 Numéro de la dénonciation (s'il est connu):
12. (1) Statute<sup>2</sup>: / Loi<sup>2</sup>: THE Aggregate Resources ACT  
 (2) Section<sup>3</sup>: / Article<sup>3</sup>: S-7(1) and 57(1)
13. Date of offence: / Date de l'infraction: BETWEEN 2004 and 2007
14. Plea at trial: / Plaidoyer au procès: Not guilty
15. The grounds for appeal are: / Moyens d'appel:  
 (specify the question of law or issue where the appeal is from conviction or acquittal or finding as to ability to conduct a defense or specify the ground for appeal against sentence / préciser la question de droit ou la question en litige lorsqu'il est interjeté appel de la déclaration de culpabilité, de l'acquiescement ou de la conclusion quant à la capacité de la partie défenderesse d'assurer sa défense, ou préciser les moyens d'appel contre la sentence)  
SEE ATTACHED SCHEDULE A
16. In support of this appeal, the Appellant relies upon the following:  
 À l'appui du présent appel, l'appelant(e) se fonde sur les documents suivants:  
 (set out documents such as transcript, etc. upon which the Appellant relies / indiquer les documents, tels que les transcriptions, sur lesquels se fonde l'appelant(e))  
(A) TRANSCRIPT OF THE TRIAL EVIDENCE  
(B) THE DECISION OF ONTARIO JUSTICE D. HARRIS  
(C) CASE LAW
17. The relief sought is: ACQUITTAL or in the alternative A NEW TRIAL; in the  
 Mesure de redressement demandée: further ALTERNATIVE A REDUCTION OF PENALTY
18. The Appellant intends: / Intention de l'appelant(e):  
 to be present in person or by counsel and to present the issues and the Appellant's arguments orally.  
 comparaître en personne ou par l'entremise d'un(e) avocat(e) et débattre les questions en litige et présenter ses arguments oralement.  
 not to be present in person or by counsel and to present the issues and the Appellant's arguments in writing.  
 ne comparaître ni en personne ni par l'entremise d'un(e) avocat(e) et débattre les questions en litige et présenter ses arguments par écrit.
19. Does the Appellant intend to make a motion for an order that the appeal be heard by way of a new trial in the appeal court?  
 L'appelant(e) a-t-il(elle) l'intention de présenter une motion en vue d'obtenir une ordonnance prévoyant la tenue de l'appel sous forme d'un nouveau procès devant le tribunal d'appel?  
 Yes / Oui  No / Non
20. Date: FEBRUARY
21. Signature of Appellant or Counsel: \_\_\_\_\_  
 Signature de l'appelant(e) ou de son avocat(e): \_\_\_\_\_

**NA** I request a \_\_\_\_\_ language interpreter for the appeal.  
 Je demande les services \_\_\_\_\_ pour l'appel.  
 d'un interprète de langue \_\_\_\_\_ (leave blank if inapplicable / à remplir, le cas échéant)

NOTES:

- (1) If Appellant's address for service is that of the Appellant's Counsel, state Counsel's full address and Appellant's own full address.
- (2) Please notify the clerk of the court in writing immediately of any change of address. The court will communicate with you by mail at the address shown by you in this notice unless you notify the court of a change in your address.
- (3) This court of appeal must be filed with the local registrar of the Superior Court of Justice or Ontario Court of Justice.

REMARQUES:

- 1) Si le domicile élu de l'appelant(e) est celui de son avocat(e), indiquer l'adresse au complet de l'avocat(e) de même que l'adresse au complet de l'appelant lui-même (elle-même).
- 2) En cas de changement d'adresse, en aviser immédiatement le greffier du tribunal par écrit. Si le tribunal n'est pas avisé, il communiquera avec vous par courrier à l'adresse indiquée au présent avis.
- 3) Le présent avis d'appel doit être déposé auprès du greffier local de la Cour supérieure de justice ou de la Cour de justice de l'Ontario.

