

Form / Formule 1
APPLICATION
DEMANDE

ONTARIO COURT OF JUSTICE
COUR DE JUSTICE DE L'ONTARIO
Central East / Centre-Es
Region / Région

(Rule 2.1, Criminal Rules of the Ontario Court of Justice)
(Règle 2.1, Règles de procédure en matière criminelle de la Cour de justice de l'Ontario)

Court File No. (if known)
N° du dossier de la cour (s'il est connu)

BETWEEN: / ENTRE

HER MAJESTY THE QUEEN / SA MAJESTÉ LA REINE
- and / et -

RONALD TAYLOR
(defendant(s) / défendeur(s))

1. APPLICATION HEARING DATE AND LOCATION
DATE ET LIEU DE L'AUDIENCE SUR LA DEMANDE

Application hearing date: **March 14, 2024**
Date de l'audience sur la demande
Time **9:30am or at the earliest time available**
Heure **thereafter**
Courtroom number: **3**
Numéro de la salle d'audience
Court address: **3 Dominion St, Bracebridge, ON P1L 2E3**
Adresse de la Cour

2. LIST CHARGES
LISTE DES ACCUSATIONS

Charge Information / Renseignements sur les accusations			
Description of Charge Description de l'accusation	Sect. No. Article n°	Next Court Date Prochaine date d'audience	Type of Appearance (e.g. trial date, set date, pre-trial meeting, etc.) Type de comparution (p. ex., date de procès, établissement d'une date, conférence préparatoire au procès, etc.)
Mischief under \$5000 x2	CC 430(4)	TBD OR January 30, 2024	Set date OR Confirmation hearing
Assault	CC 266	TBD OR January 30, 2024	Set date OR Confirmation hearing
Uttering threat to cause death/bodily harm	CC 264.1 (1)	TBD OR January 30, 2024	Set date OR Confirmation hearing
Faily to comply with probation order	CC 733.1(1)	TBD OR January 30, 2024	Set date OR Confirmation hearing

3. NAME OF APPLICANT
NOM DE L'AUTEUR DE LA DEMANDE
Ronald "Ronnie" Taylor

4. CHECK ONE OF THE TWO BOXES BELOW:
COCHEZ LA CASE QUI CONVIENT CI-DESSOUS

I am appearing in person. My address, fax or email for service is as follows:
Je comparais en personne. Mon adresse, mon numéro de télécopieur ou mon adresse électronique aux fins de signification sont les suivants :

I have a legal representative who will be appearing. The address, fax or email for service of my legal representative is as follows:
J'ai un représentant juridique qui sera présent. L'adresse, le numéro de télécopieur ou l'adresse électronique de mon représentant juridique aux fins de signification sont les suivants :

Jay Herbert, Falls Law Group, 255 Manitoba St. Bracebridge, ON FAX: 705 645 3998

5. CONCISE STATEMENT OF THE SUBJECT OF APPLICATION
BRÈVE DÉCLARATION DE L'OBJET DE LA DEMANDE

(Briefly state why you are bringing the Application. For example, "This is an application for an order adjourning the trial"; "This is an application for an order requiring the Crown to disclose specified documents"; or "This is an application for an order staying the charge for delay.")

(Expliquez brièvement pourquoi vous déposez la demande. Par exemple : « Il s'agit d'une demande d'ordonnance d'ajournement du procès. », « Il s'agit d'une demande d'ordonnance exigeant de la Couronne qu'elle divulgue les documents précisés. », ou « Il s'agit d'une demande d'ordonnance d'annulation de l'accusation pour cause de retard. »)

This is an application for an order for a stay of proceedings pursuant to s.24(1) of the Charter as the force used by the Ontario Provincial Police against the Applicant was excessive and violated the Applicant's rights under ss. 7, 11(d) and 12 of the Charter.

6. GROUNDS TO BE ARGUED IN SUPPORT OF THE APPLICATION
MOTIFS QUI SERONT INVOQUÉS À L'APPUI DE LA DEMANDE

(Briefly list the grounds you rely on in support of this Application. For example, "I require an adjournment because I am scheduled to have a medical operation the day the trial is scheduled to start"; "The disclosure provided by the Crown does not include the police notes taken at the scene"; or "There has been unreasonable delay since the laying of the charge that has caused me prejudice.")

(Énumérez brièvement les motifs que vous invoquez à l'appui de la demande. Par exemple : « J'ai besoin d'un ajournement parce que je dois subir une intervention médicale le jour prévu pour le début du procès. », « Les documents divulgués par la Couronne ne contiennent pas les notes de la police prises sur les lieux. » ou « Un retard excessif a suivi le dépôt des accusations qui m'a causé un préjudice. »)

1. The Applicant submits that the police used excessive force during his detention, thereby violating his rights under ss. 7 and 12, warranting a stay of proceedings under S. 24(1), of the Charter. Section 7 states "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

2. The right to security of the person encompasses freedom from the threat of physical punishment or suffering, and freedom from state interference with bodily integrity. S.7 of the Charter is engaged when state actors such as police apply or threaten physical force against an individual. The application of excessive force by police against a person violates s.7 of the Charter.

3. s. 12 states: "Everyone has the right not to be subjected to any cruel and unusual treatment or punishment." It is evident that an unlawful and excessive use of force by the police violates s.12, as it constitutes cruel and unusual treatment or punishment.

4. With two armed officers watching, he was struck 17 times with potentially lethal force. The Applicant, an unarmed Indigenous man of particular vulnerability in custody, was never a threat to the three officers involved. The force employed by the Ontario Provincial Police (OPP) during the Applicant's detention went beyond what was necessary, proportionate, or reasonable in the circumstances.

