



January 6, 2015

ONTARIO JUDICIAL COUNCIL

Dear Judicial Investigators:

Request to Investigate.

To the biased Decision and Misconduct to defeat Justice by His Honour, Judge D.A. Harris to the biased Decision of J. P. Prior Bonas to prosecution of fabricated MNR charges December 9, 2009 and Sentence January 27, 2010 and the Infringement of Charter Rights to Nichols Gravel Limited and Gary Nichols v. the Queen, which Charter Rights of Gary Nichols this Court failed to protect or even respond to on Appeal.

This failure to provide Justice is confirmed by the Dismissal Decisions of April 4, 2011, September 7, 2011 and Final Dismissal on Appeal January 11, 2012, all of which served to infringe the s. 7 Charter Right of Gary Nichols to make Full Answer in Defence which was previously denied at the Trial charges before J. P. Prior Bonas, through enforcement of the October 23, 2008 Estoppel Order to Nichols Gravel Limited and **not** Gary Nichols.

This request to investigate is in addition to the December 3, 2014 request to investigate the Decision of J. P. Prior Bonas. to The Justices of The Peace Review Council.

REF (1): April 4, 2011 Hearing, Appellant, Factum, and Court Dismissal Decision.

REF (2): September 7, 2011, Appellant Notice of Motion and Court Dismissal.

REF (3): October 21, 2011, Appeal Hearing, Transcripts still in possession of Cayuga Court.

REF (4): January 11, 2012, Appeal Dismissal Decision.

REF (5): February 8, 2012, Appeal to Superior Court,

REF (6) "Leave" denied at O/C/A, Judge Pardu, June 13, 2014, for Appeal to Superior Court.

REF: Gary Nichols Submissions and Comments to the January 11, 2012 Appeal Decision. as follows:

Incorrect and misrepresented statements by Judge D. A. Harris as identified in his Decisions of Dismissal, April 4, 2011 and September 7, 2011 and Appeal Decision January 11, 2012, Ontario Court of Justice.

Decision January 11, 2012, Judge D. A. Harris

REF: #11. This Statement is incorrect.

Comment:

The letter of March 23, 2009 to Solicitor Paul Osier from Nichols Gravel Limited and Gary Nichols confirms the date of Termination of Mr. Osiers representation for the Company and Gary Nichols.

This was in fact 7 days **prior** to J. P. Bonas delivering his oral decision on March 30, 2009 dismissing the application to Quash the Search Warrant.

Further to that the onset of Trial proceedings were adjourned March 30, 2009 to April 27, 2009 to start of hearing to Trial charges under Peremptory Court Order, to the very next available Court date.

Comment:

#12. Lets not brush over the facts as this Statement by Judge Harris is also **incorrect**.

The facts: On March 30, 2009 on request of Crown prosecutor Nicholas Adamson to J. P. Bonas in Court recess, upon Court reconvening under Court Reporter evidence taken, J. P. Bonas accepted the Crown request for and made a Peremptory Order **without** allowing a response from Gary Nichols (unrepresented) that Trial charges would proceed Peremptory as requested by the Crown with or without Solicitor representation for Nichols Gravel Limited and Gary Nichols on April 27, 2009 allowing just 17 working days to locate Solicitor representation. Charter Infringements s. 7 and s. 10 (b)

13. Judge Harris quotes from the Transcript Record to make misrepresentation in complete disregard to the fact that Gary Nichols was provided **no** choice and had to appear on April 27, 2009 under Peremptory Order with or without Solicitor in an attempt to defend himself and the Company.

To have not responded would then have been contempt of Court. Charter Rights, 10 (b) Right to Solicitor Representation. **Where?**

#15. In agreement with the quote as stated by J. P. Bonas to be as stated, but emphatically in disagreement with this quote of J. P. Bonas because it is **false** by his own Peremptory Order, March 30, 2009.

#16. P.O.A. 50 (2) Provincial Offences Act.
Quote: "A Defendant that is a Corporation **shall** appear and act by representative."
unquote. Quote: "**Shall** Appear and act by representative." unquote

Comment:

Shall is **mandatory**.

This Trial unlawfully proceeded under an **unlawful** Peremptory Order to hear Company and evidence of Gary Nichols “Estopped” **without** solicitor representation.

- #17. And where does the Justice of the Peace derive the Jurisdictional Authority to overrule the P.O.A. Legislation and accept Gary Nichols with **no** experience or training in Law, to attempt to defend the Company and himself against **2** experienced Crown Prosecutors?
- #18. From #11 to #18 Judge Harris through selective statements from the J.P. Bonas Trial proceedings portrays the picture that Gary Nichols chose to Defend himself as falsely stated by J. P. Bonas. When in fact the opposite is true, as the Peremptory Order of March 30, 2009 provided **no** choice and provoked a Charter Infringement under 10 (b) to Gary Nichols. Error in Law?

