

**APPEAL BOOK**

Court File No.: 3161-999-00-3261751F-00

**ONTARIO COURT OF JUSTICE  
(Peel Region)**

---

BETWEEN:

**Meththa Melani Fernando**

Appellant

-and-

**HIS MAJESTY THE KING**

Respondent

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**APPEAL BOOK**

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# TAB 1

**NOTICE OF APPEAL UNDER SECTION 135 OF THE  
PROVINCIAL OFFENCES ACT**

Case #: 3161-999-00-3261751F-00

1. Ontario Court (Provincial Division) at 950 Burnhamthorpe Road West, Mississauga

2. Appellant is:  Defendant  Prosecutor  Attorney General

3. Name of appellant: Meththa Melani Fernando

Address for service: 5464 Elgar Court, Mississauga, ON L5M 5C9  
[melani\\_fernando@hotmail.com](mailto:melani_fernando@hotmail.com)

4. Counsel for appellant:

5. Name of respondent (if known): City of Mississauga

Address for service: 950 Burnhamthorpe Road West, Mississauga, ON L3C 3B4

6. Counsel for respondent (if known):

7. Decision of Ontario Court of Justice: Convicted of FAIL TO COMPLY WITH ORDER contrary to the QUARANTINE ACT, section 58, refusal to submit to molecular test, \$5000 fine with 12 months to pay, by Her Worship Justice of the Peace G. Lin

8. Date of Decision: August 15, 2023

9. The appellant appeals against:  Conviction  Dismissal  Sentence

10. If appellant is in custody, place where held:

11. Description of offence: FAIL TO COMPLY WITH ORDER contrary to the QUARANTINE ACT, section 58

Certificate Number (if known): 3161-999-00-3261751F-00

12. Statute: *Quarantine Act*, SC 2005, c 20

13. Date of offence: April 11, 2022

14. Plea at trial:

The plea entered was:  Guilty  Not Guilty  Unknown

15. The appellant wants the appeal court to:

Find the defendant not guilty

Find the defendant guilty

Order a new trial

Change the sentence

Other: (please specify)

16. The grounds of appeal are:

A. That the presiding Justice of the Peace convicted the Appellant, contrary to the law.

B. That the presiding Justice of the Peace did not allow the Appellant to make oral submissions asserting her rights under the *Canadian Bill of Rights*, SC 1960, c 44.

C. That the presiding Justice of the Peace erred in law by ruling that the *Canadian Bill of Rights* has been superseded by the *Canadian Charter of Rights and Freedoms* and, thus, could not be pleaded.

D. That the presiding Justice of the Peace irreparably prejudiced the proceeding by not permitting the Appellant to plead the *Canadian Bill of Rights*.

E. That the *Canadian Bill of Rights* is a federal, quasi-constitutional statute that applies to federal law and remains in force to this very day.

F. That there are no statutory or common law requirements regarding notice or service with respect to pleading the *Canadian Bill of Rights*.

G. That the presiding Justice of the Peace erred in law by not applying section 14 of the *Quarantine Act* in her reasons for decision.

H. That the presiding Justice of the Peace erred in law by misinterpreting the express, statutory language of Parliament in the *Canadian Bill of Rights* and the *Quarantine Act*.

I. That the presiding Justice of the Peace erred in law by not addressing the indelible and irreconcilable conflicts of law between the Order made under section 58 of the *Quarantine Act*, the *Canadian Bill of Rights* and the *Quarantine Act*, itself, under section 14.

J. That the impugned Order is long-expired, moot and cannot be challenged in Federal Court by way of a judicial review, leaving this the only legal forum to legally and feasibly challenge its validity.

K. Such further and other grounds as the Appellant may advise, and this Honourable Court may permit.

**Complete no. 17 for Provincial Offences Act, Part II, Parking Offences where the municipality is collecting its own parking fines.**

17. The fine has been paid in full at (municipality) on (date)

18. Date: September 14, 2023

19. Signature of appellant or counsel or agent:

X \_\_\_\_\_

E. That the *Canadian Bill of Rights* is a federal, quasi-constitutional statute that applies to federal law and remains in force to this very day.

