



Nichols Gravel Limited
P.O. Box 172 - Delhi, Ontario N4B 2W9
Phone (519) 582-3354 Fax (519) 582-2143

May 25, 2015

F. Y. I
FROM
GARY NICHOLS

Justice of the Peace Review Council

ATTENTION: Registrar Marilyn King and Review Council.

Dear Madam:

In reference to the Review Council pathetic brush off response as received by letter dated, March 13, 2015, from your office to my complaint to the conduct of Justice of the Peace, Prior Bonas, I am inclined to make these comments as clarification.

First there was no Appeal to an Appeal Judge at Superior Court. An Appeal of the Judge Harris Decision for Appeal at Superior Court was later denied by, Judge Parayeski, November 22, 2013, and later by, Judge Pardue, with Leave Denied at Ontario Court of Appeal.

There was in fact, no Appeal to the Decision of Judge D.A. Harris.

The Appeal of the J.P. Bonas Decision was to Ontario Court.

Judge Harris whose Decision of Dismissal, your Review Panel used in part as Justification not to properly Review the Misfeasance of both J.P. Bonas, and Judge D. A. Harris. This is like using one Miscarriage of Justice to justify another.

What an absolutely screwed Corrupted Society to live in, the Province of Ontario!

You seemed to have missed my conclusion to identified Misfeasance to Miscarriage of Justice of His Worship J.P. Bonas starting on Page 14, Numbers 1 – 12.

This information has now been placed on our Website, www.injusticecanada.com, so that anyone in the World can read about our Ontario Government corrupted, dysfunctional, Justice System in Canada, and from there this story will go to a Book Publisher in order to expose this outstanding, outrageous government Abuse of Process and Manipulation of Law promoted by the Ontario Crown to inflict this Miscarriage of Justice upon this Family.

Yours sincerely

Gary Nichols



THE JUSTICES OF THE PEACE REVIEW COUNCIL
CONSEIL D'ÉVALUATION DES JUGES DE PAIX

PRIVATE & CONFIDENTIAL

March 13, 2015

Mr. Gary Nichols
Nichols Gravel Limited
P.O. Box 172
Delhi, Ontario
N4B 2W9

Dear Mr. Nichols:

Re: **Complaint against Justice of the Peace Prior Bonas**

I am writing further to your letter of complaint, dated December 3, 2014. You made allegations about His Worship Bonas arising from the trial over which he presided in the case *R. v. Nichols Gravel Ltd. And Gary Nichols* in 2009 in relation to four counts of operating a quarry without a licence under the *Aggregate Resources Act*. His Worship delivered his Reasons for Judgment on December 9, 2009.

The complaints committee reviewed the letter of complaint that set out your allegations. You also provided a binder containing numerous materials related to the trial and excerpts of transcripts of the trial, the appeal and other proceedings. One member of the committee went through the materials in the binder and reported to the other two members. All members read His Worship's reasons for judgment and the reasons for judgment of the appeal judge of the Superior Court of Justice. The committee also reviewed the endorsement of the Court of Appeal of Ontario containing the decision to refuse your application for leave to appeal.

The committee noted that you provided information and materials that related to the evidence given during the trial. The jurisdiction of the Justices of the Peace Review Council is limited to the investigation and review of complaints about conduct. The Review Council has no legal authority to change a decision made by a justice of the peace.

The committee found that most of the allegations and the materials that you submitted to the Council related to how His Worship assessed the evidence, interpreted and applied the law and decided the issues in the court case including, but not limited to, the explanation of whether in law the offences were absolute liability or strict liability; the decision as to whether an adjournment should be granted; issues related to the search warrant; the decision regarding recusal; alleged errors in the facts; the adequacy of reasons for the decisions; the decision that the matter would be marked peremptory; and, the conclusions drawn after various submissions.

The committee observed that the assessment of evidence, the determination of issues in a trial, and decisions made by a justice of the peace in a case are matters of judicial decision-making made in the course of a justice of the peace's duties outside of the jurisdiction of the Review Council, not matters of conduct. Justices of the peace have decision-making independence in accordance with the *Constitution Act, 1867*. The Council has no legal authority to interfere with or change a decision of a justice of the peace.