Is this the Court and the perception of 2 Crown Prosecutors of a fair process? **NO!**

Jurisdiction

#20.

- #21. Judge Harris declined to hear application to hear “New Evidence” September 7, 2011 perceived to be discrimination to Charter, s. 7 to Gary Nichols to make **Full Answer** in Defence.

Comment:

What is this half-way Justice? To accept **only** the evidence you want to hear as evidence, but from the Crown? And **not** from the Appellant!

Judge: #23, 24, 25, 26, 27, 28, 29, 30 **Spin?** This was **not** the argument to execution of the January 9, 2007 MNR Search Warrant! Error in Law?

Comment:

The main argument was to the constitutional infringement of Charter Rights in the execution of the Search Warrant which Judge Harris so deftly misdirected and **avoided** with **no** comment in this respect.

Judge: Quote, “Neither is there any other reasons for me to overrule his Decision.” unquote.

Comment:

How about the Court accepting false MNR presentations to Fraud of the Court to obtain Estoppel Order and failure to disclosure? (To prevent Appellant evidence). Throughout the Trial to Charges in 2009

Absolute Liability or Strict Liability Offence?

- #31. Correct
- #32. Wrong
- #33. Wrong
- #34.

Comment:

- #35. Crown failed to prove beyond a reasonable doubt, but succeeded in preventing evidence from the Appellants through unlawful enforcement of the Fraudulent Crown submission to obtain and enforce the Estoppel Order of October 23, 2008.
- #36. Essentially this is what happened. J. P. Bonas heard and accepted **all** of the fabricated evidence presented by the Crown, and then enforced the October 23, 2008 Estoppel Order to **prevent** evidence from the Defendants. Charter s. 7? Fair Trial? **NO!**
- #37. The Defendants **not** allowed to present evidence to the issuance of Licence 103717 or the Suspension and Revoke of Licence which these MNR fabricated charges were based upon, which were allowed and falsely described by the Crown and accepted by the Court as Bona Fide.
- #38. The Crown did not prove the Actus Reus beyond a reasonable doubt based upon Estoppel restricted evidence from the Appellants. Error in Law?

Confirmed by Transcript of Defendant Evidence November 26, 2009 Press Release to MNR Criminal Charges to Alec Denys and Paul Cutmore accepted by the Court December 9, 2009, as Exhibit 23.

J.P. Bonas Dismissed Motion for Adjournment until Criminal Charges heard by the Court. Error in Law?

REF: December 9, 2009, J. P. Bonas Decision
D 1, Pages 4 – 14.

#39. **(Another Misrepresentation by Judge Harris.)**

Judge: Quote: “No. Due Diligence Evidence introduced here.” unquote.

True or False?

Comment:

And the main reason for that is that Gary Nichols was “**Estopped**” from providing evidence.

How do you show Due Diligence when you are prevented from providing evidence? Is this some magic wand act of the Courts?

First, it should be recognized that Gary Nichols is **not** a Lawyer and was **not** aware that Due Diligence **could** be pleaded.

It is further noted that **not** the **Crown** or the **Court** informed Gary Nichols of this pleading. And finally, how do you plead Due Diligence when the Court enforces an Estoppel Order in which Gary Nichols was not named to **prevent** Defendant evidence.

This is a biased statement by Judge Harris as all evidence provided to J. P. Bonas was disregarded to make this Guilty prosecution. Including the Evidence that MNR "23 Specific Pre Operational Conditions" unlawfully MNR imposed were reduced to 7 remaining at time of Revocation of Licence, Sept 30, 2004.

This is not Due Diligence?

#40.?

#41. **Judge: (Another misrepresentation by Judge Harris.)**

No application to provide fresh evidence?

Comment:

Mr. Harris has a short memory.

What about Application of September 7, 2011 to include New Evidence and April 4, 2011 Application for Reproduction of a complete Trial Record for Appeal purposes dismissed by Judge Harris, again to be Estopped from providing the complete record of evidence, which then required that we proceed to Appeal with **incomplete** Trial Transcripts, upon which Judge Harris rendered his Decision of Dismissal. Error in Law?

#43. **Comment: Wrong!** Had J. P. Bonas considered these charges as Strict Liability we would have been entitled to plead Due Diligence and in that event, he would have had to receive **all** of the evidence and the Estoppel Order could not have been unlawfully enforced. Error in Law?