F. That there are no statutory or common law requirements regarding notice or service with respect to pleading the *Canadian Bill of Rights*.

G. That the presiding Justice of the Peace erred in law by not applying section 14 of the *Quarantine Act* in her reasons for decision.

H. That the presiding Justice of the Peace erred in law by misinterpreting the express, statutory language of Parliament in the *Canadian Bill of Rights* and the *Quarantine Act*.

I. That the presiding Justice of the Peace erred in law by not addressing the indelible and irreconcilable conflicts of law between the Order made under section 58 of the *Quarantine Act*, the *Canadian Bill of Rights* and the *Quarantine Act*, itself, under section 14.

J. That the impugned Order is long-expired, moot and cannot be challenged in Federal Court by way of a judicial review, leaving this the only legal forum to legally and feasibly challenge its validity.

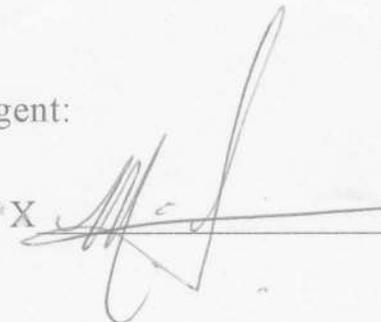
K. Such further and other grounds as the Appellant may advise, and this Honourable Court may permit.

**Complete no. 17 for Provincial Offences Act, Part II, Parking Offences where the municipality is collecting its own parking fines.**

17. The fine has been paid in full at (municipality) on (date)

18. Date: September 14, 2023

19. Signature of appellant or counsel or agent:

X 

# TAB 2

File No. 3161 999 00 3261751F-00

5

ONTARIO COURT OF JUSTICE

10

HIS MAJESTY THE KING

v.

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METHTHA MELANI FERNANDO

R E A S O N S F O R J U D G M E N T

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REMOTEY BEFORE HER WORSHIP JUSTICE OF THE PEACE G. LIN  
on August 15, 2023 for a MISSISSAUGA, Ontario, Proceeding

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APPEARANCES:

D. Burgess (by Zoom)

Municipal Prosecutor

Melani Fernando (by Zoom)

Self-Represented

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(i)  
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ONTARIO COURT OF JUSTICE

T A B L E O F C O N T E N T S

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**W I T N E S S E S**

WITNESSES

Examination  
in-Chief

Cross-  
Examination

Re-  
Examination

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Legend

[sic] - Indicates preceding word has been reproduced verbatim  
and is not a transcription error.

(ph) - Indicates preceding word has been spelled phonetically.

**E X H I B I T S**

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EXHIBIT NUMBER

ENTERED ON PAGE

REASONS FOR JUDGMENT 1

SUBMISSIONS ON PENALTY BY MELANIE FERNANDO 8

SUBMISSIONS IN REPLY ON PENALTY BY MR. BURGESS 11

25

REASONS FOR PENALTY 12

Transcript Ordered: August 29, 2023

Transcript Completed: September 02, 2023

30

Ordering Party Notified: September 02, 2023

TUESDAY, AUGUST 15, 2023

THE COURT: I'm going to do a decision.

CLERK REGISTRAR: Okay, yes, Your Worship.

THE COURT: And then does that help you...

CLERK REGISTRAR: Okay.

THE COURT: ...with doing....

CLERK REGISTRAR: And if we could put - yes, if we could the names on record and then....

THE COURT: Yup, okay. Thank you. So dealing with line number 8 for Meththa Fernando, Ms.

Fernando, it looks like you're on screen. Could you state your name for the court record?

METHTHA FERNANDO: Yeah, I'm the living woman as known as Meththa Melani Fernando.

THE COURT: Thank you. I'm going to be reading my decision, and so if everyone could just listen. Thank you.

