



When Freedom demands action



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CANACE scores a victory in Court

July 4, 2008

Gary McHale, Executive Director of CANACE (Canadian Advocates for Charter Equality) filed a motion for a Judicial Review of Justice of the Peace McDonald who presided over Mr. McHale's Bail Variation case in Dec. 2007.

Mr. McHale argued that when OPP Inspector McLean failed to appear after being subpoenaed that Justice McDonald erred by not providing Mr. McHale with his legal options on how to deal with McLean's refusal to appear. Since Mr. McHale is self-represented Justice McDonald was obligated by law to provide options to Mr. McHale on how to proceed. Those options included:

- 1) Issuance of an Arrest Warrant if the subpoena was correctly served.**
- 2) Adjourning the hearing until Insp. McLean was available.**
- 3) Proceeding without Insp. McLean as a witness.**

Mr. McHale provided the court today with Case Law ruling based on a Supreme Court ruling for how to proceed when a witness fails to appear after being subpoenaed.

The strength of the case was seen in the fact that the whole proceeding today lasted approx. 30 minutes with the Crown agreeing that there was a strong case for the motion.

Judge Marshall harshly rebuked the Crown for the actions of Inspector McLean. "I am offended by the actions of Inspector McLean", Judge Marshall told the Crown.

At first the Crown attempted to explain that Insp. McLean was out of the country then later claimed he was out of town, but in both cases Judge Marshall rejected the statements and reminded the Crown of the seriousness of a Subpoena.

The Crown informed the Judge that they would pass on his message to the OPP.

Today's ruling opens the door for Mr. McHale to issue a new Subpoena to Insp. McLean for a new Bail Review Hearing to be scheduled in the coming weeks.

This time Inspector McLean better appear or be prepared to be looking through the bars of the cell from the inside.

Holding the OPP accountable for their actions and failings in Caledonia is why CANACE has been formed. We continue to be the leaders in exposing Two Tier Justice and forcing the restoration of the 'Rule of Law' in Ontario.