<sup>1</sup> for example, careless driving / par exemple, conduite imprudente  
<sup>2</sup> for example, Highway Traffic Act / par exemple, Code de la route  
<sup>3</sup> for example, Section 130 / par exemple, article 130

## SCHEDULE "A"

## THE GROUNDS FOR APPEAL AGAINST CONVICTION ARE:

## A) SEARCH ISSUE:

The learned appellate Justice was in error in upholding the trial Judge who dismissed a preliminary motion to quash search warrants issued to the respondent by which the respondent obtained, and subsequently used, extensive materials so seized from each of the appellants, said errors of law including, but not limited to, the following:

- X i) The respondent committed errors of fact in the affidavits filed in support of obtaining said search warrants, including representations of having been at locations belonging to the appellants for observations, when in fact no such attendance and falsely stated observations were made and in conducting an OPP search for weapons, unauthorized by the search warrants.
- X ii) By exceeding the time limit authorized in the search warrants.
- X iii) By seizing personal documents of Gary and Margaret Nichols and of the employees of Nichols Gravel Ltd. outside of the restricted dates of October 7, 2004 to November 30, 2006, when the search warrant didn't permit it as Gary and Margaret Nichols and employees were not named in the search warrant.
- X iv) By failing to render a complete inventory of items taken in any timely way. Specifically by failure to provide a complete inventory spread sheet until April 20, 2009, of items taken until after the decision of J. P. Bonas to quash the search warrant, decision rendered March 30, 2009, thereby preventing the appellants from advancing arguments, in support of quashing the search warrant, based on items wrongfully taken. Approximately 1,400 items of the 5,000 entries submitted had no relevance to quarry operations. This was a charter infringement S. 10 (d) to failure to provide disclosure by the Crown.

**B) TRANSCRIPT ISSUE:**

- X i) Mr. Justice Harris failed to recognize that the transcript of the decision of J.P. Bonas quashing the search warrant was incomplete, so as to render it impossible for an Appellate Court to accurately assess the complete context of evidence filed and argument made before the trial Justice, and so as to render it difficult and/or impossible to assess the reasons for the decision by J.P. Bonas. The incompleteness of the transcript renders it impossible to understand fully the reasons for the trial Judge's decision. Mr. Justice Harris was in error in failing to reverse the trial Judge on that basis.
  
- X ii) Judge Harris mistakenly found that nothing was missing from the transcripts at the trial when in fact, the evidence was that 17 pages of transcript was missing and that the transcripts on the ruling, concerning the application to quash the search warrant, were improperly certified as not being in accordance with Provincial regulation. In addition, parts of the transcript were added after the trial by J. P. Bonas in the December 3, 2010 unauthorized amendment, long after his decision of December 9, 2009.

**C) CORPORATE VEIL ISSUE:**

- X i) The appellate Justice was in error in finding guilt against Gary Nichols personally in the absence of any evidence proving that circumstances existed entitling the court to pierce the corporate veil of Nichols Gravel Ltd., and in the absence of evidence, to show that Gary Nichols was personally complicit in any offence under the *Aggregate Resources Act*.

**D) COUNSEL ISSUE:**

- i) The learned appellate Justice was in error in agreeing with the trial Judge that Gary Nichols have only 30 days to obtain replacement counsel prior to trial thereby depriving Gary Nichols of his right to counsel by making the trial date peremptory upon Gary Nichols, and contrary to the *Provincial Offences Act* requiring the defendant company to be represented by counsel.



X ii) The appellate Justice was in error in failing to recognize that the court never appointed Gary I. Nichols as agent to represent Nichols Gravel Ltd. At most, the court accepted that Nichols Gravel Ltd. entered a not guilty plea through Gary I. Nichols, a director of the company.