The committee noted that you argued that His Worship's comments that the offences were of absolute liability suggested that he had pre-determined the case. The committee observed that the comments made by His Worship in that regard reflected his interpretation and explanation of the law, not an indication that he had pre-determined the outcome. The appeal judge of the Superior Court of Justice addressed the comments and held that although His Worship's categorization of offences was wrong in law, there was no substantial wrong or miscarriage of justice as a result of that decision.

The committee noted that you raised allegations about the transcript. The committee noted that the appeal judge of the Superior Court of Justice had already addressed the adequacy of the transcript and found that you were unable to show that anything was missing from the transcripts. As well, the appeal judge addressed the addition of the paragraph in the transcript by His Worship which was not in the oral reasons given in court. The appeal judge referred to the case *R. v. Wang*, [2010] O.J. No. 2490 (Ont. C.A.) which stated:

[12] If unforeseen circumstances arise such that, after delivery of reasons that were meant to be final, a trial judge wishes to correct or supplement the reasons that were already delivered, various options are available. These include the issuance of an addendum, providing supplementary reasons or, when the original reasons were oral, subsequently issuing a set of amended reasons, written or oral. Candour and transparency are however, essential. Where changes or additions are made to the reasons, counsel as well as any reviewing court should have a clear record of what occurred and be in a position to opine as to the legal effect, if any, of the changes or additions made by the judge.

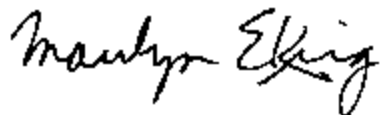
[13] In fairness to the summary conviction appeal judge in the present case, the additions and changes made to the reasons simply elaborated on the reasons delivered orally. In my view, the fact that changes were made to the transcript rather than through the issuance of supplementary reasons has no impact on the outcome of the present appeal. Regardless of which set of reasons this court were to review, the outcome would be the same.

The appeal judge who heard your appeal found that the addition of the paragraph in the transcript was clearly made by His Worship. He noted that there was a clear record of this fact, indicated by a statement in the transcript that the paragraph was inserted at the request of the justice of the peace and did not form part of the original decision, and it was indicated by a box around the paragraph. The appeal judge held that the additions and changes to the reasons were clearly made by His Worship to supplement the oral reasons that he had previously given in court and the fact that the changes were made to the transcript rather than through the issuance of supplementary reasons had no impact on the outcome of the appeal. As well, the appeal judge found that the additional paragraph added in the reasons did not show bias on the part of the justice of the peace or provide any basis for a reasonable apprehension of bias.

The committee noted that the allegations of bias and collusion were already addressed by the appeal judge. The appeal judge concluded that there was no evidence of bias or any basis for a reasonable apprehension of bias on the part of His Worship. The appeal judge found that the court record disclosed no rational, factual basis for a belief of bias on the part of His Worship.

After completing its investigation, the complaints committee concluded that the complaint should be dismissed on the basis that it was outside of the jurisdiction of the Council and the file was closed.

Yours truly,



Marilyn E. King
Registrar

For: JUSTICES OF THE PEACE REVIEW COUNCIL

c. His Worship Prior Bonas



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, 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.

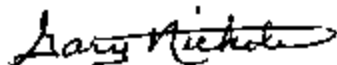
#68 This definitely was apprehension of bias.