5. The Applicant could have been killed by any of the individual strikes. There were more proportionate and reasonable alternatives available in the circumstances, including doing nothing. The force used was completely unnecessary and can only be punitive, serving apparently no other purpose.

6. Both the common law and the Criminal Code recognize that police are entitled to use a degree of force in carrying out their duties. In *R v Nasogaluak*, the SCC held that the amount of force used by police in making an arrest is "constrained by the principles of proportionality, necessity and reasonableness". In this matter there was no apparent purpose to justify use of any degree of force, thus any force is disproportionate, unnecessary, unreasonable, and therefore unlawful.

7. The punitive assault of the Applicant while in custody was the result of a judgment by the Officers that punitive actions were warranted, absent all due process owed him under the Charter.

8. S.24(1) reads: "Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances." S.24(1) of the Charter empowers the court to grant a stay of proceedings as a remedy for violation of an accused's Charter rights. Courts have demonstrated a willingness to stay proceedings where there has been a clear abuse of police powers, such as in *R v Woodland*, the SCC's *R v Babos*, and in 2023's *R v Korkis*. The Applicant has a loss of confidence in the administration of justice in this case. Gross and flagrant abuse of a vulnerable person by police as in this case is one of those clearest of cases where a stay of charges is both warranted and necessary.

7. DETAILED STATEMENT OF THE SPECIFIC FACTUAL BASIS FOR THE APPLICATION
DÉCLARATION DÉTAILLÉE DES FAITS PRÉCIS SUR LESQUELS SE FONDE LA DEMANDE

1. On June 21, 2022, the Applicant was charged with Assault, Mischief Under \$5000, Utter Threats – Cause Death/Bodily Harm – Spousal, and Fail to Comply with Probation Order.
2. While in custody at the police station, one of the three armed OPP Officers in the cell with the Applicant responded to something said by the Applicant by striking him seventeen times, causing physical injury, including damage to his nose still being assessed.
3. The other two other armed OPP Officers watched the assault and at points assisted without intervening and assisting the Applicant.
4. The Applicant posed no flight risk or threat. The Applicant was in the cell area and his handcuffs removed immediately prior. If the Applicant was of any risk to the officers, he would have remained handcuffed when placed in the cell area.
5. While still in custody, the Applicant reported the assault by police. The SIU investigated and then closed the file advising the Applicant that they never received the video file of the assault in the cell area.
6. Criminal Counsel for the Applicant requested access to the video file from the cell area from the Bracebridge Crown on August 4, 2022, October 5, 2022, October 18, 2022.
7. On December 16, 2022, a cell video was released by the Bracebridge Crown to Criminal Counsel. The video was reviewed by Criminal Counsel on December 16, 2022 and it was noted that the time of the alleged assault was redacted or removed from the video.
8. On December 16, 2022, a further request for the cell video without redaction was requested.
9. On February 9, 2023 and following the closure of the SIU's investigation without charges, the Notes of Officer Anthony were released to Criminal Counsel. Video of the assault, which had been "missing" for more than seven months was then found and released to counsel on March 7, 2023.
10. The Notes of Cst. Anthony describe an "exchange empty hand blows until in cell" in direct contradiction to the video evidence, which shows the Applicant being struck 17 times by the armed officer, followed by the Officer standing over the Applicant, in an apparent attempt to continue to intimidate the Applicant who was still defenseless and now injured.
11. Cst. Anthony was recently charged by the SIU in connection to another person that was assaulted by him during the course of his duties as an OPP Officer.
12. The Applicant suffered significant injuries at the hands of OPP officers while in a jail cell. The OPP then took over 7 months to release the footage. The Applicant has a reasonable fear of experiencing further harm.

8. **INDICATE BELOW OTHER MATERIALS OR EVIDENCE YOU WILL RELY ON IN THE APPLICATION**
INDIQUEZ CI-DESSOUS D'AUTRES DOCUMENTS OU PREUVES QUE VOUS ALLEZ INVOQUER DANS LA DEMANDE

- Transcripts (Transcripts required to determine the application must be filed with this application.)
Transcriptions (Les transcriptions exigées pour prendre une décision sur la demande doivent être déposées avec la demande.)
- Brief statement of legal argument
Bref exposé des arguments juridiques

Affidavit(s) (List below)
Affidavits (Énumérez ci-dessous)

Ronald Taylor

Case law or legislation (Relevant passages should be indicated on materials. Well-known precedents do not need to be filed. Only materials that will be referred to in submissions to the Court should be filed.)
Jurisprudence ou lois. (Les passages pertinents doivent être indiqués dans les documents. Les arrêts bien connus ne doivent pas être déposés. Il ne faut déposer que les documents qui seront mentionnés dans les observations au tribunal.)

Agreed statement of facts
Exposé conjoint des faits

Oral testimony (List witnesses to be called at hearing of application)
Témoignage oral (Liste des témoins qui seront appelés à témoigner à l'audience sur la demande)

Ronald Taylor

Other (Please specify)
Autre (Veuillez préciser)

Video of incident

Video stills of incident

Police notes

Medical documents


SIU investigation press release

SIU investigation materials, per s.278 application

Factum to be produced at trial

May 1, 2023

(Date)


Signature of Applicant or Legal Representative / *Signature de l'auteur de la demande ou de son représentant juridique*

To: **William Barnes, Assistant Crown Attorney, Muskoka**

À : (Name of Respondent or legal representative / *Nom de l'intimé ou de son représentant juridique*)

3 Dominion St, Bracebridge, ON P1L 2E3

(Address/fax/email for service / *Adresse, numéro de télécopie ou adresse électronique aux fins de signification*)

NOTE: Rule 2.1 requires that the application be served on all opposing parties and on any other affected parties.

NOTA : La règle 2.1 exige que la demande soit signifiée à toutes les parties adverses et aux autres parties concernées.