R E A S O N S F O R J U D G M E N T

LIN, J.P. (Orally):

Ms. Ferando was charged with violating the *Quarantine Act*, Section 58, by failing to comply with an order prohibiting or subjecting to any condition upon entry into Canada to quarantine. And that is pursuant to Section 58 of the *Quarantine Act*, particularly on April 11<sup>th</sup>, 2022.

Ms. Fernando represented herself and is presumed innocent. In every case, the prosecution bears the burden of proving guilt beyond a reasonable

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doubt. Much was conceded at the trial: Ms. Fernando's identity, the date, location, municipality; and it is not disputed that, at the time of the alleged offence, the *Quarantine Act* was engaged and air travellers were required to comply with the quarantine requirements pursuant to the Act and relevant Order in Council.

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It is further not disputed that the defendant did in fact travel by air and was re-entering Canada and did not take a test as directed by the screening officer.

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The prosecution called one witness, Officer Roxas, the charging officer, whose evidence was that Ms. Fernando arrived from a flight from the United States to Canada. All vaccinated travellers were subjected to mandatory random testing. At the arrival area, Ms. Fernando was selected for a test. The test at that time was a nasal swab test. Ms. Fernando refused to take a test and did not state any exemptions at that time. She was identified by her driver's licence and issued a ticket.

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Under cross-examination, Ms. Fernando questioned the officer on his training for communicable disease in which Mr. Roxas testified that he was following screening procedures for travellers entering the country and he was not the one doing the testing.

Reasons for Judgment

Lin J.P.

5 He stated that his job was to guide selected travellers to the right area. Ms. Fernando then asked the officer whether she had said she wouldn't take the test and that she would have taken an alternate test, a spit test. She was not given a choice.

10 The officer responded to this question stating that the type of test she was referring to was not in the area that they were working in.

15 Lastly, Ms. Fernando questioned the officer regarding whether she was detained illegally. Officer Roxas testified that during the brief exchange he wrote a ticket and gave you a ticket. That's how he responded to that question.

20 She then asked the officer to identify other screening officers who were there and Officer Roxas indicated that there was an Officer Thompson and an Officer Siddiqui(ph) present at the time.

25 In submissions, the defendant stated that she had returned to Canada from a long trip. She stated she was discriminated by the computer algorithm when she was asked to be tested and that she would have complied with testing but not in the test format that was being provided.

30 She then stated that she did not contravene the mandate because it is not a law. She stated that she was arbitrarily held and intimidated by an

Officer Chip, Officer Sandhu and Officer Chohan.

Ms. Fernando stated she had rights violated under the *Bill of Rights*, her feelings are hurt, and she was concerned that an officer would give away her bodily harm rights as a Canadian citizen.

She stated that she was not undergoing an invasive test when Section 14 of the *Quarantine Act* prohibits entry into body without consent. She concluded that alternatives were available and would have been accepted.

The *Canadian Bill of Rights* was superseded by the *Canadian Charter of Rights and Freedoms*. Ms. Fernando indicated that her rights under this *Canadian Bill of Rights* have been violated, and prior to the trial the court indicated that *Charter* motions had to follow specific legal processes, which included filing an application in advance. There were no motions before the court.

In terms of the law that's applicable, again the court is referencing Section 58 of the *Quarantine Act* which provides that - Section 58(1) states:

The Governor in Council may make an order prohibiting or subjecting to any condition the entry into Canada of any class of persons who have been in a foreign country or a specified part of a foreign country if the Governor in

Reasons for Judgment

Lin J.P.

Council is of the opinion that [and these are the points],

- **(a)** there is an outbreak of a communicable disease in the foreign country;
- **(b)** the introduction or spread of the disease would pose an imminent and severe risk to public health in Canada;
- **(c)** the entry of members of that class of persons into Canada may introduce or contribute to the spread of the communicable disease in Canada; and
- **(d)** no reasonable alternatives to prevent the introduction or spread of the disease are [further].

The section clarifies in Section 71, that,

Every person who contravenes [any of the subsections including Section 58] ... is guilty of an offence and liable on summary conviction to a fine of not more than \$750,000 or to imprisonment for a term of not more than six months, or ... both.

