Case Study – Criminal Charges for Fueling Vehicle During Convoy

The defendant in this case was criminally charged for 1 count of obstruction, and 2 counts of mischief during the convoy in Ottawa. The grounds the police used was that the defendant was fuelling vehicles on the side of the road. As mischief relates to obstruction or damage to property the grounds for the charges to not match the charges. And no evidence was brought forward to demonstrate the destruction or prevention of enjoyment to property.

The motion to dismiss is based on the Canadian Bill or Rights section 2(c)(i), deprive a person who has been arrested or detained of the right to be informed promptly of the reason for his arrest or detention, the illegal invocation of the provincial and federal emergency acts. The defendant is also using case law that validates the right to protest, even in times of emergency and case law regarding the right to block traffic during a peaceful protest.

This was the informal written statement, the formal court document was created at a later time.

I am putting forward a request to have all the charges against me withdrawn for the following basis:

1. The charges against me have not been promptly identified and the criteria for these criminal charges have not been meet. I have been charged with the following offences:
   - 1 Counts of 430(1)(c) - MISCHIEF/ OBSTRUCT
   - 2 Count of 430(1)(d) - MISCHIEF

   With regards to the mischief charges, I was engaged in a lawful protest and was performing a humanitarian act by fueling vehicles and salting the icy roads/sidewalks. With regards to obstruct the police, I followed all of their instructions. I have witnesses that can testify to this.

   This is a violation of my rights under the Canadian Bill or Rights section 2(c)(i) deprive a person who has been arrested or detained of the right to be informed promptly of the reason for his arrest or detention.

2. With regard to the Emergency, the provincial emergency was not declared under the necessary legislation, i.e. the Emergencies Measures Act (EMA). The EMA only allows a declaration of emergency on the grounds for implementing the emergency at the provincial level are war, or appending war or a natural disaster.

3. With regard to the Federal Emergencies Act, the required criteria for the invocation of the act was not met, i.e. there was no serious danger to the lives and health and safety of citizens, as was confirmed by all levels of the police during the hearings of the Special Joint Committee.

   Furthermore, Trudeau did not seek the necessary parliamentary consent to invoke the Emergencies Act as required by section 17(1) of the Act.

   The invocation of the Emergencies Act is also a violation of the principles as contained in paragraph 2 of the Act that requires the regard of the Canadian Bill of Rights.

4. There is case law that validates my right to protest, even in a time of emergency. The case of Beaudoin v. British Columbia, 2021 ruled that public health regulations are of "no force and effect" as it's an infringement of constitutional rights to restrict public protests as per section 2(c) and (d) of the Charter.

   Beaudoin v. British Columbia, 2021

[251] Mr. Beaudoin is entitled to a part of the declaration he seeks, pursuant to ss. 24(1) and 52(1) of the Constitution Act, 1982. I declare that orders made by Dr. Henry entitled "Gatherings and Events" pursuant to ss. 30, 31, 32 and 39(3) of the PHA, including the orders of November 19, 2020, December 2, 9, 15 and 24, 2020 are of no force and effect as against Mr. Beaudoin as they unjustifiably infringe his rights and freedoms with respect to public protests pursuant to ss. 2(c) and (d) of the Charter.
https://www.canlii.org/en/bc/bcsc/doc/2021/2021bcsc512/2021bcsc512.html?resultIndex=1

5. There is case law that establishes the parameters of public protest such as,

Fleming v. Ontario
https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/17947/index.do

Based on the facts stated above, there is no chance of conviction therefore I am asking the court to withdraw these charges against me.