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 PROVINCIAS FIDELITY 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)
(Parte III)

Form / Formule 1
Courts of Justice Act
Loi sur les tribunaux judiciaires
Ont. Reg. / Règl. de l'Ont. T23/94

FILED
FEB 10 2012
10 O'CLOCK
SUPERIOR COURT OF JUSTICE
COUR SUPÉRIEURE DE JUSTICE
CATUGA

1. Superior Court of Justice / Cour supérieure de justice at / à
MUNSEE STREET, CATUGA, ONTARIO

2. Appellant is / La partie appelante est
 Defendant / le défendeur (la défenderesse)
 Attorney General / le procureur général
 Prosecutor / le poursuivant

3. Name of Appellants: Nichols GRAVEL Ltd. AND GARY I. Nichols
Nom de l'appelant(e):
Address for service: Box 172 Delhi ONTARIO N4B2W9
Domicile élu:

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: CALEDONIA N3W1C1
Domicile élu:

5. Name of respondent (if known): MINISTRY OF NATURAL RESOURCES
Nom de l'intimé(e) (s'il est connu):
Address for service: 3RD FLOOR, Room 3420, 99 Wellesley St. W.
Domicile élu: TORONTO, ONTARIO M7A1W3

6. Counsel for respondent (if known): Demetrius Kappas
Nom de l'avocat(e) de l'intimé(e) (s'il est connu):
Address for service: AS IN # 5
Domicile élu:

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.P.)
 any other order as to costs.

by the Ontario Court of Justice / de la Cour de justice de l'Ontario
at CATUGA, 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: / Description de l'infraction:
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: / Loi: THE Aggregate Resources Act
 (2) Section: / Article: S-7(1) and 57(1)
13. Date of offence: / Date de l'infraction: BETWEEN 2004 and 2007
14. Plea et tri: / 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 comparaitra 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 (ou 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.

¹ for example, careless driving / par exemple, conduite imprudente

² for example Highway Traffic Act / par exemple, Code de la route

³ 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*.

X **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 B). 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



ONTARIO JUDICIAL COUNCIL
CONSEIL DE LA MAGISTRATURE DE L'ONTARIO

PRIVATE & CONFIDENTIAL

April 17, 2015

Mr. Gary Nichols
Nichols Gravel Limited
P.O. Box 172
Delhi, Ontario
N4B 2W9

Dear Mr. Nichols:

Re: Your Complaint about the Honourable Justice David Harris

Further to your letter, dated January 6, 2015, and the additional materials which you submitted, the Ontario Judicial Council has reviewed and considered your allegations about the Honourable Justice David Harris and has instructed me to communicate its disposition to you.

A subcommittee of the Judicial Council, made up of a provincially-appointed judge and a community member, conducted the investigation into your complaint and submitted its report to a review panel of the Judicial Council. The review panel was made up of two provincially-appointed judges, one lawyer and one community member. None of the members of the review panel had any prior knowledge of the complaint or was informed of the names of those involved. In total, your complaint was reviewed by six different members of the Council, including two community members.

The complaints subcommittee reviewed your letter and supporting materials, including His Honour's Reasons for Judgment, the decision of the Superior Court of Justice, dated November 22, 2013, and the decision of the Court of Appeal for Ontario, heard on June 12, 2014. After they concluded their investigation, the subcommittee prepared a report to a review panel.

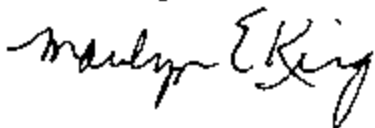
The review panel reviewed the subcommittee's report, the letter of complaint, excerpts of materials provided by the complainant, the Justice Harris' Reasons for Judgment, the Divisional Court decision and the Court of Appeal for Ontario's decision refusing you leave to appeal.

The review panel concluded that your allegations relate to your disagreement with His Honour's view of the evidence, and his determination of the issues, his

interpretation and application of the law, and his decisions to uphold the convictions and reduce the fines. The panel found that the allegations related to decisions made in the course of a judge's duties, not allegations of conduct, and they were outside of the jurisdiction of the Council. The Council has no discretion to act on complaints that do not fall within its jurisdiction. The *Courts of Justice Act* states that the Council must dismiss a complaint without further investigation if it falls outside of the Judicial Council's jurisdiction.

The panel found no evidence of judicial misconduct and dismissed the complaint on the basis that it was outside of the jurisdiction of the Council and closed the file.

Yours truly,



Marilyn E. King
Registrar

For: ONTARIO JUDICIAL COUNCIL

C: The Honourable Justice David Harris

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