At the time of Ms. Fernando's travel, Order in Council 2022-0321 titled "Minimizing the Risk of Exposure to COVID 19 in Canada" was in effect as of March 31<sup>st</sup>, 2022, and applicable to Ms. Fernando's arrival to Canada on April 11, 2022.

As stated in a news release on March 17<sup>th</sup> of 2022 by the Public Health Agency of Canada, and I say in quotes, "Effective April 1, 2022, fully vaccinated travellers will no longer need to

provide a pre-entry COVID-19 test to enter Canada by air, land or water.” It goes on further to say,

5 Travellers arriving to Canada from any country who qualify as fully vaccinated may need to take a COVID-19 molecular test on arrival if selected for mandatory random testing. Travellers selected for mandatory random testing are not required to quarantine while awaiting their test result.

10 Again, I will just go back to say the *Quarantine Act* is a federal public health legislation enacted with a view towards preventing the spread of an infectious disease in Canada.

15 The purpose of the Act is to protect public health by taking comprehensive measures to prevent the introduction and spread of the disease; and further a significant focus of the *Quarantine Act* is centred around identifying and preventing the spread of communicable diseases at points of entry into Canada.

20 Ms. Fernando was honest in both her testimony and submissions. She was selected for random testing, and, under questioning, she stated she was not going to undertake the COVID-10 molecular test. She made a series of assertions in her submissions that I will now address.

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Reasons for Judgment

Lin J.P.

5 On the issue of detention and *Bill of Rights*, as I mentioned earlier no motion related to *Charter* rights was filed. I would invite Ms. Fernando to reference a federal court case called *Spencer v. The Attorney General*, and these relate to a lot of the challenges that were mentioned and decided upon.

10 On the issue of discrimination in terms of mandatory random testing, there was no evidence presented. In its literal term regarding the word random, eligible travellers were randomly selected for testing.

15 On the issue of availability of preferred test, I accept the officer's testimony that his understanding was that nasal swabs were used for the COVID-19 molecular test. He further testified that his role was only to guide Ms. Fernando to the Public Health of Canada testing area. Ms. Fernando refused. I had no evidence presented to me that saliva tests had been approved by Health Canada; that they would meet the definition for molecular test; and were actually an option at 20 that time for Public Health officials to consider. It was Ms. Fernando's decision to refuse the required test.

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30 The prosecution has proven the *actus reus* of the offence beyond a reasonable doubt. Ms. Fernando did not present any alternate version of what happened, and therefore a case called *R. v. W.D.*--

R. v. Fernando

Submissions on Penalty by Melani Fernando

5 those considerations are not at play. Ms. Fernando did not raise defences that would raise any reasonable doubt aside from generalized statements about fairness, to being selected, her preferred form of testing, and a belief that the mandate is not the law.

10 Therefore, the defendant is guilty beyond a reasonable doubt of committing the offence of failing to comply with an order prohibiting or subject to any condition regarding entry into Canada under Section 58.

15 So, a conviction will register and Mr. Prosecutor, I'm asking you now what is the submission for fine?

MR. BURGESS: Seeking the set fine in the amount of \$5,000, Your Worship.

20 THE COURT: Okay. Ms. Fernando, at this time you have an opportunity to speak to the court specifically about submissions for the fine. If you have any financial circumstances that are extraordinary, the court can consider that in relation to the amount of the fine. Whenever you're ready. Thank you.

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30 SUBMISSIONS ON PENALTY BY MELANIE FERNANDO:

Obviously this fine is just exuberant to, to me to begin with, and I do not agree with your decision specifically as I mentioned, which was not noted in your statements that were made, that I did mention the *Quarantine Act* itself, Section 14.1

R. v. Fernando

Submissions on Penalty by Melani Fernando

which states that...

THE COURT: Okay....

MELANIE FERNANDO: ...no foreign is to be....

THE COURT: Ms. Fernando, I'm just going to stop you right there and, and not because I want to cut you off. But once a decision is made, it is made. There are processes that you can take if you disagree with my decision, and that is the appeal function; and that is not through this court.