The Court Record indicates that the Estoppel Order of October 23, 2008 was obtained by Crown misrepresentation that the June 15, 2006 Superior Court Judicial Review was one of 4 Decisions in support of MNR enforcements of Pre operational, which it was **not**, which promoted a Fraud on the Court October 23, 2008 and which was enforced illegally anyway by this Court of J. P. Bonas and accepted by Judge Harris on Appeal. Error in Law? A-22 TO DEC 3/14 REQUEST TO INVESTIGATE

#44. **Wrong.**

Apprehension of Bias

- #45. Bias against Gary Nichols?
- #46. **Judge:** Quote "In fact I find no evidence of bias here." unquote.

WRONG! Error in Law?

COMMENTS TO BIAS

1. Accepting Crown evidence in Court recess, March 30, 2009 with discussions to Peremptory Orders with Crown prosecutor Nicholas Adamson. Fair process? No Bias?
2. Then when Court reconvened accepting and acting on this out of Court evidence to make a Peremptory Order to Defendants to appear April 27, 2009 with or without solicitor, **without** allowing a response from Gary Nichols to this Crown submission. Charter s. 7? No Bias? Error in Law?
3. J. P. Bonas made derogatory comments questioning the mental capacity of Gary Nichols concerning the Search Warrant Decision, March 30, 2009. Page 41 & 42. No Bias?
4. Then severed out part of the Trial Transcript proceedings and withheld release of the March 30, 2009 Transcript until August 25, 2009 until **after** the Crown had completed their case. so that the Appeal to the Dismissal of the Application to Quash the Search Warrant of April 24, 2009 could not proceed. Fair process? No Bias? Conspiracy between the Court and the Crown to Defeat Justice?

It is further noted that the Court did **not** issue an Appeal File Number for April 24, 2009, so this Appeal could **not** proceed, so that it remained bound up in the Trial charges proceedings to the benefit of the Crown in order to carry everything over to be neatly disregarded and disposed of at the end of proceedings. Fair process? No Bias?

5. Declined throughout the Trial to approve **any** and **all** Motions brought by Gary Nichols before the Court of J. P. Bonas. Fair process? No Bias?
 6. Gary Nichols assessed a **higher** fine than the Company. Why? Fair process? No Bias?
- #47. J. P. Bonas took it upon himself to further intervene to obstruct the administration of Justice with his comments in the block of evidence in the December 3, 2010 unauthorized reconstructed Transcript of the Defendant evidence to be disregarded. 1 year **after** his Decision. This is **not** bias? Fair process or discrimination?
- #48. **Judge:** Quote: "There was nothing to suggest that the positions taken by the Justice of the Peace were unreasonable." ?? unquote.

Comment:

Fair process? This statement by Judge Harris is in fact **unreasonable** and biased!

Reasonable or Unreasonable?**Comments:**

1. Was it reasonable for J. P. Bonas and the Crown prosecutor to have a private conversation in Court recess to evidence the Crown intended to argue before the Court when Court resumed? **No!** Error in Law?
2. Was it reasonable for J. P. Bonas to accept this evidence **not** properly placed before the Court and then immediately make the Peremptory Order **without** allowing any response from the Defendants to the Crown submission? Error in Law?
3. Was it reasonable for J. P. Bonas to reject on all occasions the Defendants protest to the Crown **not** providing proper disclosure to the production of the Excel Spreadsheet **after** he had dismissed the Application to Quash the Search Warrant, March 30, 2009? Fair process? Error in Law?
4. Was it reasonable for J. P. Bonas to falsely state on at least 3 separate occasions that the Defendants and solicitor Osier had previously stated that it had been agreed that all MNR disclosure had been received, when **no** such statement can be identified in **all** of the Trial Record before J.P. Bonas.
5. On what basis was it reasonable for J. P. Bonas to accept the Crown speculative assumption that the Defendants dismissed solicitor Osier **only** to delay the Court process? This allegation repeated by J. P. Bonas **without** basis in fact when in fact the Trial proceeded on the very next available Court date as Peremptory Ordered of April 27, 2009 **without** solicitor representation for the Defendants? Fair process?
6. Was it in fact reasonable to disregard all of the evidence that Gary Nichols attempted to bring before the Court and accept the Crown misrepresentation that Gary Nichols was "Estopped" by the October 23, 2008 Divisional Court Decision when the Applicant was Nichols Gravel Limited, and Gary Nichols was **not** named in this Decision Order? Error in Law?
7. Was it reasonable for J. P. Bonas to interfere in the Court process 1 year after the fact of his Decision to insert an advisement into the Defendant unauthorized reconstructed March 30, 2009 Transcript Certified December 3, 2010, in which J. P. Bonas made an advisement to the Appeal Judge of Nichols Gravel Limited evidence to be disregarded? In my humble opinion this was a blatant and outright infringement of the s 7 Charter Rights of Gary Nichols to make Full Answer in Defence which was a carbon copy of the attitude of J. P. Bonas throughout the Trial and a last attempt to obstruct the Administration of Justice, and apparently accepted by Judge Harris on Appeal with his Dismissal. Rules of Civil Procedure? Bias? Error in Law?

