

Court File Number

IN THE NEW BRUNSWICK COURT OF APPEAL

BETWEEN

File No. 122-21-CA
No. du dossier
Date of issue November 22, 2021
Date d'émission

**PHILIP JAMES HUTCHINGS AND HIS
TABERNACLE FAMILY CHURCH INC.**

**Appellants
(Respondents)**

-and-

**THE PROVINCE OF NEW BRUNSWICK, as
represented by the MINISTER OF HEALTH**

**Respondent
(Applicant)**

NOTICE OF APPEAL

The Appellants appeal to the Court of Appeal from the Final Sentencing Order, bearing the title: "Undertaking to the Court", of the Court of Queen's Bench, dated October 22, 2021.

The Appellants ask that the Undertaking to the Court, be set aside.

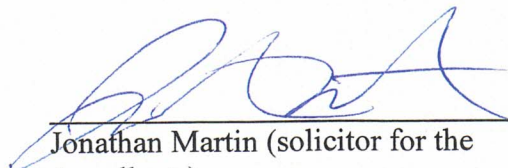
The Appellants' grounds for this appeal are as follows:

1. On October 15, 2021, Mr. Justice Hugh H. McLellan ("Justice McLellan"), after granting a consent adjournment to October 22, 2021, had the Respondent, Pastor Philip James Hutchings ("Pr. Hutchings"), improperly and abusively incarcerated pending the adjournment without giving Pr. Hutchings a show-cause hearing or any ability to defend himself. This was the first civil contempt allegation Pr. Hutchings had ever been accused of.
2. On October 22, 2021, after spending a week in solitary confinement, the Respondent, Pr. Hutchings was released from prison to appear in court and after being presented by a draft consent order for civil contempt that both parties were comfortable with, Justice McLellan rejected that consent order, drafted the Undertaking of his own initiative and imposed it on Pr. Hutchings with the implied and express threats that he would be going back to jail if he did not sign it. Even after it was signed, Justice McLellan was still intending to throw Pr. Hutchings back into prison until the other church officers could be made to sign it, however, Jason Caissie, counsel for the Province, spoke up and objected to that.

Form 62B
Notice of Appeal

3. On October 29, 2021, the parties were back in court and Pr. Hutchings and the His Tabernacle Family Church Inc. had new legal representation. At that time the parties agreed upon an acceptable interim consent order that did not include the Undertaking since the new lawyers for the Respondents expressed that the Undertaking was inappropriate and that the other directors of His Tabernacle Family Church Inc. would not agree to sign it.
4. In ordering Pr. Hutchings to sign the undertaking, Justice McLellan exceeded his jurisdiction and exercised his discretion in a way that results in an obvious injustice. \
5. The Undertaking is deceitful in that it states that Pr. Hutchings received independent legal advice prior to signing the document when in fact he had no choice but to sign it and the legal advice was not independent since both the legal advice and the signing of the Undertaking were under compulsion and duress.
6. The Undertaking is vague and undiscernible since it refers to existing “standards of care in Covid-19 laws”, which is not a judicially discernible concept since no court decision dealing with the issue of the standard of care relating to Covid-19 exists.
7. The Undertaking is an unfit sentence in that it represents forced speech that purports to ascribe personal beliefs and opinions to Pr. Hutchings and His Tabernacle Family Church Inc. which they do not necessarily hold with regard to the laws and the legal effects of compliance with Covid-19 government measures.
8. The Undertaking goes outside of the permissible range of sentences for civil contempt in that it creates new liabilities and consequences that extend to completely unrelated future potential civil and criminal proceedings indefinitely.
9. The Undertaking goes outside of the permissible range of sentences for civil contempt in that it purports to remove all privacy rights of the Respondents by allowing the Undertaking to be broadcasted and published on any platform by “anyone, anywhere, at any time”.
10. The Undertaking goes outside of the permissible range of sentences for civil contempt in that it purports to lift the corporate veil for future civil and criminal proceedings and make the Respondent, Pr. Hutchings, personally liable for the future actions of His Tabernacle Family Church Inc.

DATED at Florenceville-Bristol, NB this 22nd day of November, 2021


Jonathan Martin (solicitor for the Appellants)

Form 62B
Notice of Appeal

Counsel for the Appellants:

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IN THE NEW BRUNSWICK COURT OF APPEAL

BETWEEN

File No. _____
No. du dossier _____
Date of issue March 2, 2022
Date d'émission _____

**PHILIP JAMES HUTCHINGS AND HIS
TABERNACLE FAMILY CHURCH INC.**

**Appellants
(Respondents)**

-and-

**THE PROVINCE OF NEW BRUNSWICK, as
represented by the MINISTER OF HEALTH**

**Respondent
(Applicant)**

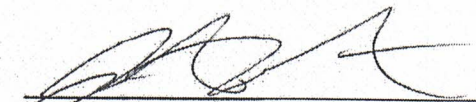
SUPPLEMENTARY NOTICE OF APPEAL

The Appellants amends his Notice of Appeal, dated November 22, 2021, as follows:

1. Delete paragraph 1-3 as a grounds of appeal. Replace with:

The Undertaking was made in the context of bias or reasonable apprehension of bias, under duress, in denial of natural justice and in violation of the Appellants' section 7 Charter rights in a way that is contrary to the principles of fundamental justice.

DATED at Florenceville-Bristol, NB this ^{rad} day of March, 2022


Jonathan Martin (solicitor for the
Appellants)

Form 62C
Notice of Appeal

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IN THE NEW BRUNSWICK COURT OF APPEAL

BETWEEN

**PHILIP JAMES HUTCHINGS AND HIS
TABERNACLE FAMILY CHURCH INC.**

**Appellants
(Respondents)**

-and-

**THE PROVINCE OF NEW BRUNSWICK, as
represented by the MINISTER OF HEALTH**

**Respondent
(Applicant)**

AMENDED SUPPLEMENTARY NOTICE OF APPEAL

The Appellants amend the Notice of Appeal, dated November 22, 2021, as follows:

1. Delete paragraph 1-3 as a grounds of appeal. Replace with:

The Undertaking was made in the context of bias or reasonable apprehension of bias, under duress, in denial of natural justice and in violation of the Appellants' section 7 Charter rights in a way that is contrary to the principles of fundamental justice.
2. Add to the end of paragraph 7: the Undertaking therefore violates the Section 2(b) freedom of expression of the Appellants, including protection against compelled speech.
3. Add to the end of paragraph 8: The Undertaking violates the Section 11(c) Charter rights of the Appellants against self-incrimination.

DATED at Florenceville-Bristol, NB this 15th day of March, 2022


Jonathan Martin (solicitor for the
Appellants)

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