Okay? You need to file an appeal and go through that process and your matter will be heard in front of a judge. But right now on the issue of what was decided my decision is finished. Okay? So you just want to keep that in mind. We're just trying to look for submissions regarding the fine. I heard what you've said. You made a statement. It's exuberant. Is there any other considerations you would like the court to consider in terms of the fine?

MELANIE FERNANDO: I'm shocked. I - it's excessive is, is what I'm saying, and but obviously I will be appealing this decision. So what are my options at this point in terms of the fine because that - that's -that's a very large amount. I do not have \$5,000 to....

THE COURT: So the court can only make considerations about the amount of the fine based on extraordinary circumstances of your finances. So you would need to provide some submission to me about your personal financial situation for the court in order to consider a different fine. You can make whatever statements you want, but I have

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R. v. Fernando

Submissions on Penalty by Melani Fernando

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- in rulings, that we have very specifically, from a higher court, we must consider extraordinary financial circumstances. If you do not want to reveal any specific circumstances around your finances, that is your right; and I will make a decision based on, again, the submissions that are presented before me. Okay? Is there anything else you want to add to the court?

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MELANIE FERNANDO: When you say submissions, what exactly do you mean by that?

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THE COURT: A submission is when you simply have something to say, your turn to say something. So you heard the prosecutor. They are seeking the set fine. That is his submission. It's just a legal term. He's saying - he's saying they are seeking the \$5,000 fine. It is now your turn to say something, if you want, to the court for consideration. Otherwise, we're at a moment where I will make a decision on the fine.

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MELANIE FERNANDO: Okay, well I cannot afford that amount. So the, the, the minimum amount I will pay, but I will, again, take this up to a higher court to appeal. So until then I need to be able to, I guess, move on in terms of not having a fine hanging over my head for that amount. So something lower, but that is not an admission of guilt.

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THE COURT: Okay. The submission is not about admission of guilt because I've already found you guilty, okay, in this instance. Mr. Prosecutor, anything further to reply in terms of the submission? There is no minimum amount I don't

believe but...

MR. BURGESS: There - there is not...

THE COURT: ...if you....

MR. BURGESS: ...a minimum amount.

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SUBMISSIONS IN REPLY ON PENALTY BY MR. BURGESS:

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And although I said set fine amount, in trial procedure there is no such thing as set fine anymore with Part I certificates. So we've heard there is no sign of remorse from the defendant, no acceptance of the facts, and now is the opportunity in which the court turns its minds to that specific and general deterrence; and you know, we can only hope that we're not in a circumstance like this again, at least in the next hundred years where we're in a situation where we need to consider the safety and health of our community members and the other 30 million people, residents of Canada, citizens of Canada. And so the penalty should reflect that specific deterrence. We have not heard anything from the defendant with regards to her ability or inability to pay the penalty amount. And then the general deterrence - deterrence, you know, the message to the public in these circumstances to follow the letter of the law. That is all, Your Worship. The defendant has already alluded to the fact that an appeal on conviction may be raised, and so we need the transcript to be clear that if appeal also includes an appeal on sentence, let the transcript - the transcript be clear the defendant had the opportunity to make submissions regarding

Reasons for Penalty

Lin, J.P.

her ability or inability to pay the penalty amount and thus the - seeking the \$5,000 penalty, Your Worship, and that is all, respectfully.

THE COURT: Thank you. So again, I am making that decision right now.

R E A S O N S F O R P E N A L T Y

LIN, J.P. (Orally):

The *Quarantine Act* when it was set out especially with these Orders in Council, the first round had some notion of the fines. As the pandemic wore on, those fines were increased and that is why the amount of \$5,000 was originally reflected in the set fines.

Again, this was a very difficult time, and as Mr. Prosecutor said the choice to travel remained with all Canadians, but it was not a time where the choice on what conditions could be set were - again, those were all people's choices that were made.