Comment: I find this comment to #48 of Judge Harris to be a blatant misrepresentation of Fact and Law.

#49. ?

#50. Judge: **The Test** "What would an informed person, viewing the matter realistically and practically conclude?"

Comment:

This in fact **cannot** be the Test applied to this case due to the Defendants being "Estopped" from providing evidence. The Court was able to make a conclusion based upon one side or half of the evidence **only** from the Crown while disregarding the evidence from the Defendants in order to conclude this Miscarriage of Justice. Is this what an informed reasonable person would conclude is Justice? Error in Law?

#51. Had the Court allowed **all** of the evidence concerning this unlawful unlegislated enforcement, they would have had the reasons why that this family continued to "Do battle with the State." This family continued to pursue Justice in the Courts while the Crown continued to make this unlawful enforcement contrary to the Decisions of J. P. W. Casey, January 28, 2005, the June 15, 2006 Superior Court Judicial Review Declaratory Orders and the March 6, 2007 Decision Judge D. Marshall, (Deceased) and the Superior Court OMB Order 1194 Compliance Order, Cayuga File 148/07.

Judge: "It is my observation, both from Review of the Trial Record and Review of the positions advanced on his behalf during this Appeal that Mr. Nichols also believes that anyone whoever disagreed with him during the course of these legal battles is biased against him."

Comment:

So here we have another **biased** opinion from Judge Harris repeated quoting from the Decision of J. P. Bonas upon consideration of **only** part of the facts and evidence with **no** court protection of entitlement to Charter Rights and Human Rights. Fair process? No Bias?

#52, #53. Another misrepresentation in support of this biased Miscarriage of Justice.

#54. **Judge Evidence against Gary Nichols.**

"The evidence compellingly reveals that Gary Nichols was the operating mind behind the Company."

#55. **Judge:** I agree.

Comment: Wrong!

Comment:

Actually **not**. Since this nonstop MNR enforcement started April 14, 2003, it has been the full time job of Gary Nichols attempting to defend the Company and this Family. This meant that the duties for the operation and management of this Company was handed over to Dwayne Nichols, and in fact it was the intent of Gary Nichols upon receiving the Quarry Licence to retire at age 65, but no, here we are 12 years later still playing this Government game of Enforcement of Fraud which I assure you that this family could have done without. Am I angry about what this Government has done to this Family? Do I intend to continue to seek Justice? Do I intend to

expose this Miscarriage of Justice? Most definitely!

#56. The Appeal fails on this ground??

TRANSCRIPTS

#57. **Application for New Transcripts.**

Earlier unsuccessful Application of April 4, 2011, Dismissed by Judge Harris.

Judge: Quote: "At that time, I found that Counsel had been unable to indicate what if anything might be missing from the existing Transcripts." unquote??? False Statement. Error in Law?

REF: Amended Appellants Factum, Page 3, #12 and 13, March 30, 2011.

Comment:

Judge Harris dismissed this Application **without** prejudice???

Comment:

Not from my perspective. The prejudice was the fact that Judge Harris provided **no** Written Reasons until after 30 days had expired, so that it was **not** possible to **Appeal** this April 4, 2011 Decision. This was a further infringement by the Court of the Charter, s 7, Right of Gary Nichols to make Full Answer in Defence, to be able to provide complete Transcript of evidence to the Court for Appeal purposes.

#58. **Judge:** "When arguing the Appeal, Counsel for the Applicants was still unable to show that anything was missing from the Transcripts." ?? False again.

Comment:

False! Error in Law?

REF: April 4, 2011 Transcript, Pages 4 – 17.

This confirms this statement of Judge Harris to be a misrepresentation and false statement of fact. Bias? Why? To patronize and support the Crown?

Page 10 – 15 - 20. Mr. Osier: "Well what's missing is the other 40 some pages."

#59.

#60.

#61. #62 Judge Harris confirms the December 3, 2010 insertion by J. P. Bonas, 1 year after the fact of his Decision.