? X E) GARY NICHOLS PERSONAL CHARTER ISSUES:

X i) The learned appellate Judge erred in agreeing with the trial Judge who prohibited Gary Nichols from advancing an argument that the respondents had failed to provide an aggregate resources licence in accordance with Ontario Municipal Board decisions, and in failing to recognize that issues of estoppel and/or res adjudicate only applied to Nichols Gravel Ltd. and thus infringe the Charter Rights of Gary Nichols to defend himself as per sections 7, 8, 10 (d) and 15 (1) of the *Canadian Charter of Rights and Freedoms*.

? X ii) The appellate Judge erred in law in finding that Gary Nichols was estoppel from presenting evidence of prior court decisions regarding the licence and the right to pursue the extraction of limestone from Pit 5 as there were no prior court decisions against Gary I. Nichols constituting estoppel. This prevented Gary Nichols from making full answer and defence and infringed S. 7 of the charter of rights of Gary Nichols, not acknowledged by Justice Harris or J. P. Bonas.

X F) STANDARD OF PROOF ISSUE:

i) The trial Judge applied the wrong test as to the standard of proof required by the prosecution to prove its case and as such prevented Gary I. Nichols from leading evidence of prior court proceedings to establish that his action were justified. The appellate Justice, Judge Harris, failed to appreciate the consequences of this part of the transcript.

X G) BIAS ISSUE

X i) The appellate Judge was in error in that there was a reasonable apprehension of bias by the trial Judge against the appellants on the basis of the comments made by him about Gary I. Nichols and by reception of commentary by Crown counsel at the Judge's chambers' door during a recess in the absence of Gary I. Nichols.

**THE GROUNDS FOR APPEAL AGAINST SENTENCE ARE:**

- X A) The learned appellate Justice was in error in piercing the corporate veil of Nichols Gravel Ltd. and thereby assessing any penalty against the defendant, Gary Nichols.
  
- B) Having pierced the corporate veil of Nichols Gravel Ltd., in order to find convictions against both Gary I. Nichols and Nichols Gravel Ltd., separate penalties against Gary I. Nichols and Nichols Gravel Ltd. as in law, the findings were, in essence, that Gary I. Nichols was one and the same as the corporate defendant. The appellate Judge erred in failing to reduce the penalties by 50% in this regard.
  
- X C) The prosecution sought penalties at the rate of \$500.00 per day of operation based on spread sheet evidence (Exhibit 6). There were numerous miscalculations contained in the spread sheet evidence which meant in many instances that the penalties per day of operation were doubled and, in other instances, evidence of gravel operations at other pits were used as evidence of operation at Pit 5 (the pit or quarry at which MNR Paul Cullimore noted that no licence was in existence). When in fact no licence was ever delivered which provided the authority to operate a quarry. The appellate Judge failed to give any reasons as to why he reduced the penalties to the level he did, nor any reason as to why he didn't reduce them further.

10.

Submissions by Mr. Osier

Justice's ruling, start to finish, on quashing or lack of quashing the search warrant. In the appeal, what I'm calling the appeal version as originally ordered, we don't have his decision. We only get that as a consequence of Ms. MacDonald certifying certain things. So she didn't do the...

THE COURT: And is everything there?

MR. OSIER: His ruling, yes.

THE COURT: So it's all there?

MR. OSIER: It's not all - his ruling's there but the...

THE COURT: That's what I just asked you.

MR. OSIER: ...transcript is.

THE COURT: Is it all there?

\*> MR. OSIER: It's a piece of - only a piece of it's there, yeah.

\*> THE COURT: So what's missing?

\*> MR. OSIER: Well, what's missing is, the other 40-some odd pages, 44 pages of...

THE COURT: Well, what's missing?

MR. OSIER: From hers?

THE COURT: What do we not have?

\*> MR. OSIER: We don't have, we don't have a, a transcript from start to finish of this Justice's ruling on quashing the warrant. We have a certified copy of, of 20 pages of this - of that particular tape. So there's several tapes there, of course. So of the three or four different - what you have in this motion is just the, just this March 30, '09 ruling. After the ruling, of course, he