I did not hear anything about the financial circumstances of Ms. Fernando. It is what must guide me in terms of reducing the amount or making some sort of - I just need some sort of ability to say the amount was excessive. Again, these were decisions made by the government at the time.

The fine is going to remain at \$5,000. And Ms. Fernando, for now if you're going to go with

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appeal there are processes that you need to take.  
I can start you off with 12 months to pay to ease  
the issue that you said about it hanging it over  
your head. Or if you have a lesser time than 12  
months that you'd like to pay, I can also mark  
that for time to pay. Thank you.

THE COURT: Madam Clerk, could I have that  
paperwork?

...UNRELATED MATTER ADDRESSED

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THE COURT: And where's Fernando? Just because I  
started reading it. No, no. You have it. Thank  
you. So again, \$5,000, 12 months to pay. I think  
Ms. Fernando has left the screen.

...UNRELATED MATTER ADDRESSED

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THE COURT: Okay, paperwork is now completed on  
the Fernando matter.

...MATTER CONCLUDED

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**Certification**

FORM 3  
Certificate of Transcript (Subsection 5(2))  
*Evidence Act*

5 I, Christine Berkhout, certify that this document is a true and accurate transcription of the recording of R. v. Fernando in the Ontario Court of Justice Provincial Offences Court held at 950 Burnhamthorpe Road West, Mississauga, Ontario, taken from Recording No. m4\_20230815\_085203.dcr, which has been certified in Form 1.

10 September 2, 2023

(Date)



(Electronic signature of authorized persons)

15 Province of Signing: Ontario, Canada

Christine Berkhout, B.A., B.Ed.  
Authorized Court Transcriptionist  
ID#1450810857  
905-984-0506  
cmberkhout@gmail.com

25 *A certificate in Form 3 is admissible in evidence and is proof, in the absence of evidence to the contrary, that the transcript is a transcript of the certified recording of evidence and proceedings in the proceeding that is identified in the certificate.*

# TAB 3

**NOTICE OF APPLICATION**

Offence No.: 3161-999-00-3261751F-00

**ONTARIO COURT OF JUSTICE  
(Peel Region)**

---

BETWEEN:

**Meththa Melani Fernando**

Applicant

-and-

**HIS MAJESTY THE KING**

Respondent

**APPLICATION UNDER section 111 of the *Provincial Offences Act***

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**NOTICE OF APPLICATION**

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**TAKE NOTICE** that the Applicant will bring an application at **a date and time to be determined at 950 Burnhamthorpe Road West, Mississauga, Ontario, via videoconference** for an order granting a waiver of s. 111(1) of the *Provincial Offences Act*.

**I. THE GROUNDS FOR THIS APPLICATION ARE:**

1. That the Applicant was charged on or about April 11, 2022 with the offence of FAIL TO COMPLY WITH ORDER contrary to the QUARANTINE ACT, section 58.
2. That the Order was made pursuant to s. 58 of the *Quarantine Act* and enacted on March 31, 2022.<sup>1</sup>
3. That the Ontario Court of Justice, located at 950 Burnhamthorpe Road West, Mississauga, Ontario, conducted a trial of this matter at 950 Burnhamthorpe Road West, Mississauga, Ontario, Room M4 on April 28, 2023, at 3:00 PM via videoconference.
4. That the Applicant was convicted on August 15, 2023.
5. That the Applicant has appealed this conviction in conjunction with the submission of this application per subsection 111(3) of the *Provincial Offences Act*.
6. That the Justice of the Peace so substantially erred in law that it is likely the decision rendered will be overturned on appeal.
7. That the impugned Order is long-expired, moot and cannot be challenged in Federal Court by way of a judicial review, leaving this the only legal forum to legally and feasibly challenge its validity.
8. That the societal interest in this matter is minimal, and the interests of the Applicant are applicable in greater degree due to the nature, circumstances and mootness of the offence, as well as the time passed and circumstances today.
9. That the public interest favours waiving compliance of subsection 111(1) of the *Provincial Offences Act* until the disposition of the Applicant's appeal, as the hardship imposed on the Applicant to pay the \$5000 fine levied is substantial and oppressive.
10. Such further and other grounds as the Applicant may advise, and this Honourable Court may permit.