Comment:

Is this allowed under the Rules of Civil Procedure? And by what Jurisdictional Authority can the Crown enter the Court Appeal File and make changes to the Transcript of Appellant evidence as Court Filed **without** authority or having received permission from the Appellants? Error in Law? Mischief? With Transcript page numbers changed to Roman Numerals and still incomplete.

REF: Appeal February 8, 2012.

#64. **Quotes Case Law:** Page 9 and 10, Decisions confirms that the Transcript of Evidence must be completed and reliable and **not** altered in anyway.

#65. ?

#66. ?

#67 ?

Comment:

Did Judge Harris accept or reject the boxed direction December 3, 2010 a year after the fact by J.P. Bonas?

His Decision to reject **all** of the points of our Appeal evidence would indicate that he was influenced by this direction and most certainly accepted and acted upon it. Error in Law?

#68. **Judge.** "No Bias by J. P. Bonas."

Comment:

This in fact indicates extreme bias to attempting to influence the appellant Appeal evidence to be considered when in fact J. P. Bonas had **no** jurisdictional authority to make any further comment at this point, December 3, 2010, prior to Judge Harris releasing his Decision, January 11, 2012. Error in Law?

#70. **CONCLUSION:**

RE: Appeal against Conviction.

Dismissed based upon disregard of evidence and Crown and Court infringements of Charter Rights, which you will note, Judge Harris **declined** to address under Appeal, which I am certain that he was well aware that if he did address Charter Rights, upon Appeal to Ontario Court of Appeal for "Leave" it would be highly unlikely that Leave to Appeal Charter Rights would be denied. Error in Law?.

Another most interesting (negligent) **oversight** by Judge Harris to Denial of Entitlement to Charter Rights and Justice by this Court which is provided with a duty of care to protect. Subject to the Charter to Rule of Law. Error in Law?

Appeal Against Sentence.**Comment:**

#71 – 120 To this part "**No** Comment" as had there **not** been Crown and Court manipulation to Estop Defendant evidence and disregard Charter Rights to denial of Application to submit fresh evidence and denial of Application for order of new Transcripts, there should have been **no** Dismissal under Appeal to conclude this Miscarriage of Justice.

Comment:**In conclusion:**

1. Judge Harris did **not** provide an unbiased review of the Evidence under Appeal. This was **not** a fair unbiased review.
2. Judge Harris delivered a Decision based upon half of the story as did J. P. Bonas through the unlawful enforcement of a Fraudulently Crown obtained Estoppel Order in which Gary Nichols was **not** named. Error in Law?
3. Judge Harris declined and disregarded the Appeal of Gary Nichols to infringement of Charter Rights with **no** comment whatsoever in this regard as requested on Appeal, and also disregarded as did J. P. Bonas the June 15, 2006 Superior Court Declaratory Orders,

not Appealed, which in fact confirmed that Licence 103717 was illegally Revoked September 30, 2004 through enforcement of “Pre Operational Conditions” **not** identified in Final OMB Order or Licence 103717 signed by the Minister. Error in Law?

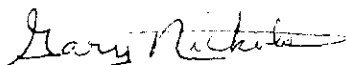
4. Judge Harris delivered his Decision based upon incomplete and uncertified Transcripts as required by the Rules. Error in Law?
5. Judge Harris made numerous misrepresentations without basis in fact or law. Is this not bias to deny Charter Rights by the Courts who have a duty and responsibility to protect individual Charter Rights? Was this not an Error in Law as not addressed by this Court under Appeal as filed?
6. It should be noted that through the manipulation of law and the Courts by the Crown between February 8, 2012 and the Dismissal of “Leave” by Judge Pardu, June 13, 2014 at O/C/A, the Crown has managed to deny the Right of Appeal to the Judge Harris Decision to conclude this Miscarriage of Justice **without** entitlement to Appeal for this Family as the ultimate Infringement of s. 7 Charter Rights to 12 years of enforcement of Fraud. Error in Law?
7. For these reasons we request this investigation in to the conduct of Judge Harris who declined to properly review the Decisions and conduct of J. P. Bonas which served **not** to provide Justice, but to in fact serve to provide **Injustice** to this Family, compounded by Judge Harris declining to review and protect the Charter Rights of Gary Nichols under Appeal to **No Comment** in his Decision to Charter Rights whatsoever. Error in Law?
8. This Horror Story must in fact be one of the worst example of Ontario Crown “Abuse of Process” in the History of the Justice System in the Province of Ontario to conclude this Miscarriage of Justice.

Thank you for your review and consideration in this matter.

Please reference Supplementary Documentation provided to the December 3, 2014 request to investigate to the Justices of the Peace Review Council with additional information at:

www.injusticecanada.com.

Yours Sincerely



Gary Nichols