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<sup>1</sup> [Order in Council PC Number 2022-0321](#) – March 31, 2022

## II. THE ISSUES RAISED ARE:

11. The Justice of the Peace erred substantially in law by ruling that the *Canadian Bill of Rights* has been superseded by the *Canadian Charter of Rights and Freedoms*. The courts have weighed in on this to the point that this is trite law.<sup>2</sup>

12. The Justice of the Peace erred in law by not applying section 14 of the *Quarantine Act* in her reasons for decision.<sup>3</sup>

13. The Justice of the Peace erred in law by misinterpreting the express, statutory language of the *Canadian Bill of Rights* and the *Quarantine Act*.<sup>4</sup>

## III. IN SUPPORT OF THIS APPLICATION, THE APPLICANT RELIES UPON THE FOLLOWING:

14. The information, documentation and evidence before the Court;

15. The trial transcript of April 28, 2023;

16. The reasons of decision transcript of August 15, 2023;

**17. The Applicant may lead *viva voce* evidence in support of this application.**

## IV. THE RELIEF SOUGHT IS:

18. An Order granting a waiver of s. 111(1) of the *Provincial Offences Act*.

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<sup>2</sup> *Canadian National Railway Company v. Western Canadian Coal Corporation*, 2007 FC 371 at paras. 19-21; *Authorson v. Canada (Attorney General)*, 2003 SCC 39 (CanLII), [2003] 2 SCR 40 at paras. 10 and 31; *Singh v. Minister of Employment and Immigration*, 1985 CanLII 65 (SCC), [1985] 1 SCR 177 at paras. 4, 84, 85 and 121; *R. v. Williams*, 1992 CanLII 7657 (ON CA) at pp. 25, 32, 33 and 34 (per Morden A.C.J.O. in dissent); *Waterloo (Regional Municipality) v. Bydeley*, 2010 ONCJ 740 at para. 24

<sup>3</sup> *Quarantine Act*, SC 2005, c 20 at s. 14

<sup>4</sup> *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC), [1998] 1 SCR 27 at para. 21; *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42 (CanLII), [2002] 2 SCR 559 at paras. 26 and 62; *Interpretation Act*, RSC 1985, c I-21 at ss. 10-13, 15 and 16

**THIS APPLICATION, WHICH HAS BEEN FULLY REFERENCED FOR THE BENEFIT OF THE CROWN, AND TO DISPENSE WITH THE NEED FOR A FACTUM OR *VOIR DIRE* ON QUESTIONS OF PURE LAW, MAY BE SERVED WITH DOCUMENTS PERTINENT TO IT.**

**IT IS REQUESTED THAT THIS APPLICATION BE HEARD IN WRITING.**

ALL OF WHICH IS RESPECTFULLY SUBMITTED remotely on this 14th day of September, 2023.

---

The Applicant, Meththa Melani Fernando

By service in accordance with rule 5 via e-mail at  
[POA.disclosure@mississauga.ca](mailto:POA.disclosure@mississauga.ca)

Meththa Melani Fernando  
5464 Elgar Court  
Mississauga, ON  
L5M 5C9

E-mail: [melani\\_fernando@hotmail.com](mailto:melani_fernando@hotmail.com)

TO:

Peel Region Provincial Prosecutor's Office  
950 Burnhamthorpe Road West  
Mississauga, ON L5C 3B4  
E-mail: [POA.disclosure@mississauga.ca](mailto:POA.disclosure@mississauga.ca)

Court Clerk for Mississauga Provincial Court  
950 Burnhamthorpe Road West  
Mississauga, ON L5C 3B4  
Email: [court.admin@mississauga.ca](mailto:court.admin@mississauga.ca)

THIS APPLICATION, WHICH HAS BEEN FULLY REFERENCED FOR THE BENEFIT OF THE CROWN, AND TO DISPENSE WITH THE NEED FOR A FACTUM OR *VOIR DIRE* ON QUESTIONS OF PURE LAW, MAY BE SERVED WITH DOCUMENTS PERTINENT TO IT.

IT IS REQUESTED THAT THIS APPLICATION BE HEARD IN WRITING.

ALL OF WHICH IS RESPECTFULLY SUBMITTED remotely on this 14th day of September, 2023.



The Applicant, Meththa Melani Fernando

By service in accordance with rule 5 via e-mail at [POA.disclosure@mississauga.ca](mailto:POA.disclosure@mississauga.ca)

Meththa Melani Fernando  
5464 Elgar Court  
Mississauga, ON  
L5M 5C9

E-mail: [melani\\_fernando@hotmail.com](mailto:melani_fernando@hotmail.com)

TO:

Peel Region Provincial Prosecutor's Office  
950 Burnhamthorpe Road West  
Mississauga, ON L5C 3B4  
E-mail: [POA.disclosure@mississauga.ca](mailto:POA.disclosure@mississauga.ca)

Court Clerk for Mississauga Provincial Court  
950 Burnhamthorpe Road West  
Mississauga, ON L5C 3B4  
Email: [court.admin@mississauga.ca](mailto:court.admin@mississauga.ca)

# TAB 4

**AUTHORIZED COURT TRANSCRIPTIONIST'S CERTIFICATE RESPECTING EVIDENCE**

(Criminal Proceedings Rules, Rule 40.08)

ONTARIO  
SUPERIOR COURT OF JUSTICE

**Toronto**

Region

**3161 999 00 3261751F-00**

Court File No. (if known)

BETWEEN:

**HIS MAJESTY THE KING**

- and -

**METHTHA MELANI FERNANDO**

(specify name of accused)

**THE UNDERSIGNED, AN AUTHORIZED COURT TRANSCRIPTIONIST, CERTIFIES** that the appellant has ordered 3 copies of the transcript of:

- a)  the arraignment and plea,
- b)  all oral evidence adduced at his (or her) trial, save and except as indicated below,
- c)  the reasons for judgment,
- d)  the evidence called and submissions of counsel on the sentencing hearing and the reasons for sentence,
- e)  the submissions and ruling in relation to the following issues that will be the basis for grounds of appeal:

- a. ....
- b. ....
- c. ....

The evidence of the following witnesses is not required for the appeal:

- a. ....
- b. ....
- c. ....

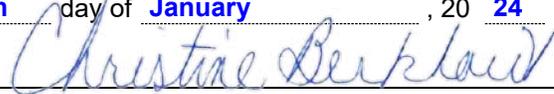
**THE UNDERSIGNED HAS RECEIVED THE ABOVE TRANSCRIPT ORDER FOR PROCEEDINGS IN THE SUMMARY CONVICTION COURT ON THE FOLLOWING DATE(S):**

- a. **4/28/2023** .....
- b. **8/15/2023** .....

**THE UNDERSIGNED ACKNOWLEDGES** that:

- a. pursuant to the general guidelines for the preparation of transcripts, this transcript is to be completed within 30 days of receipt of the order,
- b. if the party ordering the transcript is not notified the transcript is completed within 90 days from the receipt of the order, I am required to provide written notice forthwith to all parties to the appeal and the clerk of the appeal court, indicating the reason for the delay and the date upon which the transcript will be completed, and,
- c. when the transcript is complete, I am required to complete a Certificate of Completion that is to be sent to the ordering party and the clerk of the appeal court forthwith.

**DATED** at **Welland** , this **18th** day of **January** , 20 **24** .



Signature of Authorized Court Transcriptionist

**Christine Berkhout, 905-984-0506**

(set out name and address, as well as telephone and fax numbers)

Court File No.: 3161 999 00 3261751F-00

**Meththa Melani Fernando**

**HIS MAJESTY THE KING**

Appellant

Respondent

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***ONTARIO***  
**COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT BRAMPTON

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**APPEAL BOOK**

---

**Meththa Melani Fernando**

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